News Releases

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Policy for Resumed Removals to Haiti

Following the tragic January 12, 2010 earthquake in Haiti, Immigration and Customs Enforcement (ICE) temporarily ceased removing criminal Haitian nationals to Haiti. Pursuant to the U.S. Supreme Court's decision in Zadvydas v. Davis, 533 U.S. 678 (2001), ICE has the presumptive authority to detain aliens with final orders of removal for up to 180 days. After six months, with limited exceptions, continued detention is no longer presumptively lawful and ICE may extend the detention of aliens with final orders of removal only when their removal is significantly likely in the reasonably foreseeable future. The moratorium on removals to Haiti therefore meant that ICE was required to release some detained Haitian nationals with significant criminal records into U.S. communities, which in turn poses a significant threat to the American public. As a result, after a year of suspended removals, the U.S. government made the difficult decision to restart removals of a limited group of Haitian nationals to ensure the safety of U.S. communities.

Going forward, in coordination with the Government of Haiti and the U.S. Department of State, ICE is resuming limited removal of convicted criminal Haitians with final orders of removal. The removal of Haitian nationals will be conducted in a manner that comports with the March 2, 2011 ICE memo entitled *Civil Immigration Enforcement: Priorities for the Apprehension, Detention, and Removal of Aliens* which prioritizes the removal of aliens with final orders who pose a threat to public safety. Consistent with that memo, ICE will prioritize the removal of Level 1 and Level 2 offenders. Removals will be guided by that memorandum's Section D, "Prosecutorial Discretion" which focuses on the exercise of sound judgment and discretion in exercising decision making with respect to these priorities. At this time, ICE is not removing non-criminal Haitian nationals (unless they are determined to be a significant national security threat). Haitians who have pending applications for temporary protected status (TPS) are not subject to removal. ICE also will not remove any Haitian national who has TPS or is otherwise present in the United States in a lawful status.

When prioritizing aliens for removal, ICE will make decisions on individuals to remove through the consideration of adverse factors, such as the severity, number of convictions, and dates since convictions, and balance these against any equities of the Haitian national, such as duration of residence in the United States, family ties, or significant medical issues. In certain cases, where there are compelling medical, humanitarian, or other relevant factors, supervised release or other alternatives to detention programs may be appropriate. ICE will minimize transferring Haitian nationals to remote facilities to the greatest degree possible, and, where possible, detain individuals in facilities close to family and representation, except to facilitate the actual removal process.

ICE and the Department of State have been working with the Government of Haiti and other key partners to resume removals in as safe, humane, and minimally disruptive a manner as possible and to develop a comprehensive reintegration strategy that encompasses a range of services for returned Haitians to smooth their transition into Haitian society, including healthcare assistance and skills training to enhance employment prospects.

The resumption of removals to Haiti will continue to take place in a measured manner with a limited number of eligible aliens removed to Haiti each month, addressing the public safety needs of both the United States and Haiti.

Report Suspicious Activity: 1-866-DHS-2-ICE

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