

STATEMENT AND QUESTIONS FOR THE ATTORNEY GENERAL

OF THE UNITED STATES

HONORABLE WILLIAM LEHMAN

February 28, 1989

Mr. Chairman, I very much appreciate the opportunity that you have afforded me to briefly discuss with the Attorney General a problem of great concern to the Black Community in Miami and all of Dade County, Florida. This is the problem of the unequal treatment of Haitian refugees seeking political asylum in the United States, as compared to other nationalities. I understand that some of these inequalities may have been mitigated by changes you implemented in the past few days, and I hope you will touch on that in your answer to my questions.

Haiti has a history of tyranny and political oppression. A few weeks ago, in the Foreign Operations Appropriations Subcommittee, I questioned representatives of international human rights organizations about human rights in Haiti.

They responded that death squad activity has recently increased; that the dead bodies of the victims of political murders are frequently left for hours in the streets to frighten and intimidate others; and that the threat of persecution to Haitians who return to Haiti is real and severe. Yet, because of current federal policy, very few Haitians are able to successfully apply for political asylum in this country.

Earlier this month, our South Florida Congressional delegation, black leaders from Miami, and members of your staff, including Deputy INS Commissioner Jim Buck and Tom Boyd, your Assistant for Legislative Affairs, met down the hall to discuss these matters. We found your staff attentive and concerned. My purpose today is to bring these matters to your personal attention so that the necessary changes in U.S. policy can be made to insure Haitians equal and fair treatment.

The treatment of Nicaraguans has been in sharp contrast to the treatment of Haitians. Nicaraguans were allowed into the country, permitted to retain legal counsel and advice, and have been allowed to await their hearings free to move about the community--in many cases, free to travel around the country and even to hold down jobs.

By contrast, Haitians were and are today intercepted at sea, given a hearing that amounts to what my colleague, Senator Pepper, describes as a "kangaroo court of sorts" and then sent back to Haiti. No expert counsel, no assistance, no appeal, no nothing. It may be legal, but it doesn't seem fair.

I visited the Krome Avenue INS Detention Center last Friday with Deputy Commissioner Buck in preparation for this hearing. The majority of detainees there, as you know, are Haitian.

To the Haitian and Black communities in Dade County, this unequal treatment appears to be discrimination based on race and an impoverished economic status. I hope you will be sensitive to these concerns and take them into account as you review our immigration policies and make recommendations to President Bush for changes.

I have a few questions, to which I would like to have your response:

QUESTIONS

1) Are you reviewing present policy which requires political asylum hearings at sea for Haitian refugees? What alternatives, if any, are you considering? It seems to me that it is virtually impossible to insure a fair hearing to tired, scared refugees without counsel or a chance to prepare documentation. (Sen. Pepper has a bill to require that the Coast Guard bring interdicted Haitian refugees back to the U.S. for asylum hearings.)

2) It would be very sad if the United States only grants political asylum to eligible applicants who are well educated enough to speak English and to understand arcane procedures even lawyers don't understand, or who are wealthy enough to afford the legal firepower that gets results. What steps is INS taking to insure that Haitians applying for political asylum receive adequate assistance to insure they do more than just go through the motions?

3) Some of the Haitian detainees at Krome have complained that, despite strong ties to our community, they are nonetheless imprisoned for periods that often stretch into months.

After my visit to Krome, I would urge a stronger effort to release Haitians into the community pending the outcome of their cases, particularly if they have no criminal record and if they have family or sponsors who would take responsibility for them. I understand that this is done for other groups, like Nicaraguans and Cubans. Will the Justice Department look into ways to implement such a policy for Haitian detainees at Krome?

4) When Haitians are released into the community pending decisions in their cases, will the INS authorize work permits for these people?

5) Many in our community feel that the asylum process is stacked against the applicants, that Haitians are too often pushed through the asylum process more for the convenience of the bureaucracy than to actually provide protection to those threatened with political violence.

Two recent cases are examples.

A Haitian refugee whose mother was apparently killed in political violence was already on the plane about to be deported when literally a last-second motion by a Haitian Refugee Center lawyer caused the deportation order to be rescinded because the refugee was not permitted due process.

In another case, an Immigration Judge ignored recommendations by the State Department and granted political asylum to a Haitian folk singer who maintained that he would be killed if he returned home. His mother and sister were also reportedly killed in political violence.

Even though the system apparently worked in these cases, it raises questions about how many others may have "fallen between the cracks" because of breakdowns in the system. Because human lives are involved here, the stakes are high.

What safeguards or guarantees does the INS have to insure the integrity of its own procedures and processes in asylum cases to prevent "mistakes" from occurring?

6)The Cuban-Haitian Entrant Act of 1986 allowed refugees who entered the country in 1980 and 1981 special consideration to adjust their status to become permanent residents. Applications were accepted for this program between November 30, 1986 and November 30, 1988.

I understand that many of these applicants, some even from 2 1/2 years ago, still not been called for their interviews. Their applications are still pending, and they are in limbo.

What actions is INS taking to reduce this backlog?

7) During my visit to the Krome INS Detention Center, I learned that about 70% of the Haitian detainees there arrived by airplane and were taken into custody by INS at Miami International Airport. Although the State Department does the clearance for entrance Visas, do you think it would be useful for people traveling to the U.S. from Haiti to be cleared, like those are who travel here from airports in Canada and Ireland? Will you bring up this matter with the State Department?