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REFUGEES

U.S. Processing of Haitian Asylum Seekers

Statement of Harold J. Johnson, Director, Foreign Economic Assistance Issues, National Security and International Affairs Division

Mr. Chairman, Members of the Subcommittee:

We are pleased to be here to discuss the U.S. program for interdicting and screening Haitians seeking asylum in the United States. On February 25, 1992, you asked that we examine several issues related to those activities. These include

- -- What was the basis for the administration's policy toward Haitians seeking entry to the United States?
- -- How many Haitians are attempting to enter the United States?
- -- What are the Immigration and Naturalization Service's screening procedures for these people?
- -- What are the living conditions for Haitians at the Guantanamo Bay, Cuba processing center?
- -- What is the State Department's assessment of human rights conditions in Haiti, and has the Department provided all relevant information to the U.S. courts for their deliberations?

My testimony this morning is based on the preliminary results of our review, but as you requested, my remarks will focus specifically on the screening and administrative processing problems we found at Guantanamo Bay. Information on the other issues included in your initial request will be provided in a subsequent report.

PROBLEMS WITH SCREENING AND PROCESSING PROCEDURES

From 1981 through September 1991, approximately 24,600 Haitians were interdicted at sea enroute to the United States by the U.S. Coast Guard. These asylum seekers were interviewed by INS officers aboard Coast Guard cutters, and 28 were found to have credible asylum claims and brought to the United States to have their claims adjudicated. The remainder were found not to have credible claims and were returned to Haiti.

Between September 30, 1991, the date of the military coup that ousted President Jean-Bertrand Aristide, and April 7, 1992, Coast Guard records show that 18,095 Haitians were interdicted. Of these, the records show that 10,149 were returned to Port au Prince. INS records show that 4,301 were brought to the United States. Based on these records, we calculated that 2,589 were at Guantanamo Bay awaiting transport to the United States to pursue their asylum claims and another 646 were awaiting INS screening. (410 were sent to other countries.) Our calculations show that about 40 percent of the Haitians were found to have credible claims. I emphasize that this is what the records show; however, we cannot verify these numbers because the INS data base contains numerous inaccuracies.

Screening procedures for Haitians are unique in that this is the only situation where asylum seekers are screened for credible

claims outside the United States before the formal adjudication process takes place within the United States. At the Guantanamo Bay facility, INS officers conducted screening interviews and those determined to have credible claims are allowed to go to the United States to have their claims adjudicated. Those determined not to have credible claims are returned to Haiti.

There is one additional processing procedure at Guantanamo Bay. Haitians determined by INS officers to have credible claims and who have tested HIV positive are interviewed a second time at Guantanamo Bay. U.S. law prohibits the entry of persons with incurable communicable diseases, like HIV, unless the Attorney General grants a waiver. The second interview, which is similar to an asylum interview, is used to determine whether such a waiver is justified. In essence, the credibility of the Haitians' claims are assessed a second time against a more rigorous standard to establish a well-founded fear of persecution. If INS finds the Haitians to have a well founded fear of persecution, a medical waiver may be granted and the Haitians permitted to enter the United States to pursue their asylum claims.

We reviewed the screening and processing procedures at Guantanamo Bay. We did not find specific weaknesses in INS's interviewing and screening procedures, but we found weaknesses in the administrative procedures that followed the interviews, including numerous errors in the INS computer data base, which is used in the processing of individuals for return to Haiti or on to the United States. We found that because of these weaknesses at least 54 Haitians were apparently mistakenly repatriated. These were cases in which INS officials determined that the individuals had credible claims of having suffered persecution or a well-founded fear of persecution, or who for family reunification purposes could have joined family members who had credible claims. At least 7 others returned voluntarily without knowing that they had been found to have credible claims and could travel to the United States to have their cases adjudicated. We also found that at least 50 Haitians whose claims were found during the screening process not to be credible, were mistakenly sent to the United States. Finally, we found that a group of Haitians, possibly about 100, were given reason to believe they would travel to the United States to have their cases adjudicated, but instead have been or soon will be returned to Haiti. This occurred because their claims were found at the time of their interviews not to be credible, but their paperwork was not processed correctly and these people were treated initially as though they had been approved for processing in the United States.

While we identified specific cases where Haitian asylum seekers were erroneously either sent back to Haiti or to the United States, we believe our numbers may understate the problem. At the time of our visit to Guantanamo on March 29, 1992, INS officials had not yet completed a reconciliation of their records. That process could identify others in the various categories I've described. We

have asked INS to verify the status of all the affected individuals we identified and to provide us accurate overall figures on the numbers affected in each category. We had not received this information as of April 7, 1992.

The problems we identified occurred for several reasons. First, INS made clerical errors in entering the screening decisions in its computer data base, and reports prepared from the computer data base were used to identify individuals for repatriation. Second, family reunification decisions were not recorded in a timely manner. Consequently, some Haitians were repatriated rather than being permitted to accompany, or join, family members going to or already in the United States. Third, some Haitians with family reunification claims were repatriated before their claims were investigated.

A factor contributing to the processing problems was that several federal agencies were involved in the operations at Guantanamo, but there was no designated lead agency responsible for the operation. The agencies included the Departments of Justice, Defense, and Health and Human Services; INS; and the U.S. Coast Guard. An interagency Policy Coordinating Committee in Washington, charged with coordinating U.S. policies for the Caribbean, had overall responsibility for the Haitian interdiction operation from a policy standpoint. The committee, chaired by Ambassador Robert S. Gelbard, Principal Deputy Assistant Secretary, Bureau of Inter-American Affairs, includes representatives from State, Defense, the Joint Chiefs of Staff, Justice and INS, the Public Health Service, the U.S. Coast Guard, and the National Security Council. The United States Information Service and the Office of Management and Budget are also represented. While this mechanism assured that consistent policy was applied, it did not assure that day-to-day operations were conducted in a uniform and coordinated manner. For example, no agency was responsible for designing and maintaining a controlled master data file to ensure timely and accurate updating of the status of each Haitian. As a consequence, on a daily basis, agencies were not confident that their separately maintained computer data files contained current and accurate information. Our review indicated that this led to some of the problems we identified.

According to INS, the involuntarily repatriated individuals with personal credible asylum claims (as contrasted with family reunification cases) would be of primary concern, because if their claims are valid they could be in jeopardy in Haiti. According to the data we gathered, about half of the 54 repatriated individuals fall into this category.

It must be noted that the U.S. Embassy in Port au Prince has conducted over 500 investigations of claims of persecution among repatriated Haitians upon their return and has found no substantiating evidence of the claims. In fact, in some cases the

Embassy obtained evidence to refute such claims. However, we do not know if the investigations include any of those mistakenly repatriated.

To illustrate the types of cases involved in these mistaken repatriations, I will summarize the asylum claims of two such individuals.

In one case, a construction worker, who said he served as an election worker for the pro-Aristide political party during the election, stated that on October 1, 1991, two of his cousins were killed when the military went to his aunt's home (where he lived) to inquire as to his whereabouts. He said the military also went to his mother's home to look for him. He asserted that his family members were killed because the military knew of his involvement in pro-Aristide activities. The INS interviewing officer judged his claim to be "credible."

In another case, a mechanic stated that he feared for his safety if he returned to Haiti because he belonged to the "Konite Quartie," a group that organized rallies supporting the return of Aristide. This individual stated that after the coup, military troops came into his area shooting and killing, looking for the people who supported Aristide and members of the Konite Quartie. He said he was well known in his area by the people and the military. The INS interviewing officer concluded that the applicant's story was credible, with clear, consistent statements.

CLOSURE OF THE GUANTANAMO PROCESSING CENTER

The Guantanamo Bay processing center was closed to further INS screening interviews of interdicted Haitians on March 27, 1992. Since that time those interdicted have been screened aboard Coast Guard cutters, and only those with credible claims taken to Guantanamo Bay for further processing. While this practice seems to be satisfactory when the volume of interdictions is relatively low, it may not be if the numbers again increase significantly. Limited private interview facilities aboard the cutters restrict the number of INS interview teams that can be put aboard, each INS team can conduct only 2 to 3 full individual interviews per hour, and there is not sufficient space to separate those interviewed from those awaiting interview and to shelter large numbers of Haitians. Therefore, if appreciable numbers of Haitians are interdicted, ship board interviews may again become a problem.

While we found that the Haitians' living conditions at Guantanamo Bay have been adequate to date, we were told that heat and weather conditions preclude the facility's continued use for screening purposes. Haitians are being housed in tents set on an old aircraft runway and water is provided through pipes laid on the surface. With the onset of hot weather, and temperatures well over 100 degrees, we were told that tents would become unbearable and

the water virtually undrinkable. In addition, we were told that the temporary facilities would not withstand hurricane conditions that sometimes hit Cuba.

The number of interdictions has declined significantly, from a high of 6,653 in January 1992, to 1,158 in March 1992; although it should be noted that 745 of the March total were picked up during the last 4 days of the month. INS officials informed us on April 7, 1992, that as a result of recent increases in the number of interdictions, inductions and processing at Guantanamo Bay have temporarily resumed.

It is obviously very difficult to predict whether large numbers of Haitians will again attempt to leave their homeland; however, given the recent history of the situation in Haiti, that possibility should not be ruled out. Therefore, given conditions at Guantanamo, and in light of the limitations of shipboard screening procedures for large numbers of interdictions, it seems to us that some contingency planning should be done rather quickly by the U.S. agencies involved to handle a resurgence of asylum seekers should this occur.

Mr. Chairman, this concludes my prepared statement. My colleagues and I would be happy to respond to any questions you and other members of the subcommittee may have.