

measures for Haitians (as it has already done for the adoptees), there are better and worse ways of doing so.

The worst outcome, that is the one most likely to encourage dangerous journeys by sea, would be to announce that all Haitian arrivals would be considered, post-arrival or post-interdiction, on a case-by-case basis for parole. (Of course it is necessary to consider any asylum claims resulting from pre- or post-earthquake conflict or persecution in Haiti, but most of the earthquake-affected are not likely to be refugees in the legal sense.) Other possibilities, in order of administrative ease and political feasibility, are:

- 1) *Establish a mechanism, such as a grant fund or a revolving loan fund, to cover TPS and work authorization fees for those who have difficulty paying them.* The fees are a significant burden for many Haitians who are eligible for TPS, and will directly affect their ability to send money home (which is one of the rationales for granting TPS). A public-private partnership, with most of the funding coming from the private sector, foundations, and diaspora organizations, would reduce the public-sector cost, and might even be a more effective way to help Haitians and Haiti than small contributions to humanitarian relief.
- 2) *Expedite visas for Haitians who already have immigration approval but are waiting for a visa to become available.* Most Haitians admitted for permanent residence to the United States come through the family reunification channel—just over 70 percent in 2008. Because there is a country-specific quota that applies to relatives other than the minor children and spouses of US citizens, the relatives of Haitians can wait many years for a visa. Currently, about 19,000 Haitians have been approved for family-based immigration and are waiting for their visas. Congress would have to pass legislation to increase the visa numbers, thereby sharing the political risk of acting. Given the outpouring of sympathy from the American public for the earthquake victims, opening a fast track to allow legally resident Haitians to bring their already-approved relatives here is not likely to generate a backlash if it is done quickly and the limits of the eligible group are clearly explained. A way to implement such an initiative without the need for legislation would be to grant parole to those with approved visa petitions, and allow them to reside in the United States while waiting for their visa number. This has been done before in an emergency situation, for the Southeast Asian boat people and under the US-Cuba Migration Agreement. The advantage of admissions via this route is that they eventually lead to a permanent legal status, which would not be the case for others admitted through parole or temporary visas.

A somewhat more expansive version of this policy approach could also expand the categories of relatives eligible for family reunification—nieces and nephews, aunts and uncles, adult children, grandparents, cousins, and so forth. This could be especially important for orphaned children with relatives in the United States, and for 'orphaned elderly' whose caregivers were killed in the earthquake. However, immigrant visa eligibility for such relatives would require new legislation. As an alternative, the State Department could institute a generous visitors' visa regime for relatives and DHS could grant humanitarian parole more widely. Expediting and expanding family reunification is the course of action is being followed in Canada (where it does not require legislation), which hosts the second-largest number of Haitians in a developed country. Canadian authorities are

expediting family reunification for Haitians, and extending the family category to more relations beyond the nuclear family. However, the Minister of Immigration has denied a request from the provincial Immigration Minister in Quebec (where most Haitians in Canada live) to allocate additional visas to Haitians in other categories.

Since family sponsors of immigrants must undertake that their relatives will not become "public charges," the public costs would not be enormous, although additional resources would be required for processing. About 13 percent of Haitians in the United States live below the poverty line (a lower proportion than the average for all immigrants), and therefore would not be eligible to sponsor a family member. A still more expansive approach would include a legislative waiver for the affidavit of support rules for family sponsorship—which might be difficult to persuade Congress to enact. It is also conceivable that increased family reunification may result in some families reducing their remittance to Haiti, at least in the short term, as their family obligations shift to the United States; that depends on how many relatives remain in Haiti, how many members of the US household are working, and how long it takes new arrivals to establish themselves, among other factors.

- 3) *Use the executive immigration parole authority to bring in additional categories of vulnerable Haitians to the United States.* Some faith-based groups are advocating for exceptional admission of orphans (in addition to those already in US adoption proceedings), vulnerable elderly, those in need of extended medical care, and others. This would, obviously, be a humanitarian action and not one designed to contribute to long-term reconstruction in Haiti. More ambitiously, it could be pursued as part of an effort to create a new "humanitarian entry" visa category, although that would require new legislation.
- 4) *Establish a scholarship program for Haitian students.* The shortage of basic technical and managerial skills in Haiti is dramatic. Admitting more students to US institutions for training in needed skills, especially if it were connected with employment in reconstruction or development projects back in Haiti, could be clearly presented as a contribution to long-term revival. Permanent immigration consequences would be limited (although it must be recognized that there will always be some spillover). Such a program would be relatively expensive, but could be funded at least in part by private resources, or at the state or local level. The State of Florida already has a program that supports diaspora development projects in Haiti.
- 5) *Establish a temporary work program for Haitians.* In the current economic climate, a guest-worker program would be a tough sell. There is no guarantee that newly admitted Haitians would be able to get jobs, especially jobs that pay enough to allow them to send remittances or result in the acquisition of skills needed in Haiti. Well-run temporary work programs are difficult and costly to administer. A program that was not well run would open US employers to the charge of exploiting the tragedy in Haiti. At best, it might be worth exploring, cautiously, some very specific programs in particular sectors where demand is strong and Haitians are a known quantity—such as agriculture. Current "H" temporary visa programs are available to Haitians if employers meet the established requirements for recruiting in those visa categories, but not many Haitians participate—only about 500 in the H-2A category (temporary seasonal workers) in 2008.
- 6) *Establish a "temporary safe haven" offshore for Haitians who try to leave Haiti by boat probably at Guantanamo.* There is no sign that Haiti is on the verge of a mass exodus. But nonetheless there is some discussion of reopening the "safe haven" camp in

Guantanamo. This is an undesirable option, not only because of the optics (the association with terrorism and the much-criticized US interdiction policy that does not allow even Haitians found to have valid asylum claims to enter the United States), but because Haitians confined in an offshore camp would not have any ability to contribute to the reconstruction of Haiti or the survival of their families. It is preferable to establish open camps in Haiti (as is slowly being done), preferably, in less damaged areas outside of the Port au Prince area. Repatriated people should be given the option of entering such a camp or returning to their home towns, so that they can more easily find their families and return to work as soon as possible. Decentralizing relief and reconstruction assistance might have the desirable effect of helping to solve the problem of Haiti's bloated and dysfunctional capital.

*But the linkage between migration and national reconstruction or development is weak...*

Enhanced emigration unquestionably would benefit Haitians, but not necessarily Haiti. Haitians who emigrate are likely to earn (and remit) more, and the money they send home to relatives relieves poverty, supports basic consumption needs, and allows the receivers to purchase health care. In Haiti especially, where public education is unavailable in many areas, many children rely on remittances to pay school fees. Beyond these consumption needs and human-capital investments, the most common form of investment spending out of remittances is on housing—one of the most urgent needs in the aftermath of an earthquake.

Despite these benefits, a direct connection between remittances and development has not been established. Too many other factors take precedence: remittances cannot compensate for incompetent governance, corruption, violence, institutional decay, environmental degradation, lack of infrastructure, and so forth—although they can help people survive the impact of these ills. There is no correlation at all between a country's long-term receipt of remittances and development. In Haiti, in particular, many experts agree that remittances and other voluntary contributions are so dominant in providing (still grossly inadequate) services—for example, 80 percent of the schools in Haiti are privately run—that the effect is to reduce government efforts to provide services. In addition, it is difficult for the Haitian economy as a whole to benefit even from the multiplier effects of remittance-financed consumption, because so little is produced in Haiti.

*The Haitian Diaspora has not played much of a role in Haiti's development...*

Diasporas make many kinds of contributions to the development of their countries of origin beyond remittances, including direct investment, philanthropy, technology transfer, and sharing of knowledge and skills. But Haiti's Diaspora has been notably less effective in most of these dimensions than many other diaspora groups—despite having formed hundreds of organizations and contributed time and money. The complex reasons for this are beyond the scope of this note, having to do with the history of displacement from Haiti, the rampant divisions within the diaspora, and the very difficult conditions within Haiti. Reasoning from analogies with diasporas from India or China, for example, is simply not reasonable for Haiti.

Nonetheless, the US government could do much more to invest in developmental partnership with the Haitian diaspora. Patricia Fagan of Georgetown University has analyzed

the weakness of diaspora development efforts in Haiti, and describes some successful approaches by the Canadian government that could be imitated here.<sup>†</sup> For example, the Canadian International Development Agency (CIDA) has established special funds to support diaspora-initiated development projects in Haiti. After the initial experience that the groups putting projects forward did not have the capacity to manage government funding, CIDA insists that diaspora organizations affiliate with an experienced NGO or federation that can help them with administration, management, oversight, reporting and so forth. These partnerships have allowed the diaspora organizations to gain experience and confidence in implementing projects. US government agencies have undertaken relatively little collaboration with Haitian diaspora groups, whose capacities are, for the most part, weak. The aftermath of the earthquake should encourage a more systematic effort to support effective diaspora engagement with reconstruction efforts in Haiti. For example, USAID could consider a fund to compensate employers (in whole or in part, with cash or tax credits or a combination) for giving diaspora employees leave of absence to work in Haiti for a defined period. The employees' jobs should be guaranteed upon return, and the eligibility for the program should extend to employees at all levels of skill. USAID could usefully establish a clearinghouse for employers and employees to register their interest, willingness, skills and resources. Experience in other settings suggests that, in seeking partnerships with diaspora organizations, donors should look for successful organizations whose impact is limited by resource constraints and support them—rather than presenting its own criteria for projects and waiting for responses tailored to those criteria.

*And Haiti has also experienced the downside of emigration...*

Many countries, even poor ones, have such a wealth of human resources that they can tolerate high levels of emigration without losing critical mass in their institutions. But most small island states suffer from the departure of high proportions of their educated people. Of Haiti's citizens with tertiary education, fully 82 percent have emigrated. Haiti has critical shortages of teachers, administrators, managers, health care personnel, agronomists—almost every category of skilled labor. The majority of its municipalities cannot provide even the most basic services to their residents, resulting in very low human development indicators: only 43 percent of the population over 13 is literate, secondary school enrollment is only 22 percent, infant mortality is the highest in the Western hemisphere. The country could benefit in limited ways from a bigger diaspora, but what it needs much more than that is consistent, long-term, intelligent international support for its human resource development as well as physical and institutional (especially governmental) infrastructure. It also needs foreign and domestic investment, linked to trade opportunities. Emigration is more a symptom than a cause of Haiti's problems, but it is not likely to be their cure.

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<sup>†</sup> See Patricia Fagan et al, "Giving Back to Haiti: Diaspora Associations and their Investments in Basic Social Services", paper prepared for the Inter-American Development Bank, Georgetown University, 2009.



**Mayorkas, Alejandro N**

---

**From:** Mattice, Michael  
**Sent:** Saturday, January 23, 2010 7:25 PM  
**To:** McNamara, Phil; Rohner, Boyden  
**Cc:** SBS-All; BriefingStaffA; Mattice, Michael; Kielsmeier, Lauren; Chang, Carrol; Mayorkas, Alejandro N; Ruppel, Joanna; Bird, John W; Scialabba, Lori  
**Subject:** Materials for S1 Call with DOS Clinton  
**Importance:** High  
**Attachments:** S1 Briefing-TP Memo - Call with DOS Clinton (FINAL 1-23-10).doc

Phil and Boyden,

I've attached the USCIS talking point / background material supporting S1 during her upcoming call with Secretary Clinton. Please excuse my slight formatting liberties. Thanks very much for your patience and assistance.

Respectfully,

Michael C. Mattice  
USCIS Office of the Executive Secretariat  
*Facilitators of Success*



(b) (6)

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Sunday or Monday 1/24-25/10 (unknown)

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Location – Telephone Discussion

Attachment B**TIMESONLINE**

January 23, 2010

Call for halt to Haiti adoptions over traffickers

(Hans Deryk/Reuters) Haitian girls wait in line for food and water at a tent encampment

**Thousands of children unaccounted for since Haiti's earthquake are at risk of falling prey to child traffickers, aid agencies have learned, as fears were raised over at least 15 children who have vanished from hospitals within the past few days.**

UNICEF, the UN children's agency, warned that "traffickers fish in pools of vulnerability. We know from past experience that trafficking happens in the chaos that usually follows emergencies." A UNICEF adviser, Jean Luc Legrand, said he knew of at least 15 cases of children disappearing from hospitals.

**Save the Children, World Vision and the British Red Cross have called for an immediate halt to adoptions of Haitian children not approved before the earthquake, warning that child traffickers could exploit the lack of regulation. There has been a surge in offers from well-meaning foreigners.**

Rupert Colville, spokesman for the UN High Commissioner for Human Rights, said that child enslavement and trafficking was "an existing problem and could easily emerge as a serious issue over the coming weeks and months".

Nearly 30 agencies helped by the UN peacekeeping mission and the Haitian government are urgently pooling information and resources to counter the threat. They are touring hospitals and orphanages, broadcasting radio messages, and increasing surveillance of road traffic, the airport and the border with the Dominican Republic.

The scale of the problem is potentially enormous. Haiti is awash with children, with 45 per cent of its population younger than 15. One UN official estimated that between 40,000 and 60,000 children were killed, orphaned or separated from their families by the earthquake, which struck while most were still in school, and anecdotal evidence suggests many have been left to fend for themselves.

One small orphanage visited by *The Times* yesterday said it had turned away ten children because its buildings were badly damaged. A World Vision official in Jimani, a town just across the border in the

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Location – Telephone Discussion

Dominican Republic, said eight orphans and 25 unaccompanied children — many injured — had turned up there by Tuesday. A UN official spoke of people driving to the airport in expensive cars and putting children on outgoing flights without any documentation.

The alarm is particularly acute given Haiti's dire record of child abuse. The UN High Commissioner for Refugees reported in 2008 that 29 per cent of children under 14 were already working, and roughly 300,000 were 'restaveks' (a creole corruption of 'rester avec') whose impoverished parents send them to work for wealthier families in the hope they will receive food and shelter.

Some were cared for and educated, but others were "sexually exploited and physically abused; and are unpaid, undocumented, and unprotected". When they turn 15, and must by law be paid, many are turned on to the streets to join as many as 3,000 other children who survive on the streets of Port-au-Prince as vendors, beggars or prostitutes.

Even before the earthquake, Haitian children were regularly sent to the Dominican Republic to work in sex tourism, or recruited by armed gangs. A Haitian women's organisation documented 140 rapes of girls younger than 18 years in the 18 months to June 2008. Haiti's many orphanages — there are said to be 200 in Port-au-Prince alone — are poorly regulated, and some are mere fronts for international child traffickers.

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Location – Telephone Discussion

Attachment C**BBC NEWS / AMERICAS**

01:27 GMT, Tuesday, 19 January 2010

**US opens door for Haitian orphans**

*The US says it will temporarily allow orphaned Haitian children into the US, following last week's earthquake.*

Homeland Security Secretary Janet Napolitano said the move would allow children eligible for adoption in the US "to receive the care they need".

Other nations said they were speeding up the process to allow Haitian children to join adoptive families.

Dutch adoption agencies sent a plane to pick up some 100 Haitian children who are being adopted by Dutch families.

A number of Haitian children had adoptions pending before last Tuesday's devastating earthquake.

**But there are fears that in many cases vital paperwork will have been lost because orphanages were among the many buildings wrecked or damaged by the quake.**

**Children's advocacy groups have warned against starting new adoption processes in the midst of an emergency.**

**'Complexities'**

"We are committed to doing everything we can to help reunite families in Haiti during this very difficult time," Ms. Napolitano said in a statement.

"While we remain focused on family reunification in Haiti, authorising the use of humanitarian parole for orphans who are eligible for adoption in the United States will allow them to receive the care they need here."

Ms Napolitano did not say how many Haitian children might be involved.

US Secretary of State Hillary Clinton earlier told CNN she was "personally directing that we do everything we can to try to find and identify those children who are already adoptable... and to try to expedite all the paperwork... to get them to their new home".

The US authorities are encouraging US families with pending adoptions to contact them with information about their case.

Officials believe there are at least 300 cases pending, while advocacy groups say there may be some 900 adoption cases under way.

On Sunday, several Haitian children adopted by Dutch families arrived in the Netherlands.

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Location - Telephone Discussion

Canadian authorities have also indicated that priority consideration in granting immigration visas would be given to pending adoption cases.

It is believed between 1,200 and 1,500 adoption cases are pending for French families, but the French government has said its priority is emergency aid rather than organising the transfer of the children.

"Adoptive families whose procedure in Haiti has been completed and whose child has a Haitian passport can rest assured that they will be brought to France as soon as possible," the French foreign ministry said.

Spain's foreign ministry said that it was "taking all possible steps so that Haitian minors who have been adopted by Spanish families can travel to Spain given the special conditions affecting Haiti," according to the AFP news agency.

The ministry said it was currently holding meeting with families which had completed adoptions.

However, some adoptive parents are pressing for more urgent action given the humanitarian situation in Haiti.

"Bringing children into the US either by airlift or new adoption during a time of national emergency can open the door for fraud, abuse and trafficking"

They are also concerned that many records, which will often have taken months to finalise, may have been lost amid the earthquake damage.

The Roman Catholic archdiocese in Miami, which has a sizeable Haitian community, has proposed the airlift of hundreds of Haitian children to South Florida, in an echo of the exodus from Cuba in the early 1960 of some 14,000 Cuban youngsters.

However, the Joint Council on International Children's Services, a US advocacy group, says the immediate focus should be on the safety of children in Haiti and getting emergency help to them.

"While both airlifts and new adoptions are based on valid concerns and come from an obviously loving heart, neither option is considered viable by any credible child welfare organisation," the group said.

**"Bringing children into the US either by airlift or new adoption during a time of national emergency can open the door for fraud, abuse and trafficking."**

Haiti has some 380,000 orphans, the UN's childrens' agency UNICEF says, but that number is expected to have increased in the wake of the earthquake.

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**McCament, James W**

**From:** McCament, James W  
**Sent:** Tuesday, January 19, 2010 4:57 PM  
**To:** 'Mayorkas, Alejandro N'; McCament, James W; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E; Thompson, Maggie  
**Subject:** Update on Haitian Orphan Hill Staff Briefing

Ali/all,

FYI: the following is a high-level summary of what occurred on this afternoon's call with the Hill. For those on the call, please add if there are any further points of clarification. (Ruth E, thanks to your team for the detailed summary of the call and Qs&As from which this is taken).

Of note is the last point regarding enforcement of the safe haven. DOS apparently received strong questioning from staff on this point.

- DOS and USCIS personnel (OLA and Whitney Reitz) on call advised participants of overall policy positions as outlined in the January 18 announcement by S1
- First priority are American Citizens affected by crisis – this includes American parents involved in the established adoption process.
- Visa for adopted orphans are being processed for those who have final adoption confirmation. Haitians who are accompanying the US citizen minors are also provided with visas.
- Humanitarian parole (HP) is being granted for those orphans who are in the final stages of adoption process...being issued a travel letter to allow being placed on a departure flight, with CBP granting the parole when they reach US destination of flight. Or, USCIS grants HP at PaP if possible.
- Staff advised that some 29 visas had been issued; about 80 other orphans on recent flights were given HP.
- 5000 US Citizens have been evacuated
- Goal is a more orderly process – DOS and DHS/USCIS moving to establish as quickly as humanly possible.
- Process is for orphan to receive travel documents from US Embassy and return to orphanage until an estimated date/time of departure flight can be provided; this would provide adoptive parents time to travel to meet child at Port of Entry.
- USCIS/DOS goal is to establish "safe haven" for orphans, get documentation in order; and keep the children safe.
- If lack of documentation, USCIS looking to establish solid threshold; existing established relationship with adoptive parents; background check and fingerprints; pictures from previous travel to meet children; parole only those who meet legal definition of orphan.
- **DOS received repeated concerns/questions about guidance for how Safe Havens will be established; how documents in Safe Havens will be tracked; and how is being done NOW to help set up this process. DOS Legislative Affairs staff stated that "he will get back to interested staff on the Safe Haven guidelines; this is a Task Force decision".**

Please let us know if you need further information. Thanks again to all for your quick turn-around to staff the call with State.

James

(b)(6)

**From:** Mayorkas, Alejandro N [REDACTED]  
**Sent:** Tuesday, January 19, 2010 12:34 PM  
**To:** McCament, James W; Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E  
**Subject:** RE: Haitian Orphan Hill Staff Briefing Update

Thank you to everyone.  
Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b)(6)

(b)(6)

**From:** McCament, James W [REDACTED]  
**Sent:** Tuesday, January 19, 2010 12:32 PM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E  
**Subject:** RE: Haitian Orphan Hill Staff Briefing Update

Thanks, Ali. Definitely, while working closely with DHS OLA (and taking their lead on the DHS coordination), we'll also coordinate with OCOMM/OPE on progress of talking points. In addition, we will discuss the coordination process for CBP/ICE/HHS/DOS interface.

Incidentally, Joanna's daily operational status/discussion call with DOS/HHS/CBP/ICE and CIS has been a very successful example of how this interagency coordination can work. Particularly given such a fast pace.

James

(b)(6)

**From:** Mayorkas, Alejandro N [REDACTED]  
**Sent:** Tuesday, January 19, 2010 12:20 PM  
**To:** McCament, James W; Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E  
**Subject:** RE: Haitian Orphan Hill Staff Briefing Update

Thank you, James. I appreciate it.

We need to be sure we are closely coordinated with DHS OLA, OPA, and Intergovernmental Affairs (not to mention CBP, ICE, and HHS).

Our colleagues need talking points, etc. There are a lot of moving parts. The message of not having leaders undertake their own private flight efforts, for example, is important and intergov is working that.

Thanks. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

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**From:** McCament, James W [REDACTED]  
**Sent:** Tuesday, January 19, 2010 12:13 PM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E  
**Subject:** RE: Haitian Orphan Hill Staff Briefing Update

All,

FYI: we've received the call-in information from State and list they've invited. We are expanding that list with our own list of interested member offices, in coordination with DHS OLA.

We will keep you all posted on the outcome of the call.

James

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**From:** McCament, James W  
**Sent:** Tuesday, January 19, 2010 11:34 AM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Peacock, Nelson; Scialabba, Lori; Ruppel, Joanna; Reitz, Whitney A; Bird, John W; Tintary, Ruth E  
**Subject:** Haitian Orphan Hill Staff Briefing Update

Ali/Lauren,

FYI: State is still seeking to hold a joint DHS/USCIS teleconference with interested Hill staff this afternoon on Haitian Adoptions. In coordination with Nelson (and RAIO), we've provided Lori and Whitney as the names for the staff briefing. We've been pressing State for call-in information/offices to be invited but have not received information back as yet. State had indicated a 1:30 call was planned but we've received no details yet. I've also asked for a pre-call so we can discuss talking points and coordination prior. As well as suggesting, as discussed with OLA/Nelson, that we establish a larger in-person briefing for staff soon.

Also, we've received a message from Sen. Kerry's Committee staff cancelling the request for a personal briefing today. (The Senator will remain in Massachusetts today for the general election).

Will keep you all posted as to whether this 1:30 briefing occurs-and next steps.

James

*James W. McCament*  
Chief of Legislative Affairs  
United States Citizenship and Immigration Services  
20 Massachusetts Ave, NW, Suite 4008  
Washington, DC 20529-2150

(b)(6)

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**Mayorkas, Alejandro N**

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(b)(6) **From:** Vanison, Denise [REDACTED]  
**Sent:** Friday, April 16, 2010 4:18 PM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Bacon, Roxana; Rogers, Debra A; Neufeld, Donald  
**Subject:** Administrative Options Memo  
  
**Attachments:** tps ewi adjustment eg.doc; Memo on Discretionary Options for Ali (clean) (4-16-10)eg (2) (5).doc



tps ewi adjustment  
eg.doc (68 ...



Memo on  
scretionary Options

Ali,

(b)(5)

Regards,

Denise A. Vanison  
Chief, Office of Policy and Strategy  
U.S. Citizenship and Immigration Services

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## Mayorkas, Alejandro N

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**From:** Hantman, Daniel H  
**Sent:** Saturday, April 24, 2010 7:30 PM  
**To:** Mayorkas, Alejandro N  
**Subject:** Memo to the Secretary

**Attachments:** Memo for S1 on Available Administrative Action (DHH 4-24-10)v1.doc



Memo for S1 on  
Available Admin...

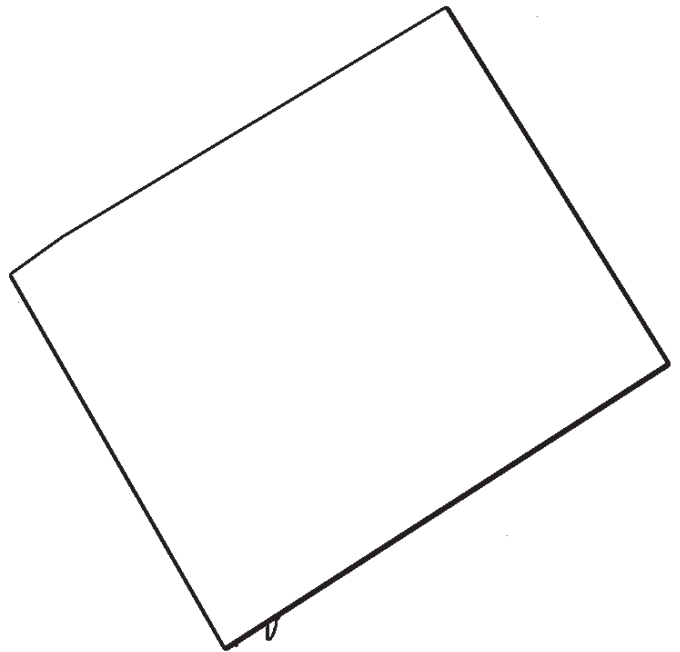
Ali: I am attaching a complete draft, as promised. I still need to edit down Appendix A, which contains a version of Julia Wilcox's regulatory agenda. It needs to be simplified and shortened for the Secretary's consumption, but I can do that relatively easily tomorrow. While I hope the body of the memo reads well, I won't be at all offended by changes of any scope. You may wish to add more meat to the introduction to frame the discussion for the Secretary. Thanks, and have a relaxing Saturday night. --Dan

(b)(6)

----- Original Message -----

From: Dan Hantman [redacted]  
To: Hantman, Daniel H [redacted]  
Sent: Sat Apr 24 19:25:37 2010

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**Mayorkas, Alejandro N**

.. Reposting

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**From:** Vanison, Denise [REDACTED]  
**Sent:** Tuesday, April 20, 2010 8:58 PM  
**To:** Mayorkas, Alejandro N; Bacon, Roxana; Neufeld, Donald; Rogers, Debra A  
**Cc:** Kielsmeier, Lauren; Chang, Pearl B  
**Attachments:** Memo on Discretionary Options for Ali (Pearl 4-20-10) (5) (2) (6).doc

Ali,

Per you request, attached is the reformatted memo. Thanks.

Denise A. Vanison

Chief, Office of Policy and Strategy

U.S. Citizenship and Immigration Services

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naty fee - flat  
budget - reduce fees (?)  
VIBE  
EB-5: Commerce

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## Senior Policy Council

### **AGENDA** **March 10, 2010**

1. Remaining Issues Relating to the Regulatory Priorities Determination.
2. Proposal to provide Employment Authorization to H-4 Spouses of H-1B Non-Immigrants Who Have Applied to Extend H-1B Status Pursuant to the American Competitiveness in the Twenty-First Century Act (AC21).
3. Proposed Changes to Employment Eligibility Verification Form I-9.
4. Options to Help Military Dependents.
5. I-551 Recall Final Rule.



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*Denise -> WH*

## Senior Policy Council – Briefing Paper

### *Employment Authorization for H-4 Spouses* Office of Policy and Strategy/ Kevin Cummings

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#### Applicable laws and regulations:

8 CFR 274a.12(a): Lists the classes of aliens authorized to accept employment.

AC21 § 104(c) is a means for aliens who are pursuing lawful permanent resident (LPR) status based on the approval of an I-140 petition to extend their H-1B status beyond the 6-year statutory limitation of stay.

AC21 § 106(a) is a means for aliens who are pursuing LPR status based on the filing of a labor certification and/or an I-140 petition to extend their H-1B status beyond the 6-year statutory limitation of stay.

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## Senior Policy Council – Briefing Paper

### ***Proposed Changes to Employment Eligibility Verification Form I-9***

Verification Division / POC: Kathy Lotspeich

#### **Problem or Issue:**

The integrity of the employment eligibility verification process is compromised by the lack of security features on several of the documents permitted to establish identity and employment authorization on the Form I-9, *Employment Eligibility Verification*. This weak link in the Form I-9 process must be fixed to preserve jobs for those who are authorized to work and to make it more difficult for unauthorized individuals to work in the United States.

#### **Applicable laws and regulations:**

All employers, agricultural recruiters, and referrers for a fee (employers) are required to verify the identity and employment authorization of each individual hired for employment in the United States, regardless of the individual's citizenship. See Immigration and Nationality Act (INA) section 274A(a)(1)(B), 8 U.S.C. § 1324a(a)(1)(B). As part of the verification process, employers must complete the Form I-9, *Employment Eligibility Verification*, retain the form for a statutorily established period of time, and make the form available for inspection by certain government officials. See INA § 274A(b), 8 U.S.C. § 1324a(b); 8 C.F.R. § 274a.2. On the Form I-9, a newly hired employee must attest to being a U.S. citizen, a U.S. noncitizen national, a lawful permanent resident (LPR), or an alien authorized to work in the United States. The employee then must present to the employer a document or combination of documents designated by statute and regulation as acceptable for establishing identity and employment authorization. The employer must examine the documents, record the document information on Form I-9, and attest that the documents reasonably appear both to be genuine and to relate to the individual presenting the documents.

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#### **Recommended course and form of action:**

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## Appendix

### Details of Proposed Changes to Employment Eligibility Verification (Form I-9)

#### Background

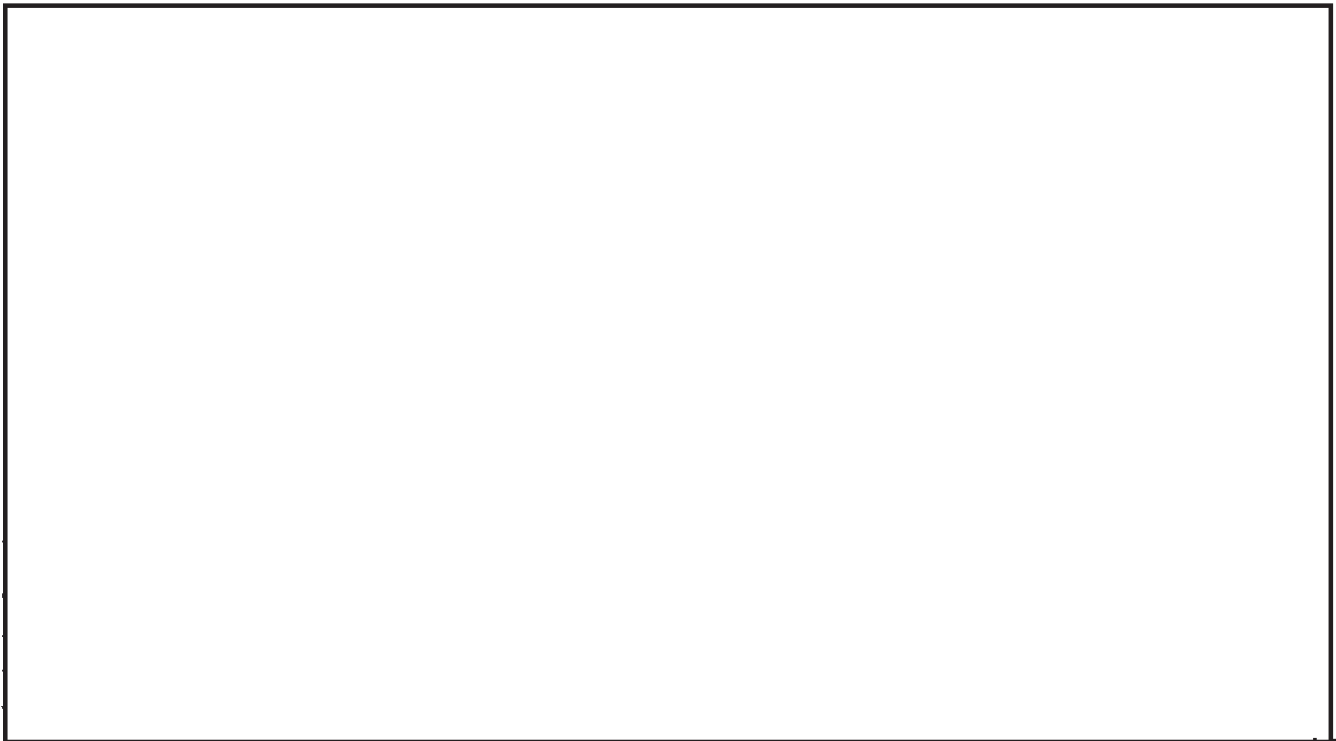
The Immigration Reform and Control Act of 1986 (IRCA) mandated that employers verify the identity and employment authorization of each individual they hire on the Form I-9. The three categories of acceptable documents on the Form I-9 are: List A documentation establishes both employment authorization and identity, List B documentation establishes identity only, and List C documentation establishes employment authorization only. An individual must present List A documentation, or a combination of a List B and a List C documentation, for the Form I-9. If a List A, List B, or List C document is lost, stolen, or destroyed, a receipt for the application for a replacement document is acceptable in lieu of an original document for a 90-day period.

Following reports that the large number of acceptable documents confused employers and to prevent employment discrimination, legacy INS and USCIS published several rules proposing reductions in the number of acceptable documents. Two rules resulted in a reduction in the number of acceptable documents: 1) a 1997 interim final rule (IFR) resulting from a mandate in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA); and 2) a 2008 IFR. USCIS developed a draft final rule following the 2008 IFR that provides responses to public comments. This final rule is currently under review at DHS.

While the 2008 IFR significantly improved the Form I-9 process by eliminating expired documents, the Verification Division now proposes to further improve the integrity of the employment eligibility verification process by making the changes outlined below through a Notice of Proposed Rulemaking (NPRM).

#### List of Acceptable Documents

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## Senior Policy Council – Briefing Paper

### *Options to Help Military Dependents*

OFO/ Debbie Rogers, Associate Director

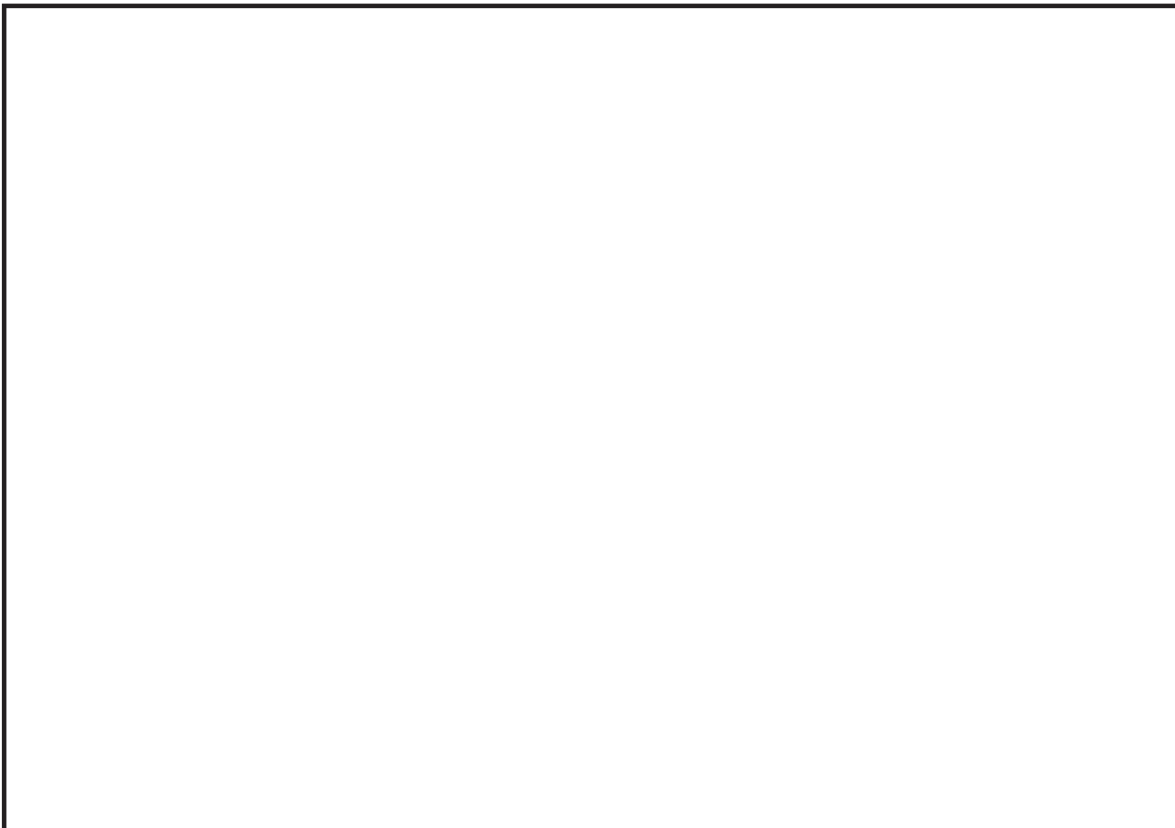
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#### **Applicable laws and regulations:**

Parole under section 212(d)(5)(A) of the Immigration and Nationality Act (INA) may be used on a case-by-case basis for humanitarian or public interest reasons. "Parole in place" may be granted to individuals in the U.S. who are seeking admission (i.e., who have not already been admitted or paroled.) Deferred action is a second discretionary tool USCIS has delegated authority to apply for humanitarian or public interest reasons. Factors to be considered in granting deferred action are set forth in the Meissner Memo ("Exercising Prosecutorial Discretion" (November 17, 2000). Both parole and deferred action enable a recipient to receive employment authorization.

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**Senior Policy Council – Briefing Paper**

***I-551 Recall Final Rule***

Julia Doig Wilcox

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**Applicable laws and regulations:**

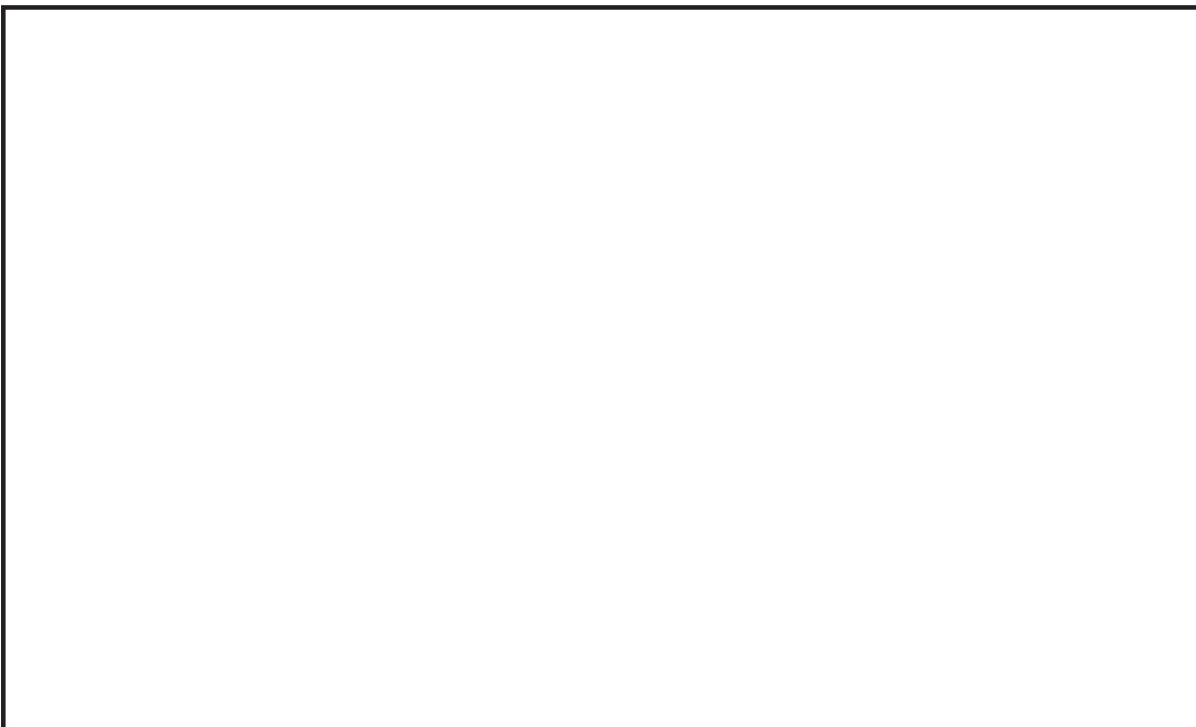
Sections 261, 264(d), and 174A(b)(1)(B)(ii) of the Immigration and Nationality Act, 8

U.S.C. 1301, 1304(d), 1324a(b)(1)(B)(ii)

8 CFR 261.1(b)

8 CFR 274a.2(b)(1)(v)(A)(2).

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**Mayorkas, Alejandro N**

**From:** Mattice, Michael

**Sent:** Friday, January 15, 2010 5:54 PM

**To:** Thompson, Maggie; Melero, Mariela; Alfonso-Royals, Angelica M; Kielsmeier, Lauren; McCament, James W; Ruppel, Joanna; Groom, Molly M; Howell, David R; Chang, Pearl B; Neufeld, Donald; Liao, Gening; Aytes, Michael; [REDACTED] Kliska, Jennifer R; Haines, Leigh; Carson, Rebecca S; Scialabba, Lori; Ratliff, Gerri; Rhew, Perry J; Bacon, Roxana; Collett, Greg L; Hope, Leslie K; Zuchowski, Laura B; Stanley, Kathleen M; Humphrey, Buck H; Jones, Rendell L; Eadie, Gwendolyn S; Strack, Barbara L; Rogers, Debra A; Crocetti, Don; Brown, Meddie; Velarde, Barbara Q; Cox, Sophia; Rosado, Timothy A; Lane, Jan P; Hawkins, Donald K; Moore, Joseph; Harrison, Julia L; Parisi, Thomas; Mayorkas, Alejandro N; Bucher, Steve P; Langlois, Joseph; Bulger, Jack M

**Subject:** IMMEDIATE DISTRIBUTION: Haiti - Guidance to USCIS Leadership

**Importance:** High

**Attachments:** Haiti D1 - Field Guidance (SIGNED 1-15-10).pdf

All:

Director Mayorkas signed the attached guidance memorandum, "Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake," dated January 15, 2010. Please ensure wide, immediate and appropriate distribution (especially to field offices). Thank you.

Respectfully,

Michael C. Mattice  
USCIS Office of the Executive Secretariat  
*Facilitators of Success*



U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
*Office of the Director (MS 2000)*  
Washington, DC 20529-2000



U.S. Citizenship  
and Immigration  
Services

JAN 15 2010

## Memorandum

TO: Field Leadership

FROM: Alejandro N. Mayorkas  
Director

SUBJECT: Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake

### 1. Purpose

This memorandum provides interim field guidance for the various forms of relief that U.S. Citizenship and Immigration Services (USCIS) has committed to undertake as a result of the January 12, 2010 Haiti earthquake. This guidance will apply to nationals and habitual residents of Haiti some of whom may fall outside the scope of a TPS designation. USCIS will continue to work with DHS to determine whether any additional forms of relief may be necessary.

### 2. Background

The Department of Homeland Security (DHS) is committed to providing certain forms of temporary relief to those who are unable to return to Haiti at this time due to the January 12, 2010 earthquake.

As discussed in more detail below, USCIS will implement procedures to adjudicate favorably, where possible, applications for change or extension of nonimmigrant status following the expiration of an applicant's period of admission; grant an additional period of parole or advance parole in appropriate cases; and authorize "F" nonimmigrant students' requests for off-campus employment work authorization. USCIS will also expedite the processing of advance parole applications and relative petitions for minor children from affected areas.

Additionally, USCIS will grant employment authorization where appropriate. This consideration is given in recognition of the financial losses experienced as a result of the earthquake.

### 3. Field Guidance

This guidance covers nationals and habitual residents of Haiti. When an officer determines that an applicant is from Haiti, he/she may take one of the following actions:

Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake  
Page 2

**A. Change or Extend Nonimmigrant Status:**

USCIS will use its discretion to more readily approve applications for change or extension of nonimmigrant status by affected aliens. However, certain nonimmigrant classifications are not permitted to apply for or receive employment authorization. Nonimmigrant visitors, for instance, would not be granted work authorization based on that status.

**Implementation Guidance:** For an approvable application for a change or extension of nonimmigrant status submitted by an affected alien, Directors should exercise discretion in favor of the applicant absent compelling adverse factors. Upon receiving Form I-539, Application for Change or Extension of Status, Service Centers will identify applicants who are nationals and residents of Haiti, and identify such applications for immediate processing.

Haitian B-1 or B-2 visa holders who are unable to return home may file for an extension of status for an additional six months. All other nonimmigrant aliens must continue to meet existing criteria for change or extension of status. Those aliens who are unable to pay the fees may file a fee waiver request in accordance with existing regulations. In cases where an alien is no longer able to extend his or her current nonimmigrant status, favorable consideration should be given to requests for change of status to B-1 or B-2.

In accordance with existing guidelines, Service Center directors have authority to accept applications for extension of stay or change of status submitted after the applicant's period of admission has expired. Such applications must include evidence of the applicant's inability to return to Haiti prior to the expiration of his or her authorized period of admission due to the events of January 12, 2010. Haitian nationals and residents in lawful, nonimmigrant status on January 12, 2010, will be excused for filing late up to March 12, 2010. After March 12, 2010, eligibility for delayed filing will be determined on a case-by-case basis.

**B. Reparole Affected Parolees:**

Haitian aliens already in the United States pursuant to a grant of parole by USCIS may file for reparole at the District office with jurisdiction over the alien's place of residence. Absent compelling adverse factors, the District Director should exercise his or her discretion favorably for reparole. Parolees in the United States may apply for employment authorization.

**Implementation Guidance:** The District Director should grant an extension of parole if a national or resident of Haiti presents a genuine, expired or unexpired Form I-94, which contains an expiration date between January 12, 2010 and March 12, 2010 and the alien demonstrates that he or she was or is prevented from returning to his or her home country prior to the expiration of his or her parole as a direct result of the earthquake. The length of the extension is at the Director's discretion but normally should not exceed 6 months.

**C. Extend Grants of Advance Parole:**

Due to disruption of consular services following the earthquake and in recognition of the humanitarian needs of affected aliens, an automatic extension of advance parole until March 12,



Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake  
Page 3

2010, is granted to those aliens who are currently in Haiti and who are outside of the United States if their advance parole authorization, Form I-512, Authorization for Parole of Aliens into the United States, expires between January 12, 2010 and March 12, 2010. Ports of entry have been instructed to accept these auto-extended Form I-512s.

**D. Grant Academic ("F") Student Employment Authorization:**

Nonimmigrant F-1 students from Haiti who may be unable to continue to cover the cost to engage in a full course of study may need off-campus employment authorization.

**Implementation Guidance:** If an F-1 student demonstrates that he or she is a national or resident of Haiti and he or she has been recommended for such employment by the Designated School Official (DSO) per the requirements of 8 CFR 214.2(f)(9)(ii)(C) and (D), the Service Center Director should approve the I-765.

**E. Expedite processing for the following applications/petitions:**

Given the need for immediate relief, USCIS will expedite certain applications. Standard requirements for security checks remain in place under expedited procedures.

- **Requests for Advance Parole:** Some nationals and residents of Haiti with benefit applications pending in the United States may need to travel quickly to Haiti for emergent reasons and will apply for advance authorization for parole to return to the United States. USCIS will expedite these applications. Individuals from Haiti with pending applications for advance parole may also request expedited processing.

**Implementation Guidance:** When receiving Form I-131, Application for Travel Document, Adjudications Officers should determine if the applicant is a national or resident of Haiti. If the officer determines that the applicant is from Haiti, the request for advance parole should be processed as an emergency request.

- **Relative Petitions for Minor Children of eligible LPRs and USC's Residing in Affected Areas:** Children are a particularly vulnerable population. In cases where the LPR or USC petitioner requests expedited processing of a Form I-130 Petition for Alien Relative (where visa numbers are available) or an asylee from Haiti requests expedited processing of a Form I-730, Refugee/Asylee Relative Petition for a child from Haiti, the Director will give favorable consideration to the request, if received by July 1, 2010.

**G. Assist Persons Stranded Without Documents:**

When the Embassy in Port-au-Prince is open to the public, the USCIS field office there should continue to assist LPRs who have lost their documents. As soon as the Embassy is open to the public and as long as USCIS staff is present in Port-au-Prince, database checks and interviews will be conducted to rapidly verify status and authorize issuance of boarding letters. Boarding letters permit airlines to allow aliens to travel to the United States. The Field Office in Santo

Initial Relief Efforts for Aliens Affected by the January 12, 2010 Haiti Earthquake  
Page 4

Domingo should also continue to provide assistance to individuals evacuated from Haiti to the Dominican Republic who may have lost their documents.

**H. Issue Employment Authorization for Orders of Supervision:**

USCIS may receive, and shall adjudicate as promptly as possible, Forms I-765, Application for Employment Authorization, relating to aliens who have been issued Orders of Supervision pursuant to stays of removal by U.S. Immigration and Customs Enforcement.

**I. Abandonment and Requests for Evidence**

USCIS will consider exercising discretion on a case-by-case basis not to deny for abandonment or failure to respond to a Request for Evidence (RFE) if the applicant, petitioner or beneficiary lives in the affected area or if the alien needed to obtain documentation from the affected area or otherwise demonstrates a direct connection between the disaster and the failure to pursue the application or petition."

**J. Humanitarian Parole**

Humanitarian parole is an extraordinary measure, sparingly used to bring an otherwise inadmissible alien into the United States for a temporary period of time, due to a compelling emergency. Humanitarian parole may be used on a case-by-case basis to address compelling and urgent humanitarian needs. Many USC prospective adoptive parents are already in the process of adopting a child from Haiti. In these cases, USCIS will consider granting humanitarian parole to a child without a visa, for whom we have evidence of a final adoption decree issued by the Government of Haiti or who has been granted custody to U.S. citizen adoptive parents for the purpose of emigration and adoption in the United States. We are exploring other categories of children for which humanitarian parole may be appropriate.

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**BACKGROUND:**

Preparation for mass migration operations by DHS other Federal Agency Partners has been called "Operation Vigilant Sentry (OVS)," but given that the first priority of the Haitian operations is to prepare for the possible evacuation of the 45,000 USC's on Haiti, "Operation Safe Return" is the title of the mission. Much of the same infrastructure that USCIS had in place through OVS is, however, being deployed in support of Operation Safe Return.

**Haiti - Current Country Conditions**

The USCIS Asylum Division will be preparing daily incident reports on the situation in Haiti as more information regarding the status of the island comes in. The January 13<sup>th</sup> incident report is attached (Attachment H).

**Populations Affected by the Earthquake & Policy Options for Each****I. U.S. Citizens in Haiti**

- Current estimates coming from DHS state that there are 45,000 U.S. Citizens (USCs) currently in Haiti.
- The U.S. Embassy is currently evacuating its staff from Haiti,
- However, DOS has not yet declared an evacuation (voluntary or involuntary) for all USCs in Haiti.
- CBP is the lead for the evacuation of USCs.

**II. Non-Immigrant Haitian Nationals in the United States**

- ICE has suspended all removal operations of Haitians unlawfully present in the U.S. to Haiti.
- As of December 21st, 2009, ICE holds 149 Haitian nationals in custody, however there are a total number of 31,206 Haitian nationals who are not detained but have a final order of removal.
- There are no known statistics on the number of Haitian nationals unlawfully present in the United States. However, the Office of Immigration Statistics FY2008 Yearbook reported the following numbers for non-immigrant admissions of Haitian nationals:

Fiscal Year	Number of Non-Immigrant Admissions
2001	72,418
2002	68,725
2003	66,675
2004	70,187
2005	76,092
2006	62,650
2007	89,990
2008	103,784

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**III. Haitian Nationals Outside of the United States**

- A firm estimate of the potential mass migration from Haiti has not yet been determined as the beginnings of a mass migration have not yet been observed, however, one is expected, especially given the possibility of the “pull” effect that will occur if of the U.S. grants TPS to Haitians.
- As noted above, USCIS strategic planning for mass migration in the instance of TPS has used the benchmarks of 125,000; 250,000 and 500,000 migrants.

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**ATTACHMENTS:**

- Tracker: USCIS Involvement*
- Overview of USCIS Costs in the event of Haitian Crisis (SCOPS & OFO)*
- Humanitarian Parole Options Paper from International Operations*
- Interdiction Options Paper from Refugee Affairs*
- TPS Recommendation Submitted to the White House, 1/13*
- OP&S Overview of Policy Options*
- Communication & Engagement Tactical Plan (OPE & OCOMM)*
- Haiti – January 13<sup>th</sup> Earthquake Incident Report*
- Operation Vigilant Sentry Background Powerpoint*
- Relief Memo to the Field, with latest comments*
- OPE Haitian Engagement Strategy*

**CONTACT:**

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Maggie Thompson, Front Office,

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**Use of Parole to allow Haitian nationals with urgent need to enter the U.S.**

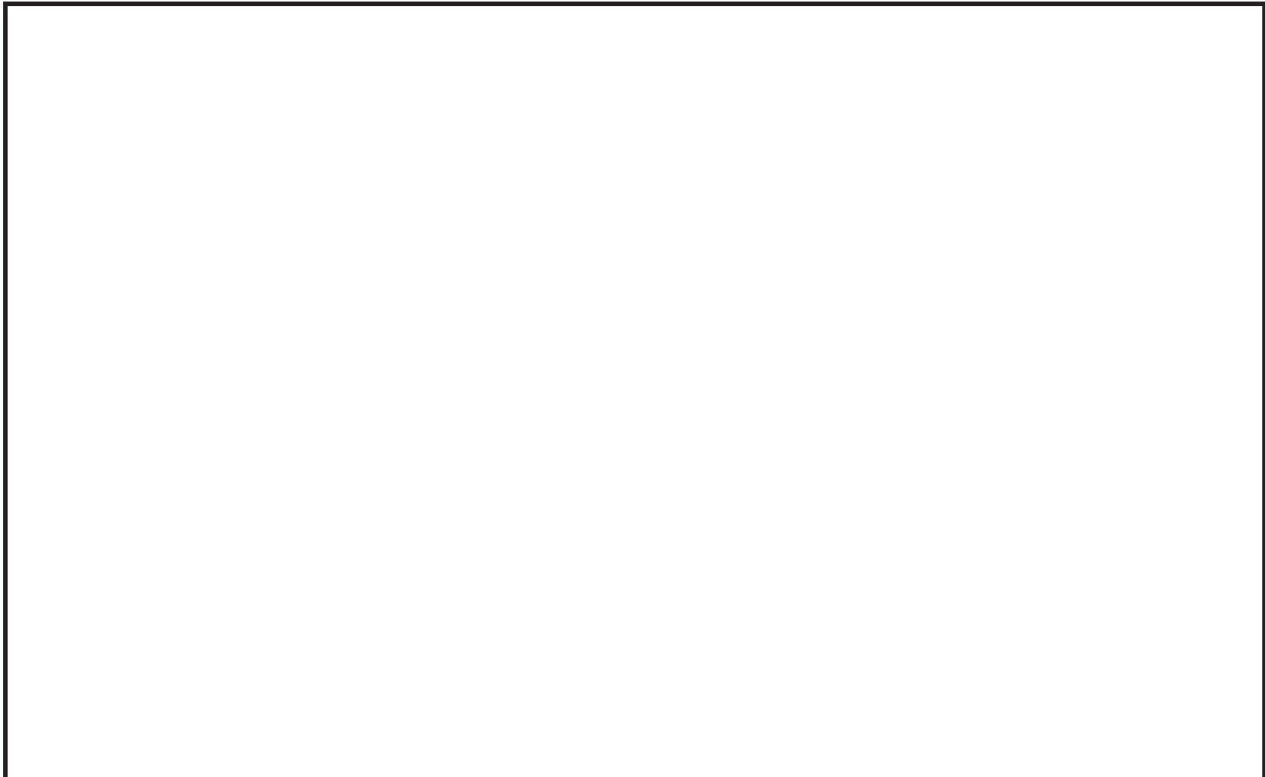
General Background on Humanitarian Parole

Humanitarian parole is an extraordinary measure, sparingly used to bring an otherwise inadmissible alien into the United States for a temporary period of time, due to a compelling emergency. Humanitarian parole does not constitute an "entry" into the United States. It allows an alien to come to the United States but does not accord any legal status. Parolees may apply for employment authorization.

Humanitarian parole is discretionary and involves case-by-case consideration of situations where extenuating circumstances exist – for example, a need for specialized medical treatment that is available in the United States but unavailable in the alien's home country or neighboring countries; family reunification involving the very young or elderly, adoptions or other compelling humanitarian reasons. Parole is not intended to circumvent normal visa-issuing procedures, nor as an instrument to bypass preference immigrant visa availability.

Parole has been used in emergency evacuation situations to enable US citizens being evacuated from a country in turmoil to bring their non-US citizen children, spouses or parents into the United States. Last year, for example, parole was used to allow approximately 47 family members of U.S. citizens evacuated from Gaza to enter the U.S. during the Israeli-Palestinian conflict. Similarly, parole was used to bring in approximately 275 spouses, children, or parents of US citizens evacuated from Lebanon in 2006.

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### Interdiction Screening – Haitian Migrants Post-January 12

Under E.O. 13276, the Secretary has the authority to determine what screening, if any, will be conducted for persons who have been interdicted at sea. This includes screening to determine whether they are persons in need of protection who should not be returned to their country of origin without their consent. However, current screening policies are based on intra- and interagency consultations and have been in place for many years. Accordingly, changes screening policy would normally be preceded by interagency consultations and deliberation in order to fully assess intra- and interagency concerns as well as domestic and international implications.

#### Current (Steady State) Interdiction Operations in the Caribbean

Interdicted migrants who are nationals of countries other than Cuba or the People's Republic of China (PRC) do not routinely receive a protection screening interview with a USCIS officer unless the migrant affirmatively **manifests a fear** of return in his/her dealings with the US Coast Guard (USCG).

- Migrants (other than Cubans and PRC) who do not manifest a fear of return *are repatriated*.
- Migrants who manifest a fear to USCG personnel (verbally or physically) are referred to USCIS. No qualitative evaluation of that fear or its basis is undertaken in the evaluation process, and if doubt or ambiguity exists as to whether a migrant has manifested a fear, the matter should be referred to USCIS for further review.
- Migrants who, upon initial examination at sea by a USCIS officer, do not demonstrate a credible fear of persecution or torture if returned *are repatriated*.
- Migrants who demonstrate a credible fear of persecution or torture are brought to Guantánamo Bay Naval Base (GTMO) for more thorough protection screening by USCIS officers. Migrants found not to require protection *are repatriated* to their country of origin, while those who are offered protection are referred to the State Department for third-country resettlement. They are housed at GTMO pending resettlement.

#### Mass Migration Operations in the Caribbean

Operation Vigilant Sentry (OVS), as in steady state operations, contemplates that interdicted migrants (other than Cuban or PRC nationals) will only receive a credible fear interview by USCIS if the USCG determines that they have manifested a fear of return.

- For migrants who manifest a fear of return but who are determined not to require protection after interview by a USCIS officer, the OVS plan calls for their immediate repatriation under safe conditions. Migrants may be repatriated to their country of origin or transit, unless repatriation is impractical due to the country not accepting them or if it is determined that the repatriation environment is not safe.
- Migrants found to merit protection are referred to the State Department for third-country resettlement, and will remain at a migrant camp location (such as GTMO) pending such resettlement.

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**Temporary Protected Status (TPS) Designation for Haiti**  
**January 13, 2010**

**Purpose**

This document outlines the basic statutory, country conditions, operational, and strategic considerations that inform a decision regarding a TPS designation for Haiti in light of the January 12, 2010 earthquake that struck the island.

**Relevant Statutory Basis for TPS**

TPS is a temporary immigration status granted to eligible nationals of designated foreign states who are temporarily unable to return safely to their home country because of ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions.<sup>1</sup> The Secretary of Homeland Security has the discretion, following consultation with other appropriate U.S. Government agencies, to designate a country for TPS, provided conditions in the country meet the statutory conditions.<sup>2</sup> Following the designation of a country, TPS applicants also must meet individual eligibility criteria before being granted the immigration benefit.<sup>3</sup> Persons convicted of a felony or two or more misdemeanors are ineligible for TPS. Individuals granted TPS are eligible for work authorization, and they are not subject to detention or removal.<sup>4</sup>

The Immigration and Nationality Act (INA) sets forth three bases for TPS designation: ongoing armed conflict, natural disaster, or extraordinary and temporary conditions.<sup>5</sup> The appropriate basis for a TPS designation for Haiti is either the January 12, 2010 earthquake or the extraordinary and temporary conditions in Haiti that have followed from it. Haiti may be designated for TPS if the Secretary finds either:

- *Environmental Disaster* – (1) An earthquake or other environmental disaster has resulted in a substantial, but temporary, disruption of living conditions in Haiti; (2) Haiti is unable, temporarily, to handle adequately the return of its nationals; and (3) Haiti's government has officially requested a TPS designation;<sup>6</sup> or
- *Extraordinary and Temporary Conditions* – (1) There exist extraordinary and temporary conditions in Haiti that prevent Haitian nationals from returning to Haiti in safety; and (2)

<sup>1</sup> See INA § 244(b)(1); 8 U.S.C. § 1254a(b)(1).

<sup>2</sup> *Id.*

<sup>3</sup> To be eligible for TPS, an alien must (1) be a national of a designated foreign state (or a person without nationality who last habitually resided in the foreign state), (2) demonstrate that he or she has been "continuously physically present" in the United States since the effective date of the most recent designation of the foreign state, (3) demonstrate that he or she has "continuously resided" in the United States since such date as the Secretary establishes; (3) not be subject to any of the criminal, security or other mandatory grounds of ineligibility for TPS; (4) be admissible as an immigrant (with certain exceptions); and (5) meet requirements for TPS registration that will be stated in a DHS Federal Register notice. See INA § 244(c); 8 C.F.R. §§244.2-244.4; §244.6-244.9. The "continuous physical presence date" is the date of publication of the country designation (*i.e.*, the Federal Register notice date) or such earlier date as the Secretary may specify in the notice. INA, § 244(b)(2)(A). However, the "continuous residence" date is established by the Secretary. INA, § 244(c)(1)(A)(ii).

<sup>4</sup> INA, §§244(a)(1), (d)(1-4).

<sup>5</sup> See 8 U.S.C. § 1254a(b)(1).

<sup>6</sup> See *id.* At § 244(b)(1)(B); 8 U.S.C. § 1254(b)(1)(B).

it is not contrary to the national interest of the United States to permit Haitian nationals to remain temporarily in the United States.

The U.S. Government could choose to proceed with a TPS designation before obtaining an official request by employing the latter authority.

#### Country Conditions Analysis

On Tuesday January 12, 2010, a powerful earthquake struck Haiti, still recovering from the spate of storms that ravaged the island in 2008. The epicenter was ten miles southwest of the capital Port-au-Prince.<sup>7</sup> Estimates hold that three million people may be affected by the 7.0-magnitude tremor.<sup>8</sup> The presidential palace, the cathedral, and the Ministry of Justice were destroyed. Reports indicate that concrete homes have collapsed on hillsides and hospitals are overflowing with victims. Electricity and phone service is out and supplies of fresh water are dwindling. The United Nations Secretary General, Ban Ki-moon, said Haiti was facing a “major humanitarian emergency.” The Haitian president, René Préval, told The Miami Herald that the toll was “unimaginable” and estimated that thousands had died. Among those feared dead are the chief of the United Nations mission in Haiti and Msgr. Joseph Serge Miot, the archbishop of Port-au-Prince.

Although a number of organizations and countries have pledged humanitarian aid, efforts to administer emergency services and distribute food and water are halting, and, in some places, seemingly nonexistent. Fuel shortages are emerging as an immediate concern. Roads have been torn apart or are blocked by debris, making it more difficult to transport food, fresh water, and first aid supplies; and hospitals have been overwhelmed by the injured.

Haiti has the distinction of ranking the lowest in human development levels and infrastructure in the Western Hemisphere (UNDP 2007/2008, CIA 2009). Eighty percent of Haitians live below the poverty line, resulting in problems of malnutrition (LOC 2006, CIA 2009). “Half the population can be categorized as ‘food insecure,’[...] less than half the population has access to clean drinking water, a rate that compares poorly even with other less developed nations” (LOC 2006). Poverty has been exacerbated by the recent storms, which have damaged agricultural lands, killed livestock, and washed away food stores (USIP 2008, *New York Times* 2008).

#### Congressional Interest

There is significant interest on Capitol Hill in a Haiti TPS decision. Florida Republican Representatives Lincoln and Mario Diaz-Balart and Ileana Ros-Lehtinen sent a letter asking President Obama for immediate humanitarian aid for Haiti and requesting TPS for Haitian nationals residing in the United States.<sup>9</sup> Democratic Representative Alcee Hastings added his name in support of the effort.<sup>10</sup> Senators Schumer and Gillibrand have also asked President Obama to grant TPS to Haitians present in the United States.<sup>11</sup> Given the degree of interest in

<sup>7</sup> See [http://www.washingtonpost.com/wp-dyn/content/article/2010/01/13/AR2010011300320\\_2.html?hpid=topnews&sid=ST2010011302017](http://www.washingtonpost.com/wp-dyn/content/article/2010/01/13/AR2010011300320_2.html?hpid=topnews&sid=ST2010011302017)

<sup>8</sup> See [http://www.msnbc.msn.com/id/34829978/ns/world\\_news-haiti\\_earthquake/](http://www.msnbc.msn.com/id/34829978/ns/world_news-haiti_earthquake/)

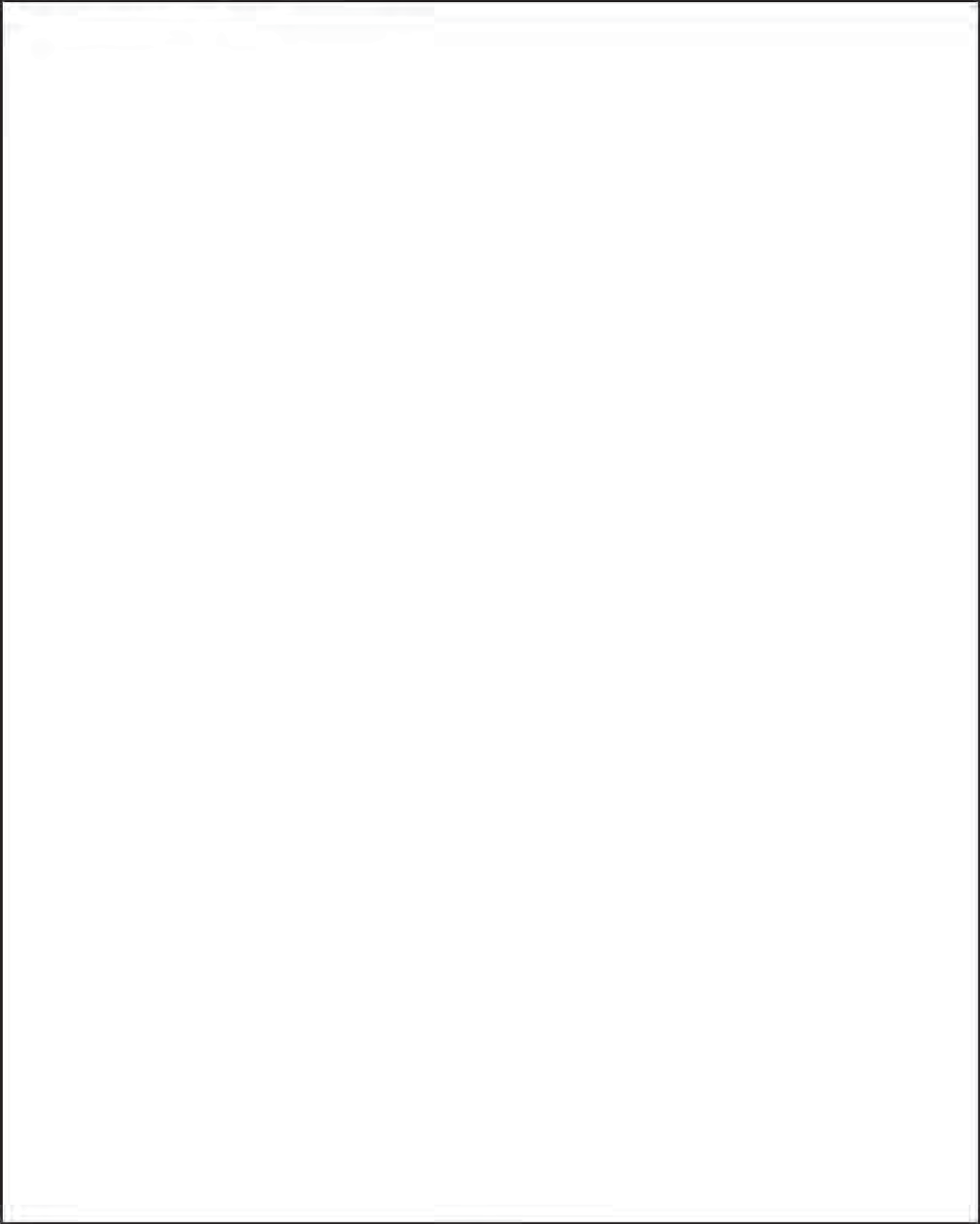
<sup>9</sup> See <http://www.miamiherald.com/459/story/1422279-p2.html>

<sup>10</sup> *Id.*

<sup>11</sup> See <http://www.politico.com/news/stories/0110/31451.html>

the decision, any communications strategy should include Hill notification prior to its announcement to the public.

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The U.S. Coast Guard has deployed the following assets immediately to Haiti to assist in the disaster relief effort:

- Four USCG medium endurance cutters (1 on the scene, 3 more arriving in the next 48 hours)
- Four or five 110' patrol boats
- Two C-130 aircraft for medical evacuations
- Two C-130 aircraft for surveillance
- One CASA Aircraft for surveillance
- Two Deployable Ops Groups (DOGs)
- Two Logistics Teams
- Several Civil Engineers

Arrival of USCG assets will initially serve as disaster relief and emergency response, including providing humanitarian relief, search and rescue, and evacuation. Coast Guard warns that a grant of TPS could act as a magnet encouraging migration from the island. However, the presence of Coast Guard resources would likely serve as a visible presence to discourage and deter mass migration as they continue to carry out disaster relief duties.

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Office of Communications

U.S. Citizenship  
and Immigration  
Services**Communication and Engagement Tactical Plan****Haiti Earthquake***January 13, 2010*

<b>Date</b>	<b>Lead office</b>	<b>Deliverable</b>	<b>Complete</b>
<b>January 13, 2010</b>	<b>OCOMM/New Media</b>	<b>Create Mock Up Haiti Earthquake Page and Banner</b>	<b>In Process (Post by COB Today)</b>
	<b>Public Engagement</b>	<b>Identify key Haitian Stakeholders Dialogue with Haitian Community to inform policy and materials development. Data call on Creole speakers and/or CROs available to deploy if requested for humanitarian assistance.</b>	<b>In Process/ Ongoing</b>
	<b>Public Engagement</b>	<b>Create Q&amp;A documents based on feedback from stakeholders</b>	<b>In Process</b>
	<b>OCOMM/Media Relations</b>	<b>Gather/clear talkers from SCOPS, RAIO and Field Ops</b>	<b>In Process</b>
	<b>OCOMM/Internal Communications</b>	<b>Secretary's Statement in USCIS Today</b>	<b>In Process</b>
<b>January 14, 2010</b>	<b>OCOMM/Internal Communications</b>	<b>Update from Jan Lane in USCIS Today on Employees in Haiti</b>	<b>In Process</b>
	<b>OCOMM/Media Relations</b>	<b>Distribute Internal Talkers</b>	
	<b>OCOMM/New Media</b>	<b>Update Haiti Earthquake page as more information is received.</b>	<b>On Going</b>

**Roles**

- **OCOMM** - Lead on all media and web messaging. Advise DHS OPA with OPE Updates on the Haitian Community. Draft press materials as needed. Keep employees updated on any guidance in regard to Haitian customers.
- **OPE** - Lead on dialogue with Haitian community in south Florida and around the country. Ensures that written information prepared is informed by community feedback and responsible for developing specific materials for dissemination such as Q and As. Maintain stakeholder feedback mechanism. Identify community relations resources capable of assisting humanitarian efforts in preparation for requests from DHS components.

U.S. Department of Homeland Security  
20 Massachusetts Avenue, NW  
Washington, DC 20521-2100



U.S. Citizenship  
and Immigration  
Services



**SITUATION REPORT: Haiti**  
**January 13, 2010**

**Natural Disaster / Earthquake**

On January 12, 2010, a 7.0 magnitude earthquake was recorded off the coast of Haiti, and only 17 km from the capital, Port-au-Prince. Aftershocks have been felt measuring 5.9 and 5.5 respectively, and more aftershocks are expected.<sup>1</sup> Preliminary reports indicate that the quake destroyed most of the capital city, and that populations may also be affected in Carrefour and Jacmel.<sup>2</sup> Haiti's prime minister estimated that the death toll is in the hundreds of thousands.<sup>3</sup> The Red Cross indicated that about three million people – one-third of Haiti's population – were affected by the quake.<sup>4</sup>

The Presidential Palace, the Ministry of Justice, Parliament, the tax office, and other government buildings, and the UN, are amongst buildings in the capital city that are reported to be destroyed or damaged, with UN personnel reporting that more than 100 people are missing in its collapsed headquarters.<sup>5</sup> At least one source described the Ministry of Public Works and the Ministry of Communication and Culture as "affected" but did not specify the condition of affected buildings.<sup>6</sup> Searches for information on the status of Haiti's National Archives and National Registry returned no information. Critical infrastructure components such as electricity, and water and phone services are severely affected.<sup>7</sup> While the main airport is reportedly operable, currently there is limited access to the capital city: roads are blocked by debris and other obstacles, and the collapse of the Croix de Mission Bridge has cut off a major artery between Port-au-Prince and the Northern part of the country.<sup>8</sup> Haitian President René Garcia Préval has reportedly indicated that hospitals and schools are amongst the collapsed buildings and that "there are a lot of schools that

<sup>1</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA). 12 Jan 2010. Haiti: Earthquake [Situation Report #1]. <http://www.reliefweb.int/rw/rwb.nsf/db900SID/MUMA-7ZN76X?OpenDocument> (accessed 13 Jan 2010)

<sup>2</sup> *Id.*

<sup>3</sup> CNN.com. 13 Jan 2010. "Hundreds of thousands dead in Haiti quake, PM says" <http://edition.cnn.com/2010/WORLD/americas/01/13/haiti.earthquake/> (accessed 13 Jan 2010)

<sup>4</sup> *Id.* [although neither the cited report nor the website for the International Committee of the Red Cross (ICRC) specifically explain the nature of the "affect" the earthquake has had on one-third of Haiti's population, contextual analysis suggests that those "affected" refers to those having sustained damages to property, loss of life or injury, and who rely on critical life-sustaining services disrupted by earthquake-related damages]

<sup>5</sup> OCHA 13 Jan 2010; United Nations News Service. 13 Jan 2010. "UN rushing aid to Haiti following deadly tremors" <http://www.un.org/apps/news/printnews.asp?id=33471> (accessed 13 Jan 2010); The Miami Herald. 13 Jan 2010. "Haiti president describes 'unimaginable' catastrophe: U.S. pledges support" <http://www.miamiherald.com/news/americas/haiti/v-print/story/1422279.html> (accessed 13 Jan 2010); The Huffington Post. 13 Jan 2010. "Haiti Earthquake: Capital Shattered By 7.0 Tremor" [http://www.huffingtonpost.com/2010/01/13/haiti-earthquake-capital\\_n\\_421295.html](http://www.huffingtonpost.com/2010/01/13/haiti-earthquake-capital_n_421295.html) (accessed 13 Jan 2010)

<sup>6</sup> Telegraph.co.uk. "Haiti earthquake: dozens feared dead as buildings collapse" <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/6977881/Haiti-earthquake-dozens-feared-dead-as-buildings-collapse.html> (accessed 13 Jan 2010)

<sup>7</sup> OCHA 13 Jan 2010

<sup>8</sup> *Id.*; Food For The Poor. 13 Jan 2010. "Earthquake in Haiti" <http://www.foodforthepeople.org/newsroom/news/earthquake-in-haiti-1.html> (accessed 13 Jan 2010)

have a lot of dead people in them".<sup>9</sup> The UN said inmates escaped when Haiti's National Penitentiary collapsed.<sup>10</sup> In Petionville, at least one hospital and the World Bank offices are amongst buildings reportedly destroyed.<sup>11</sup>

Oxfam International and the International Committee of the Red Cross (ICRC) both indicate that it is too early to determine the severity of the damages associated with the earthquake.<sup>12</sup> Neither USAID nor the U.S. Coast Guard made public assessments of damages.<sup>13</sup>

U.S. Secretary of State Hillary Clinton indicated that more than 45,000 American citizens are currently in Haiti, and that the U.S. Coast Guard has evacuated several of those who were seriously injured.<sup>14</sup>

Within the constraints of this research the COIRS did not find any information related to efforts (actual or anticipated) by the Haitian population in Haiti to leave Haiti in the wake of the disaster.

---

<sup>9</sup> The Miami Herald. 13 Jan 2010.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> Oxfam International. 13 Jan 2010. "Large earthquake in Haiti" <http://www.oxfam.org/en/pressroom/pressrelease/2010-01-13/large-earthquake-haiti> (accessed 13 Jan 2010)

<sup>13</sup> United States Agency for International Development (USAID). [http://www.usaid.gov/locations/latin\\_america\\_caribbean/country/haiti/eq/](http://www.usaid.gov/locations/latin_america_caribbean/country/haiti/eq/) (accessed 13 Jan 2010); United States Coast Guard. <http://www.uscg.mil/> (accessed 13 Jan 2010)

<sup>14</sup> The Washington Post. 13 Jan 2010. "Clinton delays trip to help with Haiti earthquake response" <http://www.washingtonpost.com/wp-dyn/content/article/2010/01/13/AR2010011302911.html> (accessed 13 Jan 2010)



# Haiti Earthquake

## Engagement Strategy-OPE

Thursday, January 14<sup>th</sup>

- Finalize Qs and As, talking point and related communication materials in coordination with the offices of Communications, Policy and Strategy, Customer Service, Service Center Operations, Field Operations, and Legislative Affairs.
- Develop plan for the dissemination of information and materials with input from regional and field offices.
- Coordinate national stakeholder call (invitee list will target local Haitian CBOs, NGOs, and community leaders in Florida, NYC and other key metropolitan areas of relevance).
- Continue to work with impacted District Offices and Community Relations assets to identify stakeholders, mechanisms for engagement, and need to augment capacity as appropriate.

Friday, January 15<sup>th</sup>

- Assuming designation<sup>1</sup> we will:
  - Disseminate materials to national and targeted stakeholders (time TBD)
  - Instruct field community relations assets to make calls to influential Haitian and relevant CBO communities and coordinate wider information sessions with larger audience
  - Coordinate national stakeholder call with participation of D1 and program experts (we anticipate early afternoon to accommodate Ali's schedule)
  - Daily contact with external stakeholders to ensure they are familiar with the process for registration and have a direct feed to the agency for feedback on application of process and policy

Week of January 18<sup>th</sup>

- Coordinate field stakeholder engagements and provide HQ OPE support as appropriate.
- Refine communication and registration materials incorporating input provided by internal and external stakeholders.
- Continue to assess community capacity and overall program response.

Week of January 25<sup>th</sup>

- Coordinate targeted engagement efforts focusing on actual registration requirements and process.
- Provide training and guidance to community service providers.
- Continue to coordinate with national stakeholders identifying areas of strength and opportunities for further collaboration as we commence the actual registration process<sup>2</sup>.
- Coordinate weekly calls with field assets to assess effectiveness of engagement efforts and recalibrate strategy as appropriate

<sup>1</sup> Deliverables associated with national engagement will clearly follow POTUS and DHS announcement.

<sup>2</sup> This is clearly an assumption based on an accelerated schedule for the actual registration

*Office of Public Engagement*



**U.S. Citizenship  
and Immigration  
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February/March 2010

- Continue to coordinate registration, information delivery, and training with internal and stakeholders as delineated above.

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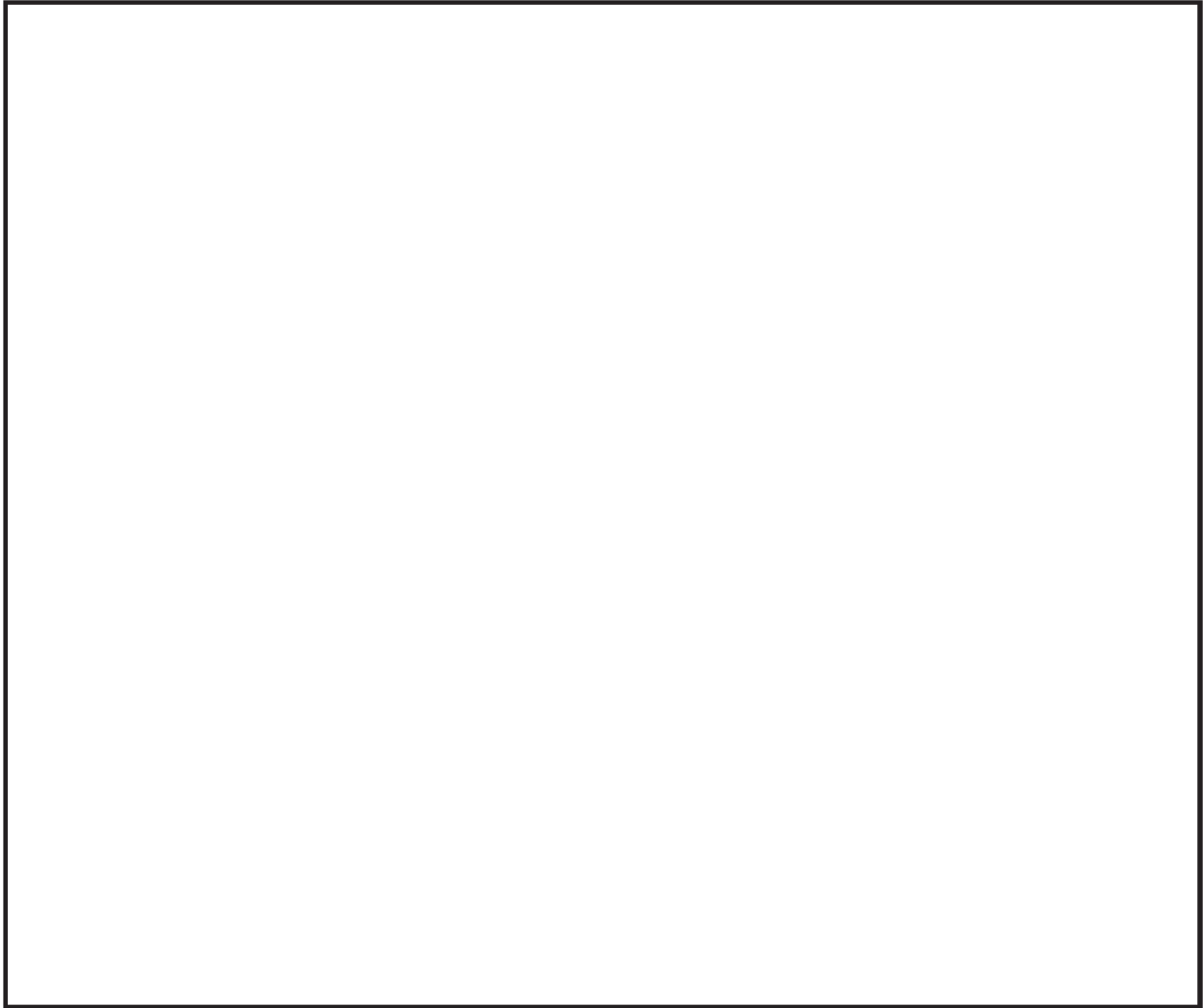
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**BACKGROUND:**

Preparation for mass migration operations by DHS other Federal Agency Partners has been called "Operation Vigilant Sentry (OVS)," but given that the first priority of the Haitian operations is to prepare for the possible evacuation of the 45,000 USCs on Haiti, "Operation Safe Return" is the title of the mission. Much of the same infrastructure that USCIS had in place through OVS is, however, being deployed in support of Operation Safe Return.

**Haiti - Current Country Conditions**

The USCIS Asylum Division will be preparing daily incident reports on the situation in Haiti as more information regarding the status of the island comes in. The January 13<sup>th</sup> incident report is attached (Attachment H).

**Populations Affected by the Earthquake & Policy Options for Each**

**I. U.S. Citizens in Haiti**

- Current estimates coming from DHS state that there are 45,000 U.S. Citizens (USCs) currently in Haiti.
- The U.S. Embassy is currently evacuating its staff from Haiti,

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- However, DOS has not yet declared an evacuation (voluntary or involuntary) for all USCs in Haiti.
- CBP is the lead for the evacuation of USCs.

**II. Non-Immigrant Haitian Nationals in the United States**

- ICE has suspended all removal operations of Haitians unlawfully present in the U.S. to Haiti.
- As of December 21st, 2009, ICE holds 149 Haitian nationals in custody, however there are a total number of 31,206 Haitian nationals who are not detained but have a final order of removal.
- There are no known statistics on the number of Haitian nationals unlawfully present in the United States. However, the Office of Immigration Statistics FY2008 Yearbook reported the following numbers for non-immigrant admissions of Haitian nationals:

Fiscal Year	Number of Non-Immigrant Admissions
2001	72,418
2002	68,725
2003	66,675
2004	70,187
2005	76,092
2006	62,650
2007	89,990
2008	103,784

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**III. Haitian Nationals Outside of the United States**

- A firm estimate of the potential mass migration from Haiti has not yet been determined as the beginnings of a mass migration have not yet been observed, however, one is expected, especially given the possibility of the “pull” effect that will occur if of the U.S. grants TPS to Haitians.
- As noted above, USCIS strategic planning for mass migration in the instance of TPS has used the benchmarks of 125,000; 250,000 and 500,000 migrants.

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**ATTACHMENTS:**

- A. Tracker: USCIS Involvement*
- B. Overview of USCIS Costs in the event of Haitian Crisis (SCOPS & OFO)*
- C. Humanitarian Parole Options Paper from International Operations*
- D. Interdiction Options Paper from Refugee Affairs*
- E. TPS Recommendation Submitted to the White House, 1/13*
- F. OP&S Overview of Policy Options*
- G. Communication & Engagement Tactical Plan (OPE & OCOMM)*
- H. Haiti – January 13<sup>th</sup> Earthquake Incident Report*
- I. Operation Vigilant Sentry Background Powerpoint*

**CONTACT:**

(b)(6)

Maggie Thompson, Front Office,

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Re: Leadership call

Page 1 of 3

**Mayorkas, Alejandro N**

(b)(6)

**From:** Bacon, Roxana [REDACTED]  
**Sent:** Thursday, February 04, 2010 9:05 AM  
**To:** Mayorkas, Alejandro N  
**Cc:** Carpenter, Dea D  
**Subject:** RE: Leadership call

Ali, these are from several list serves so PIP for Military families is very much in the public domain now. AILA has it all over their INfoNet, and law professor list serve is chatting. It is a very good program—thought you should see that these stakeholders understand USCIS “policy” [however unannounced] and agree with it. To not institutionalize it will cause consternation.

The first is from a law professor, the second from a practitioner specializing in military matters and the third from AILA’s Military Assistance Program.

\*\*\*\*\*

2! { We were trying to keep this information “close hold” until a national policy is in place, but because Laura Lichter put it out to the National Immigration Project listserve, it seems appropriate for me to put it out to you, too. I would appreciate it greatly if you would use this information to benefit your military clients, but please don’t hold any press conferences announcing this policy, as it is only being done currently in a few USCIS offices (Denver, San Diego, and San Antonio) and USCIS HQ has not yet authorized this procedure for the entire United States.

\*\*\*\*\*

*what is this? who is this from? to whom is it addressed? - who?*

In response to many who are interested in helping otherwise ineligible applicants adjust, here is some further information/experiences with the military families PIP process (and sample I-94, attached, and thanks to local liaison, Jennifer Kain Rios, for drafting the summary/example for requests for Denver cases).

According to USCIS, the parole in place process is meant to make “adjustment-eligible” immediate family members of active military personnel whose unlawful entry prevents them from adjusting under INA § 245(a), but would not otherwise qualify for § 245(i). Our local (Denver) USCIS has told us not to bother asking for PIP for cases that are not clearly within these parameters.

Similarly, USCIS has noted that PIP will not waive any ground of inadmissibility other than simply present without admission and the process is not intended for those with criminal or fraud problems or other more serious immigration violations (though that leaves open whether an individual might be paroled in order to pursue an available waiver).

Parole requests will be “reviewed on a case by case basis” and the foreign national will be sent in for biometrics. If parole is issued, then the I-485 or one-step can be filed with NBC, including the proof of parole.

Please consider contacting AILA’s Military Assistance Program (MAP) to volunteer to help a qualified military family:

\*\*\*\*\*

AILA Military Assistance Program (MAP)

2/12/2010

303

Re: Leadership call

Page 2 of 3

Cite as "AILA InfoNet Doc. No. 07121379 (posted Dec. 19, 2007)"

The AILA Military Assistance Program (MAP) is a new collaborative effort between the American Immigration Lawyers Association (AILA) and the Legal Assistance Offices (LAO) of the United States military Judge Advocate General Corps. The military Legal Assistance Offices (LAO) provide free assistance to soldiers and their families, including active duty, reserve component, and retired military personnel in order to maintain the highest level of readiness possible in the event a military member is deployed. Recently, however, JAG attorneys have been inundated with complex immigration legal questions. To resolve these cases successfully, they often need the assistance and experience of seasoned immigration attorneys. AILA MAP is bringing these two groups together for the first time in this dynamic partnership.

Information for volunteer attorneys <blockedhttp://www.aila.org/content/default.aspx?bc=24110>

Information for military personnel seeking assistance <blockedhttp://www.aila.org/content/default.aspx?bc=24109>

For more information on AILA MAP or other pro bono opportunities, contact Susan Timmons at [stimmons@aila.org](mailto:stimmons@aila.org) <blockedmailto:stimmons@aila.org> .

Regards,

Laura L. Lichter, Esq.

Lichter & Associates, P.C.

IMMIGRATION LAW AND REMOVAL DEFENSE

---

**From:** Bacon, Roxana  
**Sent:** Thursday, February 04, 2010 7:52 AM  
**To:** Mayorkas, Alejandro N  
**Cc:** (b) (6)  
**Subject:** RE: Leadership call

Just to you. If you have a few minutes Dea and I want to brief you on some background you might want to have before the call.

(b)(6)

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**From:** Mayorkas, Alejandro N [REDACTED]  
**Sent:** Wednesday, February 03, 2010 11:25 PM  
**To:** Rogers, Debra A; Mayorkas, Alejandro N; Bacon, Roxana; Carpenter, Dea D  
**Subject:** Re: Leadership call

These are very discrete policy issues that seem odd to raise on a call such as tomorrow's. If they want to hear how I approach these type of questions, I am pleased to share.

Re: Leadership call

Page 3 of 3

Thanks. Ali

(b)(6)

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----- Original Message -----

From: Rogers, Debra A <(b)(6)>

To: Mayorkas, Alejandro N <(b)(6)>

; Bacon, Roxana <(b)(6)>

Carpenter, Dea D <(b)(6)>

Sent: Wed Feb 03 21:34:27 2010

Subject: Leadership call

Ali: The District Directors will likely raise two issues with you on tomorrow's call.

1. Parole in Place: under what circumstances is it appropriate to use this authority? Some examples:

- military dependents who enter the US without inspection (EWI) and therefore cannot adjust.

--Haitians who are in the US, have an approved immediate relative petitions and a visa available but can't adjust because they entered without inspection.

2. Deferred Action

When should USCIS exercise this authority?

--anytime a request is made?

--Is it ever appropriate to refer a case to ICE?

--serious long term medical cases

--Military dependents

These issues are before them everyday so they are very interested in your thoughts and philosophical views. Historically we have taken a very, very conservative approach to deferred action and parole and have granted it in only the most extraordinary cases. We have moved away from this approach in some recent decisions so the field leadership is definitely looking for some high level direction.

Let me know if you want to meet before the meeting to discuss these issues.

Also, if you want to ask the DDs to collaborate on an issues paper I will make sure that happens quickly. I am already working on these issues with the RDs who, in turn, reach out to the DDs but further field engagement is always helpful.

Just wanted to give you a heads up.

Debbie



Office of Public Engagement

U.S. Citizenship  
and Immigration  
Services

## MEMORANDUM

TO: Alejandro Mayorkas, Director  
Lauren Kielsmeier, Acting Deputy Director/Chief of Staff

FROM: Mariela Melero, Chief, Office of Public Engagement

DATE: March 4, 2010

SUBJECT: Stakeholder Input on Administrative Reforms

### Purpose

The purpose of this memorandum is to highlight the administrative reforms suggested by stakeholders that could potentially be implemented outside of the context of Comprehensive Immigration Reform. These recommendations were provided by the following stakeholders: Microsoft Corporation, Alliance of Business Immigration Lawyers, Asian American Justice Center, Asian Pacific American Legal Center, Asian Counseling and Referral Service, Asian Pacific American Legal Resource Center, OneAmerica, and American Council on International Personnel.

### Administrative Reforms

#### *Consistency in Adjudications*

- Issue written guidance confirming that adjudicators and the AAO should:
  - Unless otherwise required by law, apply the “preponderance of the evidence” standard as set forth in the Adjudicators Field Manual (AFM). *See Matter of Chawathe* A74 254 994, AAO Adopted Decision (January 11, 2006); AFM Chapter 11.1(C) (“...even if the director has some doubt as to the truth, if the petitioner submits relevant, probative, and credible evidence that leads the director to believe that the claim is ‘probably true’ or ‘more likely than not,’ the applicant or petitioner has satisfied the standard of proof. *See U.S. v. Cardoza-Fonseca*, 480 U.S. 421 (1987) (defining ‘more likely than not’ as a greater than 50 percent probability of something occurring).”)
  - Apply the standards set forth in the AFM and agency policy guidance when adjudicating petitions to extend H and L status where there has been no material change in the terms of employment. *See, e.g.*, AFM Chapter 30.2(d)(3), *citing to* William R. Yates, “The Significance of a Prior CIS Approval of a Nonimmigrant Petition in the Context of a Subsequent Determination Regarding Eligibility for Extension of Petition Validity,” April 23, 2004 (HQOPRD 72/11.3).



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- Apply the standards set forth in the AFM and agency policy guidance when determining whether an L-1B beneficiary has “specialized knowledge.” *See* AFM Chapter 32.6(e), *citing to* James A. Puleo, “Interpretation of Specialized Knowledge,” March 9, 1994 (CO 214L-P); *see also* Fujie O. Ohata, “Interpretation of Specialized Knowledge,” December 20, 2002 (HQSCOPS 70-6.1).
- Where there is binding agency policy material, as that term is defined in AFM Chapter 3.4, not rely on any unpublished AAO decisions, or the rationale found therein, that conflicts with, or imposes additional documentary or evidentiary requirements beyond those found in binding policy material, in adjudication of any petition or application for benefits which is the subject of the binding policy material.

***Premium Processing***

- Expand the “Premium Processing” program to include applications to change or extend nonimmigrant status, applications for employment authorization and advance parole, and all employment-based immigrant petitions.

***Employment Authorization Documents***

- Issue multi-year employment authorization documents (“EADs”) in an expanded range of cases, and issuing multi-year advance parole (or “travel”) documents.
- Automatically renew employment authorization for a temporary, interim period (240 days) for those who timely file applications to renew existing employment authorization.

***Adjustment of Status***

- Provide administrative relief for applicants caught in future quota backlogs by allowing the filing of an I-485 whether or not the priority date is current. If a Congressional amendment is needed to de-link the filing of an I-485 with a current priority date, then grant parole and EADs to those who may be ineligible to file for adjustment of status.

***Customer Service***

- Train frontline staff with major public contact on matters of cultural competency and language access, particularly on how to access interpreters. Consider contracting with companies such as Language Line and/or other telephonic interpreting companies to readily access interpreters.



Office of Public Engagement

U.S. Citizenship  
and Immigration  
Services

### *Family-based*

- Retain priority dates for children aging out. Fully implement Section 3 of the Child Status Protection Act by clarifying that Congress has mandated retention of the original priority dates for cases where a child has turned 21 and no longer qualifies as a derivative beneficiary entitled to accompany his or her parents.
  - Issue guidelines or regulations clarifying CSPA rules relating to priority date retention.
  - Issue administrative guidelines allowing the children of K-2 visa recipients who were initially approved for a visa, immigrated to the U.S. with their parents, and aged out prior to filing for adjustment of status to file an application for status under the new guidelines regarding the age-out provisions in the CSPA.

### *Refugees/Asylees*

- Prioritize the processing of Form I-730 refugee/asylee petitions, as refugees and asylees are among the most at-risk beneficiaries of applications that USCIS is responsible for adjudicating.

### *Citizenship*

- Issue clarified guidelines that allow any 501(c)(3) organization in good standing as nonprofit organizations to be allowed to design and implement voter registration programs at USCIS offices across the country.
- Create a review board or naturalization advisory committee to create agency protocol, monitor compliance and establish a grievance procedure.

### *Administrative*

- Institute an internal Background Check System to better track all applications stalled by a background check.
- Establish a process by which unrepresented applicants can adequately inquire into their delayed name checks rather than through Infopass appointments.
- Re-formulate the counting procedures to track how long each application has been pending rather than averaging backlog numbers.

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**ATTACHMENTS:**

- A. Chairwoman's June 8, 2010 letter
- B. Information Memorandum to the Secretary, April 26, 2010, Opportunities to Improve Immigration Services by Administrative Action
- C. Proposed Fee Rule talking points
- D. Chairwoman's June 24, 2010 White Paper

**CONTACT:**

(b)(6)

Paul Powell, USCIS OLA,  
June 28, 2010.



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**PARTICIPANTS:**

***Non-USCIS***

Congresswoman Zoe Lofgren  
Ur Jaddou, Senior Counsel  
Additional staff

***USCIS***

Ali Mayorkas  
James McCament, USCIS OLA  
Rebecca Roles, USCIS OLA

**PRESS PLAN:** None

**ATTACHMENTS:**

- A. Chairwoman's June 8, 2010 letter
- B. Information Memorandum to the Secretary, April 26, 2010, Opportunities to Improve Immigration Services by Administrative Action
- C. Proposed Fee Rule talking points

**CONTACT:**

Rebecca Roles, USCIS OLA,  
June 16, 2010.

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"VACANT"

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

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June 8, 2010

Alejandro N. Mayorkas  
Director  
U.S. Citizenship and Immigration Services  
Washington, D.C. 20529-2000

Dear Director Mayorkas,

I share the view of the President and of other key congressional leaders that our nation is badly in need of comprehensive immigration reform, and reforming our system for attracting needed skilled talent must be a central part of such reform. As we work toward this goal, it is crucial for your agency to use its administrative powers to improve the immigration process to the greatest extent possible. There are a number of measures that U.S. Citizenship and Immigration Services could implement very quickly, without the need for additional legislative authority, to significantly improve the way that our high-skilled immigration programs operate.

Some of these measures could be implemented without the need for regulatory action. Some would, in addition to benefitting stakeholders, increase efficiencies, save agency resources, and even provide additional revenues. These are crucial goals at a time when USCIS resources are strained and the agency is planning fee increases. All of these measures would improve the system and cause no harms to agency missions and imperatives. Of course, we would expect that such measures are carried out so as to allow DHS to continue to conduct all necessary national security and criminal background checks.

### 1. Standardizing Programs with Respect to Employment Authorization for Spouses.

USCIS could by regulation extend employment authorization to spouses of H-1B, TN and O-1 visa holders and other highly-skilled professionals, just as is permitted now for spouses of L and E visa holders. While spouses of L and E visa holders are explicitly provided employment authorization by statute, nothing in statute prohibits the extension of such authorization to spouses of H-1B, TN and O-1 visa holders.

The policy imbalance among these high-skilled visa categories creates a competitive disadvantage for the United States, as many other nations provide work authorization to

dependents of international employees. There are many stories of key recruits, who could help rebuild the economy and create American jobs, who choose not to come to the U.S. or not to remain because their spouses are forbidden from working. These costs to the U.S. economy have been compounded by U.S. companies which, in an effort to retain such talent, have been required to move certain operations outside the U.S. to take advantage of more flexible rules.

To address the above issues, USCIS could change its regulations to extend employment authorization to spouses of H-1B, TN and O-1 visa holders. Such an extension could be made on a reciprocal basis (i.e., on behalf of nationals from countries that also provide employment authorization to spouses of immigrants in equivalent immigration categories).

## **2. Expanding the Use of Premium Processing.**

By expanding the use of premium processing to additional applications and petitions, USCIS could raise additional needed revenue while providing increased services to stakeholders, all without the need for regulatory action. Possible expansion opportunities include: applications for employment authorization documents and advanced parole; applications for extensions of stay; applications for changes of status; additional categories of employment-based immigrant petitions; E-3 petitions; and any other employment-based petitions and applications.

## **3. Expanding the Use of Multi-Year Documents.**

USCIS could also simplify agency processing and reduce costs by expanding the use of multi-year documents. Specifically, USCIS could expand the use of multi-year employment authorization documents, implement the use of multi-year advance parole documents, and combine each of these documents into a single document. Such action would avoid the need for the agency to renew such documents annually, especially in light of multi-year green card backlogs. This would save agency resources, as there are no additional revenues for such renewals under the current fee structure, while giving the agency the flexibility to focus on updating background checks where appropriate. It would also allow stakeholders to avoid the burden of repeated renewals, and employers the burden of interruptions to work and employee travel when there are delays in renewals.

## **4. Extending Work Authorization.**

On a related note, there is a simple solution for situations in which USCIS is unable to adjudicate employment authorization renewals within the 90-day regulatory timeframe. Currently, agency regulations require USCIS to issue a separate interim employment authorization upon its failure to meet the 90-day timeline. This process is cumbersome and expensive, and it often leads to unnecessary and costly interruptions in work authorization.

Instead of the current policy, USCIS could provide an automatic extension of employment authorization for some set period of time upon the timely filing of a renewal application. This would provide a similar result to the current policy, but without additional bureaucracy and a likely interruption in work authorization. Such action would be akin to the automatic 240-day extension of nonimmigrant status that is provided by regulation for timely-filed nonimmigrant

extension petitions. This would alleviate the hardships that can result when employment must be interrupted because of delays in the renewal process.

##### 5. Extending the Ability to Travel Abroad Without First Obtaining Advance Parole.

In addition, USCIS could by regulation permit E, O, P, and TN visa holders who have adjustment of status applications pending to travel internationally without first having to obtain advance parole. Right now, such visa holders are considered to have abandoned their adjustment applications if they travel without advance parole. This seems a needless burden on such professionals as well as on the agency, and is out of alignment with the policies relating to H and L visa holders.

DHS regulations expressly permit H and L visa holders to travel while an adjustment of status application is pending, without the need to first obtain advance parole from USCIS. This is, in part, because H and L visa holders are considered to have "dual intent," meaning that we expect that they will abide by the terms of their nonimmigrant status even though they are going through the green card process. Although E, O, P, and TN visa holders are not viewed as having the same dual intent, they are nevertheless individuals working and living in the U.S. on visas that are valid for multiple years. In granting advance parole to such applicants, DHS has recognized that they will continue to comply with immigration rules and processes notwithstanding travel outside the United States. Advance paroles for individuals in these visa categories are routinely approved, and do not entail a substantive analysis of each individual case. Expanding the ability to travel without the need for advance parole to E, O, P, and TN visa holders would simply recognize that individuals on these long-term work visas, like H and L visa holders, can be expected to continue to comply with the terms of their visa status notwithstanding travel abroad. At the same time, it would save significant agency resources associated with processing these applications and provide much needed travel flexibility to these individuals.

I would be happy to make myself or my staff available to discuss these and other possible administrative measures with you and your staff at your convenience. I would, of course, be happy to discuss and potentially resolve any problems that the agency might anticipate with respect to implementation of these or other measures.

Sincerely,



The Honorable Zoe Lofgren  
Chairwoman

Subcommittee on Immigration, Citizenship,  
Refugees, Border Security, and Int'l Law



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**Gregory, Peter D**

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**From:** Humphrey, Buck H (b) (6)  
**Sent:** Thursday, July 29, 2010 5:40 PM  
**To:** Mayorkas, Alejandro N  
**Cc:** Bentley, Christopher S; Melero, Mariela  
**Subject:** FW: Draft Mil Dependents Statement

Regards,

**Buck Humphrey**  
 Chief, Office of Communications  
 U.S. Citizenship and Immigration Services  
 Department of Homeland Security  
 (b) (6)

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**From:** Chandler, Matthew (b) (6)  
**Sent:** Tuesday, April 27, 2010 1:55 PM  
**To:** Shlossman, Amy; Fetcher, Adam; Mayorkas, Alejandro N; Smith, Sean; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

Thank you.

---

**From:** Shlossman, Amy (b) (6)  
**Sent:** Tuesday, April 27, 2010 1:27 PM  
**To:** Fetcher, Adam; Mayorkas, Alejandro N; Smith, Sean; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

Change below

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**From:** Fetcher, Adam (b) (6)  
**Sent:** Tuesday, April 27, 2010 1:21 PM  
**To:** Mayorkas, Alejandro N; Smith, Sean; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

Great, here's the latest/final:

On the record:

We are committed to doing everything possible to ensure that the courageous men and women of the U.S. Armed Forces can serve our country without fear that their family members will face removal from the United States. Keeping U.S. military families together is a vital priority, which is why USCIS evaluates U.S. military families' applications on a case-by-case basis to allow spouses, children and other dependents of service men

and women to remain here lawfully or rejoin their loved ones as quickly as possible. We are planning an outreach effort to educate U.S. military family members about eligibility for this relief.

**Background:**

- We are committed to implementing a range of discretionary options to help all qualified U.S. military dependents obtain immigration status in the United States.
- Providing these services strengthens national security by ensuring that members of the U.S. Armed Forces can focus their undivided attention on their military mission, knowing that their family members can remain in the United States without fear of removal.
- USCIS is collaborating with the Department of Defense to assist family members of service men and women to make available the following three discretionary options in an effort to assist dependents of military service men and women obtain lawful status in the United States:
  1. Under section 212 of the Immigration and Nationality Act, DHS/USCIS can grant parole to certain individuals for whom an immigrant visa is immediately available. This allows these family members to apply to adjust their status in the United States without having to depart for consular processing.
  2. USCIS can also consider granting deferred action on a case-by-case basis to minimize the threat of removal while a visa number remains unavailable for certain individuals who have previously been admitted to the United States.
  3. Where U.S. military dependents have already departed the United States to initiate consular processing, DHS/USCIS has the discretionary authority to expedite the adjudication of any inadmissibility waiver they may have been required to file. USCIS will exercise this authority to decrease the periods of family separation and health and safety risks associated with military dependents waiting to conclude the consular process in dangerous jurisdictions.

---

**From:** Mayorkas, Alejandro N (b) (6)

**Sent:** Tuesday, April 27, 2010 1:10 PM

**To:** Smith, Sean; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

**Subject:** RE: Draft Mil Dependents Statement

Yes. Excellent. Thanks.

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

---

**From:** Smith, Sean (b) (6)

**Sent:** Tuesday, April 27, 2010 1:00 PM

**To:** Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

**Subject:** RE: Draft Mil Dependents Statement

And let's be clear what we mean by "announcement". We're already granting this relief on a case by case basis—and we have been—but what we want to do is draw more attention to the fact that this



relief is available. (b) (5) It  
 could also mean announcing a new website or some other tools that these individuals could access to  
 apply for this relief. Further, I think we need (b) (5)  
 (b) (5)

On the record:

(b) (5)

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**From:** Mayorkas, Alejandro N (b) (6)  
**Sent:** Tuesday, April 27, 2010 12:46 PM  
**To:** Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

I'm not sure my message below was clear. (b) (5)  
 (b) (5)

Thanks. Ali

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

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**From:** Mayorkas, Alejandro N (b) (6)  
**Sent:** Tuesday, April 27, 2010 12:37 PM  
**To:** Shlossman, Amy; Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement  
**Importance:** High

Thanks very much. Just coming to this.

(b) (5)

I have made some revisions below, which include deletions and additions. (b) (5)  
 (b) (5) (b) (5)

Thanks. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

---

**From:** Shlossman, Amy (b) (6)

**Sent:** Tuesday, April 27, 2010 11:45 AM

**To:** Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

**Subject:** Re: Draft Mil Dependents Statement

Are we announcing a new policy or saying we're continuing to evaluate case by case? (b) (5)

(b) (5)

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**From:** Fetcher, Adam

**To:** Smith, Sean (b) (6); Mayorkas, Alejandro N; Shlossman, Amy; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy (b) (6); Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew (b) (6); Stevens, Clark (b) (6)

**Sent:** Tue Apr 27 11:40:43 2010

**Subject:** Draft Mil Dependents Statement

All, draft statement and background below on USCIS discretion regarding military dependents below— to be provided to NYT later today.

Let us know comments/ edits. Thanks!

(b) (5)

(b) (5)

**Gregory, Peter D**

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**From:** Mayorkas, Alejandro N  
**Sent:** Tuesday, May 18, 2010 3:36 PM  
**To:** (b) (6)  
**Subject:** Re: Cornyn Letter #2 re: Deferred Action

Thanks.

----- Original Message -----  
**From:** Kielsmeier, Lauren <(b) (6)>  
**To:** Mayorkas, Alejandro N  
**Sent:** Tue May 18 16:31:55 2010  
**Subject:** RE: Cornyn Letter #2 re: Deferred Action

Ali,

Phil's shop (ESEC) is in the process of tasking it out for a draft response. I've not seen it come through, yet. My guess is that Esther will draft it and we will be asked to review/clear. I'm sure that S1's office will be closely reviewing as well. I'll let you know when I hear something.

---

**From:** Mayorkas, Alejandro N <(b) (6)>  
**Sent:** Tuesday, May 18, 2010 3:04 PM  
**To:** Kielsmeier, Lauren  
**Subject:** Fw: Cornyn Letter #2 re: Deferred Action

Lauren, do you know the status of the response to the second letter?

----- Original Message -----  
**From:** Collins, Anissa A <(b) (6)>  
**To:** Mayorkas, Alejandro N  
**Sent:** Tue May 18 15:00:08 2010  
**Subject:** RE: Cornyn Letter #2 re: Deferred Action

Ali,

My apologies for just responding...my inbox is experiencing issues.

Anissa

\*\*\*\*\*

Dear Senator Cornyn:

Thank you for your May 11, 2010 letter in which you inquire about the Department of Homeland Security's (DHS) use of deferred action and reiterate your support for comprehensive immigration reform.

As you know, the Administration strongly supports the enactment of comprehensive immigration reform. The President and I continue to be committed to working with Congress to pass bipartisan reform that combines effective enforcement with improvements to our existing immigration systems while realistically addressing those who are already here.

While we continue to work with Congress to enact reform, this Department is focused on smart, effective immigration enforcement that focuses first on criminal aliens who pose a threat to our communities. DHS has the authority to grant a deferral of removal action based on the merits of cases while considering humanitarian circumstances and other factors in the interest of the Department's overall law enforcement mission. However, this discretionary authority is implemented on a case-by-case basis and DHS does not grant deferred action without a review of relevant facts. To be clear, DHS will not grant deferred action to 12 million illegal immigrants.

Comprehensive legislation, coupled with a safe and secure border, provides the best solution to our Nation's immigration challenges, and I believe the recently unveiled Senate proposal for comprehensive immigration reform is a step in the right direction. I hope that I can count on your support to enact legislation along the lines outlined by this proposal this year. Should you wish to discuss this further, please do not hesitate to contact me at (b) (6)

Yours very truly,

Janet Napolitano

Anissa Collins

Office of the Director

U.S. Citizenship and Immigration Services

Department of Homeland Security

Avaya Government Solutions

(b) (6)

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From: Mayorkas, Alejandro N (b) (6)  
Sent: Monday, May 17, 2010 4:42 PM  
To: Collins, Anissa A  
Subject: FW: Cornyn Letter #2 re: Deferred Action

Anissa, can you place the body of this attachment in an email? I cannot access it from here as an attachment.

Thanks very much, as always. Ali

---

From: McNamara, Phil (b) (6)  
Sent: Mon 5/17/2010 4:27 PM  
To: Mayorkas, Alejandro N  
Subject: RE: Cornyn Letter #2 re: Deferred Action

Attached.

---

From: Mayorkas, Alejandro N [(b) (6)]  
Sent: Monday, May 17, 2010 4:20 PM  
To: McNamara, Phil  
Subject: RE: Cornyn Letter #2 re: Deferred Action

Thank you, Phil. Can I trouble you to send me a copy of the Secretary's response to the first letter?  
Thanks. Ali

---

From: McNamara, Phil [mailto: (b) (6)]  
Sent: Mon 5/17/2010 3:55 PM  
To: Olavarria, Esther; Crow, Melissa; Shlossman, Amy; Martin, David A; Sandweg, John; Ramanathan, Sue; Nolan, Patricia; Kudwa, Amy; McNamara, Phil; Kroloff, Noah; Baran, Amanda; Smith, Sean; Mayorkas, Alejandro N; Kielsmeier, Lauren; Shlossman, Amy  
Subject: Cornyn Letter #2 re: Deferred Action

Senator Cornyn has written SI another letter. Again letter is on deferred action for large classes of illegal immigrants, specifically calling out those who would qualify under DREAM Act or AgJOBS. ESEC will task out. But wanted folks to be aware of the incoming.

---

From: McGee, Ramona (Judiciary-Rep) [(b) (6)]  
Sent: Monday, May 17, 2010 2:57 PM  
To: 'Baronof, Kim'  
Cc: Johnson, Matthew (Judiciary-Rep)  
Subject: Cornyn Letter to Secretary re: Parole

Kim:

Please find attached a letter from Senator Cornyn to Secretary Napolitano re: use of parole for illegal aliens.

Thanks,

Ramona

Ramona L. McGee

Counsel

Senate Judiciary Committee - Subcommittee on Immigration Reform, Refugees, and Border Security

Senator Cornyn - Ranking Member

Main Office: (b) (6)

Direct: (b) (6)

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**Gregory, Peter D**

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**From:** Mayorkas, Alejandro N  
**Sent:** Tuesday, May 11, 2010 1:16 PM  
**To:** Ramanathan, Sue; Kielsmeier, Lauren  
**Subject:** RE: Cornyn Letter to Secretary Napolitano on Deferred Action

Sue,  
 I have asked James (b) (5) Fyi.  
 Thanks. Ali

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

---

**From:** Ramanathan, Sue (b) (6)  
**Sent:** Tuesday, May 11, 2010 1:46 PM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Subject:** RE: Cornyn Letter to Secretary Napolitano on Deferred Action

Close hold until it is done but Noah has asked Exec Sec (b) (5)  
 (b) (5)

---

**From:** McCament, James W (b) (6)  
**Sent:** Tuesday, May 11, 2010 12:57 PM  
**To:** Ramanathan, Sue; Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Cc:** Baronof, Kim; Humphrey, Buck H  
**Subject:** FW: Cornyn Letter to Secretary Napolitano on Deferred Action

Sue,

FYI: during this morning's Senate Judiciary Committee hearing, Senator Cornyn asked a question regarding the attached letter to S1 from Senators Durbin and Lugar regarding use of DED in the context of Dream Act. Specifically, the Senator asked whether DHS was planning to use our deferred action authority to large classes of the estimated "illegal aliens."

We will have the specific language from the CQ transcript soon which I will send you regarding the specific language of Ali's response. He noted that we would consider all options. That said, it is not clear whether this language from the letter was written prior to the hearing or afterwards.

We've also just now received the attached letter from Senator Cornyn regarding potential plans for using DED for large classes of the illegal aliens in the United States.  
 I understand this has now come through into DHS Exec Sec as well.

James

---

**From:** McGee, Ramona (Judiciary-Rep) (b) (6)  
**Sent:** Tuesday, May 11, 2010 12:38 PM  
**To:** Baronof, Kim  
**Cc:** 'McCament, James W'  
**Subject:** Cornyn Letter to Secretary Napolitano on Deferred Action



Kim/James:

FYI.

Ramona L. McGee

Counsel

Senate Judiciary Committee – Subcommittee on Immigration Reform, Refugees, and Border Security

Senator Cornyn – Ranking Member

(b) (6)

*This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, the reader is hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message.*

**Gregory, Peter D**

---

**From:** Mayorkas, Alejandro N  
**Sent:** Tuesday, April 27, 2010 12:51 PM  
**To:** Humphrey, Buck H; Rogers, Debra A  
**Cc:** Mayorkas, Alejandro N; Kielsmeier, Lauren  
**Subject:** RE: Draft Mil Dependents Statement

Buck,  
Thanks for your initiative in jumping on the outreach efforts and assembling a team to develop a specific plan. I greatly appreciate it.  
Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services 20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

-----Original Message-----

From: Humphrey, Buck H (b) (6)  
Sent: Tuesday, April 27, 2010 1:19 PM  
To: Rogers, Debra A  
Cc: Mayorkas, Alejandro N; Kielsmeier, Lauren  
Subject: RE: Draft Mil Dependents Statement

Yes, I would agree that we should give visibility to field leadership and any guidance you need to send to your leadership to implement. Have you already or recently sent guidance based on the memo to reiterate the policy?

Regards,

Buck Humphrey  
Chief, Office of Communications  
U.S. Citizenship and Immigration Services Department of Homeland Security  
(b) (6)

-----Original Message-----

From: Rogers, Debra A  
Sent: Tuesday, April 27, 2010 1:15 PM  
To: (b) (6); Kielsmeier, Lauren; Humphrey, Buck H  
Subject: Re: Draft Mil Dependents Statement

Just want you to know I am following these messages. If you need anything give me a call.  
(b) (6)

We might want to consider sending the internal talkers out to Field leadership once approved by OPA.

----- Original Message -----

From: Mayorkas, Alejandro N (b) (6)  
To: Smith, Sean; Mayorkas, Alejandro N (b) (6); Mayorkas, Alejandro N (b) (6); Schlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren (b) (6); Humphrey, Buck H (b) (6); Kudwa, Amy; Bentley, Christopher S (b) (6); Rogers, Debra A (b) (6); Rhatigan, Chris (b) (6); Chandler, Matthew; Stevens, Clark  
Sent: Tue Apr 27 13:09:42 2010  
Subject: RE: Draft Mil Dependents Statement

Yes. Excellent. Thanks.

Alejandro N. Mayorkas

Director

United States Citizenship and Immigration Services

20 Massachusetts Avenue NW, Suite 5110

Washington, DC 20529

(b) (6)

---

From: Smith, Sean (b) (6)

Sent: Tuesday, April 27, 2010 1:00 PM

To: Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

Subject: RE: Draft Mil Dependents Statement

And let's be clear what we mean by "announcement". We're already granting this relief on a case by case basis-and we have been-but what we want to do is draw more attention to the fact that this relief is available. (b) (5)

(b) (5) It could also mean announcing a new website or some other tools that these individuals could access to apply for this relief. Further, I think we need (b) (5)  
(b) (5)

On the record:

We are committed to ensuring that the courageous men and women of the U.S. Armed Services can serve our country without fear that their family members will face removal from the United States. Keeping military families together is a national security imperative, and USCIS is evaluating military families' applications on a case-by-case basis through a variety of mechanisms to allow spouses, children and other dependents of service men and women to remain here lawfully or rejoin their loved ones as quickly as possible. We are planning an aggressive outreach effort to educate military family members that they may be eligible for this relief.

---

From: Mayorkas, Alejandro N (b) (6)

Sent: Tuesday, April 27, 2010 12:46 PM

To: Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

Subject: RE: Draft Mil Dependents Statement

I'm not sure my message below was clear. The statement drafted is excellent, I am just trying to make some minor edits that preserve the ability of the Secretary to make a

formal announcement.

Thanks. Ali

Alejandro N. Mayorkas

Director

United States Citizenship and Immigration Services

20 Massachusetts Avenue NW, Suite 5110

Washington, DC 20529

(b) (6)

---

From: Mayorkas, Alejandro N (b) (6)  
Sent: Tuesday, April 27, 2010 12:37 PM  
To: Shlossman, Amy; Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
Subject: RE: Draft Mil Dependents Statement  
Importance: High

Thanks very much. Just coming to this.

(b) (5)

I have made some revisions below, which include deletions and additions. (b) (5)

(b) (5)

Thanks. Ali

Alejandro N. Mayorkas

Director

United States Citizenship and Immigration Services

20 Massachusetts Avenue NW, Suite 5110

Washington, DC 20529

(b) (6)

---

From: Shlossman, Amy (b) (6)  
Sent: Tuesday, April 27, 2010 11:45 AM  
To: Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
Subject: Re: Draft Mil Dependents Statement

Are we announcing a new policy or saying we're continuing to evaluate case by case? (b) (5)  
(b) (5)

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From: Fetcher, Adam  
To: Smith, Sean <(b) (6)>; Mayorkas, Alejandro N; Shlossman, Amy; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy <(b) (6)>; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew  
(b) (6); Stevens, Clark <(b) (6)>  
Sent: Tue Apr 27 11:40:43 2010  
Subject: Draft Mil Dependents Statement

All, draft statement and background below on USCIS discretion regarding military dependents below- to be provided to NYT later today.

Let us know comments/ edits. Thanks!

(b) (5)

(b) (5)

**Gregory, Peter D**

---

**From:** Mayorkas, Alejandro N  
**Sent:** Tuesday, April 27, 2010 12:19 PM  
**To:** Humphrey, Buck H; Mayorkas, Alejandro N  
**Cc:** Kielsmeier, Lauren  
**Subject:** RE: Draft Mil Dependents Statement

Great. Thanks, Buck. Debbie will be critical here, as she knows the specific terrain very well. You might want to include Chris Rhatigan on this project.

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

---

**From:** Humphrey, Buck H (b) (6)  
**Sent:** Tuesday, April 27, 2010 1:15 PM  
**To:** Mayorkas, Alejandro N  
**Cc:** Kielsmeier, Lauren  
**Subject:** RE: Draft Mil Dependents Statement

Ali, based on Sean's last statement I think we should have Debbie, Mariela, James and our teams begin to work on a more robust plan for awareness to military families that we can have ready for any announcement which may come as soon as next week. Would you agree? If so, I'll set it up for tomorrow or Thursday and hopefully have a draft awareness/marketing plan for you and Lauren to review next Monday.

Regards,

**Buck Humphrey**

Chief, Office of Communications  
 U.S. Citizenship and Immigration Services  
 Department of Homeland Security  
 (b) (6)

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**From:** Mayorkas, Alejandro N (b) (6)  
**Sent:** Tuesday, April 27, 2010 1:10 PM  
**To:** Smith, Sean; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

Yes. Excellent. Thanks.

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110

Washington, DC 20529

(b) (6)

**From:** Smith, Sean (b) (6)**Sent:** Tuesday, April 27, 2010 1:00 PM**To:** Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark**Subject:** RE: Draft Mil Dependents Statement

And let's be clear what we mean by "announcement". We're already granting this relief on a case by case basis—and we have been—but what we want to do is draw more attention to the fact that this relief is available. (b) (5) It

could also mean announcing a new website or some other tools that these individuals could access to apply for this relief. Further, I think we need (b) (5)

(b) (5) (b) (5)

On the record:

We are committed to ensuring that the courageous men and women of the U.S. Armed Services can serve our country without fear that their family members will face removal from the United States. Keeping military families together is a national security imperative, and USCIS is evaluating military families' applications on a case-by-case basis through a variety of mechanisms to allow spouses, children and other dependents of service men and women to remain here lawfully or rejoin their loved ones as quickly as possible. We are planning an aggressive outreach effort to educate military family members that they may be eligible for this relief.

**From:** Mayorkas, Alejandro N (b) (6)**Sent:** Tuesday, April 27, 2010 12:46 PM**To:** Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark**Subject:** RE: Draft Mil Dependents Statement

I'm not sure my message below was clear. The statement drafted is excellent, I am just trying to make some minor edits that preserve the ability of the Secretary to make a formal announcement.  
Thanks. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

**From:** Mayorkas, Alejandro N (b) (6)**Sent:** Tuesday, April 27, 2010 12:37 PM**To:** Shlossman, Amy; Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark**Subject:** RE: Draft Mil Dependents Statement**Importance:** High



Thanks very much. Just coming to this.

(b) (5)

I have made some revisions below, which include deletions and additions. (b) (5)  
(b) (5) (b) (5)

Thanks. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

---

**From:** Shlossman, Amy (b) (6)

**Sent:** Tuesday, April 27, 2010 11:45 AM

**To:** Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark

**Subject:** Re: Draft Mil Dependents Statement

Are we announcing a new policy or saying we're continuing to evaluate case by case? (b) (5)  
(b) (5)

---

**From:** Fetcher, Adam

**To:** Smith, Sean (b) (6) Mayorkas, Alejandro N; Shlossman, Amy; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy (b) (6); Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew (b) (6) Stevens, Clark  
(b) (6)

**Sent:** Tue Apr 27 11:40:43 2010

**Subject:** Draft Mil Dependents Statement

All, draft statement and background below on USCIS discretion regarding military dependents below— to be provided to NYT later today.

Let us know comments/ edits. Thanks!

(b) (5)

(b) (5)

**Gregory, Peter D**

---

**From:** Mayorkas, Alejandro N  
**Sent:** Tuesday, April 27, 2010 11:54 AM  
**To:** Fetcher, Adam; Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

I think this is great. Thanks very much, Adam.  
 Ali

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

---

**From:** Fetcher, Adam (b) (6)  
**Sent:** Tuesday, April 27, 2010 12:50 PM  
**To:** Mayorkas, Alejandro N; Mayorkas, Alejandro N; Shlossman, Amy; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

What if we went a bit further and said:

We are committed to doing everything we can to ensure that the courageous men and women of the U.S. Armed Services are able to serve our country without fear that their family members will face removal from the United States. Keeping military families together is a national security imperative, and USCIS is evaluating military families' applications on a case-by-case basis through a variety of mechanisms to allow spouses, children and other dependents of service men and women to remain here lawfully or rejoin their loved ones as quickly as possible.

---

**From:** Mayorkas, Alejandro N (b) (6)  
**Sent:** Tuesday, April 27, 2010 12:46 PM  
**To:** Mayorkas, Alejandro N; Shlossman, Amy; Fetcher, Adam; Smith, Sean; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement

I'm not sure my message below was clear. The statement drafted is excellent, I am just trying to make some minor edits that preserve the ability of the Secretary to make a formal announcement.  
 Thanks. Ali

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

(b) (6)

**From:** Mayorkas, Alejandro N [(b) (6)]  
**Sent:** Tuesday, April 27, 2010 12:37 PM  
**To:** Shlossman, Amy; Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** RE: Draft Mil Dependents Statement  
**Importance:** High

Thanks very much. Just coming to this.

(b) (5)

I have made some revisions below, which include deletions and additions. (b) (5)

(b) (5)

Thanks. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

**From:** Shlossman, Amy [(b) (6)]  
**Sent:** Tuesday, April 27, 2010 11:45 AM  
**To:** Fetcher, Adam; Smith, Sean; Mayorkas, Alejandro N; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew; Stevens, Clark  
**Subject:** Re: Draft Mil Dependents Statement

Are we announcing a new policy or saying we're continuing to evaluate case by case? (b) (5)  
(b) (5)

**From:** Fetcher, Adam  
**To:** Smith, Sean <(b) (6)>; Mayorkas, Alejandro N; Shlossman, Amy; Grossman, Jordan; Kielsmeier, Lauren; Humphrey, Buck H; Kudwa, Amy <(b) (6)>; Bentley, Christopher S; Rogers, Debra A; Rhatigan, Chris; Chandler, Matthew <Matthew.Chandler@dhs.gov>; Stevens, Clark  
(b) (6)

**Sent:** Tue Apr 27 11:40:43 2010  
**Subject:** Draft Mil Dependents Statement

All, draft statement and background below on USCIS discretion regarding military dependents below— to be provided to NYT later today.

Let us know comments/ edits. Thanks!

(b) (5)

(b) (5)



Re: Haitian Refugees

**Gregory, Peter D**

---

**From:** Mayorkas, Alejandro N  
**Sent:** Monday, January 18, 2010 10:15 AM  
**To:** Shlossman, Amy; Sandweg, John; Smith, Sean; Morton, John; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew; Shlossman, Amy  
**Subject:** RE: Haitian Refugees

Agreed. Thank you.

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b) (6)

---

**From:** Shlossman, Amy (b) (6)  
**Sent:** Monday, January 18, 2010 11:09 AM  
**To:** Sandweg, John; Smith, Sean; Morton, John; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew; Shlossman, Amy  
**Subject:** RE: Haitian Refugees

How's this?

(b) (5)

---

**From:** Sandweg, John  
**Sent:** Monday, January 18, 2010 11:01 AM  
**To:** Shlossman, Amy; 'Smith, Sean'; Morton, John; Mayorkas, Alejandro N; 'Kroloff, Noah'; Barr, Suzanne E; Kielsmeier, Lauren; 'Chandler, Matthew M'; 'Shlossman, Amy'  
**Subject:** RE: Haitian Refugees

(b) (5)

---

John R. Sandweg  
Chief of Staff  
Office of the General Counsel

(b) (6)

---

**From:** Shlossman, Amy  
**Sent:** Monday, January 18, 2010 10:57 AM  
**To:** Smith, Sean; Morton, John; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew M; Shlossman, Amy; Sandweg, John  
**Subject:** RE: Haitian Refugees

Re: Haitian Refugees

Adding Sandweg.

I'd add the date to underscore the timing:

(b) (5)

**From:** Smith, Sean (b) (6)  
**Sent:** Monday, January 18, 2010 10:51 AM  
**To:** Morton, John; Smith, Sean; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew M; Shlossman, Amy  
**Subject:** Re: Haitian Refugees

Ok, proposed statement:

(b) (5)

**From:** Morton, John (b)(6) (b)(7)(C)  
**To:** Smith, Sean (b) (6); Mayorkas, Alejandro N; Morton, John; Kroloff, Noah (b) (6); Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew (b) (6); Shlossman, Amy (b) (6)  
**Sent:** Mon Jan 18 10:32:36 2010  
**Subject:** Re: Haitian Refugees

(b) (5)

----- Original Message -----

**From:** Smith, Sean (b) (6)  
**To:** Mayorkas, Alejandro N (b) (6); Morton, John (b)(6) (b)(7)(C); Kroloff, Noah; Barr, Suzanne E (b)(6) (b)(7)(C); Kielsmeier, Lauren (b) (6); Chandler, Matthew; Shlossman, Amy  
**Sent:** Mon Jan 18 10:24:28 2010  
**Subject:** FW: Haitian Refugees

I'm going to give him our standard TPS language--we're encouraging people to stay in Haiti--but that we're working to process medical evacs and orphans. Anyone think we should take a different approach?

-----Original Message-----

**From:** (b) (6)  
**Sent:** Monday, January 18, 2010 10:11 AM  
**To:** Smith, Sean  
**Subject:** Haitian Refugees  
 On Behalf Of Margasak, Larry

Sean: Is Homeland involved with getting Haitian refugees into the U.S.? If so, can you tell me where they've gone and the criteria for people getting airlifted out? Please call.

Re: Haitian Refugees

Larry Margasak  
AP Washington

(b) (6)

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[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938



Re: Haitian Refugees

**Gregory, Peter D**

**From:** Mayorkas, Alejandro N  
**Sent:** Monday, January 18, 2010 9:56 AM  
**To:** Smith, Sean; Morton, John; Smith, Sean; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew; Shlossman, Amy  
**Subject:** RE: Haitian Refugees

I am not sure about the "inherent in" language.  
 If I might suggest:

(b) (5)

Alejandro N. Mayorkas  
 Director  
 United States Citizenship and Immigration Services  
 20 Massachusetts Avenue NW, Suite 5110  
 Washington, DC 20529

(b) (6)

**From:** Smith, Sean (b) (6)  
**Sent:** Monday, January 18, 2010 10:51 AM  
**To:** Morton, John; Smith, Sean; Mayorkas, Alejandro N; Kroloff, Noah; Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew; Shlossman, Amy  
**Subject:** Re: Haitian Refugees

Ok, proposed statement:

(b) (5)

**From:** Morton, John <(b)(6) (b)(7)(C)>  
**To:** Smith, Sean <(b) (6)>; Mayorkas, Alejandro N; Morton, John; Kroloff, Noah  
 (b) (6); Barr, Suzanne E; Kielsmeier, Lauren; Chandler, Matthew  
 (b) (6); Shlossman, Amy <(b) (6)>  
**Sent:** Mon Jan 18 10:32:36 2010  
**Subject:** Re: Haitian Refugees

(b) (5)

----- Original Message -----

**From:** Smith, Sean (b) (6)  
**To:** Mayorkas, Alejandro N (b) (6); Morton, John <(b)(6) (b)(7)(C)>; Kroloff, Noah; Barr, Suzanne E (b)(6) (b)(7)(C); Kielsmeier, Lauren (b) (6); Chandler, Matthew; Shlossman, Amy  
**Sent:** Mon Jan 18 10:24:28 2010  
**Subject:** FW: Haitian Refugees

Re: Haitian Refugees

I'm going to give him our standard TPS language--we're encouraging people to stay in Haiti--but that we're working to process medical evacs and orphans. Anyone think we should take a different approach?

-----Original Message-----

From: (b) (6) On Behalf Of Margasak, Larry  
(b) (6)

Sent: Monday, January 18, 2010 10:11 AM

To: Smith, Sean

Subject: Haitian Refugees

Sean: Is Homeland involved with getting Haitian refugees into the U.S.? If so, can you tell me where they've gone and the criteria for people getting airlifted out? Please call.

Larry Margasak  
AP Washington

(b) (6)

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[IP\_US\_DISC]

msk dccc60c6d2c3a6438f0cf467d9a4938

**Gregory, Peter D**

---

**From:** Mayorkas, Alejandro N  
**Sent:** Saturday, January 16, 2010 8:27 AM  
**To:** Martin, David A; (b) (6)  
(b) (6)  
**Cc:** Fong, Ivan; Sandweg, John; (b) (6)  
**Subject:** Re: TPS for Haiti

Thank you, Dave, for your note. We have an incredible team, and incredible partners in OGC.  
Ali

----- Original Message -----

**From:** Martin, David A (b) (6)  
**To:** Wilcox, Julia D (b) (6); Bacon, Roxana (b) (6)  
Kielsmeier, Lauren (b) (6); Carpenter, Dea D (b) (6)  
**Cc:** Fong, Ivan; Sandweg, John; Mayorkas, Alejandro N (b) (6)  
**Sent:** Sat Jan 16 09:22:42 2010  
**Subject:** Re: TPS for Haiti

Dear Julia, Roxie, Dea, Lauren -

I write to thank you for the wonderful job you and your USCIS colleagues have done over the last few days on the Haitian TPS. We needed to act quickly, and you delivered. I was with S1 yesterday for her short teleconferenced press announcement - and both before and after that call, she and Noah were so complimentary and appreciative of the excellent work done by USCIS on this project. Please convey our thanks and compliments to all who worked on this with you.

I know USCIS still must shoulder much additional work over the coming weeks (b) (5)

(b) (5)  
(b) (5) to make this a working reality. TPS is a very important humanitarian step at a time of terrible suffering for the people of Haiti. Thanks.

-Dave

David A. Martin  
Principal Deputy General Counsel  
Department of Homeland Security

(b) (6) (desk)  
(b) (6) (cell)

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---

**From:** Wilcox, Julia D (b) (6)  
**To:** Wilcox, Julia D; Whalen, Mary Kate (b) (6); Wilcox, Julia D; Whalen, Mary Kate (b) (6); Kielsmeier, Lauren; Whalen, Mary Kate  
(b) (6); Kielsmeier, Lauren; Whalen, Mary Kate  
(b) (6); Bacon, Roxana; Whalen, Mary Kate (b) (6)  
Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
**Cc:** Bacon, Roxana; Martin, David A (b) (6)  
**Sent:** Fri Jan 15 10:53:32 2010  
**Subject:** RE: TPS for Haiti

Mary Kate: The PO Box information for applications is contained in the attachment.

Julia Doig Wilcox

Chief Regulatory Coordinator

Office of the Chief of Staff

U.S. Citizenship & Immigration Services

(b) (6) work  
(b) (6) cell

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From: Wilcox, Julia D  
Sent: Friday, January 15, 2010 10:46 AM  
To: Whalen, Mary Kate; Wilcox, Julia D; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti  
Importance: High

Mary Kate: Please find the USCIS responses in the attached redline. We have also included a clean version. Note that we are waiting for the PO Box for applications, but expect that can be added shortly.

Julia Doig Wilcox

Chief Regulatory Coordinator

Office of the Chief of Staff

U.S. Citizenship & Immigration Services

(b) (6) work  
(b) (6) cell

---

From: Whalen, Mary Kate (b) (6)  
Sent: Thursday, January 14, 2010 5:42 PM  
To: Wilcox, Julia D; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Julia:

Attached are a redline and clean version of the notice with OGC and Policy comments. There are a couple of questions in balloon comments in the registration process section of the bottom of the rule that USCIS must address.

Thanks.

Mary Kate Whalen  
Associate General Counsel  
for Regulatory Affairs Law Division  
Office of the General Counsel  
Department of Homeland Security

(b) (6) (office)  
(b) (6) (cell)

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From: Wilcox, Julia D (b) (6)  
Sent: Thursday, January 14, 2010 12:30 PM  
To: Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Mary Kate: Please find the USCIS draft of the FR notice attached. In the interest of time, we expedited our clearance process. I apologize for the brief delay in getting this to you. We remain available to discuss as needed.

Julia Doig Wilcox  
Chief Regulatory Coordinator  
Office of the Chief of Staff  
U.S. Citizenship & Immigration Services

(b) (6) work  
(b) (6) cell

---

From: Whalen, Mary Kate (b) (6)  
Sent: Thursday, January 14, 2010 11:31 AM  
To: Kielsmeier, Lauren; Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier,

Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Thanks Lauren.

Mary Kate Whalen  
Associate General Counsel  
for Regulatory Affairs Law Division  
Office of the General Counsel  
Department of Homeland Security

(b) (6) (office)  
(b) (6) (cell)

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From: Kielsmeier, Lauren (b) (6)  
Sent: Thursday, January 14, 2010 11:28 AM  
To: Whalen, Mary Kate; Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

I'm advised that we'll have to you by noon.

Lauren Kielsmeier  
Acting Deputy Director  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

(b) (6)

---

From: Whalen, Mary Kate (b) (6)  
Sent: Thursday, January 14, 2010 11:26 AM  
To: Kielsmeier, Lauren; Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Any update on the status of the notice?

Mary Kate Whalen  
Associate General Counsel  
for Regulatory Affairs Law Division  
Office of the General Counsel  
Department of Homeland Security

(b) (6) (office)  
(b) (6) (cell)

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From: Kielsmeier, Lauren (b) (6)  
Sent: Wednesday, January 13, 2010 6:47 PM  
To: Whalen, Mary Kate; Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

We did not send actual notice language to Esther or David but will be working on this ASAP.

From: Whalen, Mary Kate (b) (6)  
Sent: Wednesday, January 13, 2010 6:43 PM  
To: Bacon, Roxana; Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Thanks Roxie; I'll touch base with David.

Mary Kate Whalen  
Associate General Counsel  
for Regulatory Affairs Law Division  
Office of the General Counsel  
Department of Homeland Security

(b) (6) (office)  
(b) (6) (cell)

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From: Bacon, Roxana (b) (6)  
Sent: Wednesday, January 13, 2010 6:36 PM  
To: Whalen, Mary Kate; Wilcox, Julia D; Busch, Philip B; Elder, Phillip D; Kielsmeier, Lauren  
Cc: Bacon, Roxana; Martin, David A  
Subject: RE: TPS for Haiti

Mary Kate, this has been breaking minute by minute to meet DHS OGC/Policy deadline. Lauren Kielsmeier, Chief of Staff, sent the notice to Esther and David a few minutes ago. She will follow up with you, I'm sure.

Roxie

---

From: Whalen, Mary Kate (b) (6)  
Sent: Wednesday, January 13, 2010 6:18 PM  
To: Wilcox, Julia D; Busch, Philip B; Elder, Phillip D  
Cc: Bacon, Roxana; Martin, David A  
Subject: TPS for Haiti



I understand that USCIS has informed S1 that a notice has been drafted to authorize TPS for Haiti. When will USCIS send that up for clearance and/or could we see an advance draft to expedite internal review and processing?

Mary Kate Whalen

Associate General Counsel

for Regulatory Affairs Law Division

Office of the General Counsel

Department of Homeland Security

(b) (6) (office)  
(cell)

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movement on this?

**Gregory, Peter D**

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**From:** Chang, Carrol  
**Sent:** Wednesday, May 12, 2010 9:53 AM  
**To:** 'Zengotitabengoa, Colleen R'; Dawkins, Laura  
**Cc:** 'Baca, Gabriela'  
**Subject:** TVPRA 2008 section related to A3/G5 visa holders

Colleen, Laura,

Kelly at DOS G/TIP passed along this question. I thought you would be the right people at USCIS to ask. Does this also involve ICE? Copying Gaby in case it does.

Do we also need to send to Brian Kelliher at OGC? Should we set up a meeting to discuss?

Carrol Chang  
Office of the Director  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

(b) (6)

---

**From:** Heinrich, Kelly E (b) (6)  
**Sent:** Tuesday, May 11, 2010 8:05 AM  
**To:** Chang, Carrol  
**Subject:** movement on this?

Hi Carrol, one of the things we were going to try to connect on is the process for A3/G5 visa holders who have filed a civil action against their employers to have lawful status and employment authorization. I've pasted the relevant statutory language below. There is an A3/G5 NGO working group that meets rather regularly with State and this is an issue they are particularly concerned about and continually raise. While the next meeting is not yet scheduled, we anticipate it will be in the next six weeks and would like to provide an update and/or have someone from DHS come and do so. **It would be most helpful to share with them what an interim process could be before anything is finalized;** additionally, DHS could use the working group to solicit feedback on what the process could look like. If there's someone else I should work with and you could direct me to him/her that would be great. As you know, I always start with you because you really do seem to have or know where to get all the answers! Many thanks for your help once again! Kelly

Here's the text from the TVPRA 08:

(A) EFFECT OF COMPLAINT FILING.—Except as provided in subparagraph (B), if a nonimmigrant holding an A-3 visa or a G-5 visa working in the United States files a civil action under section 1595 of title 18, United States Code, or a civil action regarding a violation of any of the terms contained in the contract or violation of any other Federal, State, or local law in the United States governing the terms and conditions of employment of the nonimmigrant that are associated with acts covered by such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

movement on this?

(B) EXCEPTION.—An alien described in subparagraph (A) may be deported before the conclusion of the legal H. R. 7311—  
16 proceedings related to a civil action described in such subparagraph if such alien is—(i) inadmissible under paragraph (2)  
(A)(i)(II), (2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii), (3)(B), (3)(C), or (3)(F) of section 212(a) of the  
Immigration and Nationality Act (8 U.S.C. 1182(a)); or (ii) deportable under paragraph (2)(A)(ii), (2)(A)(iii), (4)(A)(i), (4)  
(A)(iii), (4)(B), or (4)(C) of section 237(a) of such Act (8 U.S.C. 1227(a)).

(C) FAILURE TO EXERCISE DUE DILIGENCE.—If the Secretary of Homeland Security, after consultation with the Attorney  
General, determines that the nonimmigrant holding an A-3 visa or a G-5 visa has failed to exercise due diligence in pursuing  
an action described in subparagraph (A), the Secretary may terminate the status of the A-3 or G-5 nonimmigrant.

(2) AUTHORIZATION TO WORK.—The Attorney General and the Secretary of Homeland Security shall authorize any  
nonimmigrant described in paragraph (1) to engage in employment in the United States during the period the  
nonimmigrant is in the United States pursuant to paragraph (1).

Kelly Heinrich

Senior Counsel | Office to Monitor and Combat Trafficking in Persons

U.S. Department of State | (b) (6)

**Gregory, Peter D**

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**From:** Chang, Carrol  
**Sent:** Friday, May 21, 2010 6:21 PM  
**To:** Heinrich, Kelly E  
**Cc:** Carey, Ramona; Zengotitabengoa, Colleen R  
**Subject:** RE: Ideas for A3/G5 implementation meeting  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Thanks so much, Kelly. This exactly answers my question. I'll let you know what we discuss after our meeting on Monday.

Carrol Chang  
 Office of the Director  
 U.S. Citizenship and Immigration Services  
 Department of Homeland Security

(b) (6)

---

**From:** Heinrich, Kelly E [(b) (6)]  
**Sent:** Friday, May 21, 2010 3:48 PM  
**To:** Chang, Carrol  
**Cc:** Carey, Ramona; Zengotitabengoa, Colleen R  
**Subject:** RE: Ideas for A3/G5 implementation meeting

Hi Carrol, here's what I can tell you. A3s and G5s terminate without action from State – they terminate along with the termination of employment. So a domestic worker who has fled her employer and filed suit against that employer would not have legal status, which is where this provision of the law is designed to step in. From my discussions with the NGOs on this topic, they are hoping that they could send the date/time stamped civil complaint, along with an I-765 application, and a cover letter – to make it easy on everyone and not require another form. Notice therefore comes straight from the complainant and no federal agency has a role in that. Hope this helps. I'm happy to talk further on Monday if that's helpful and I'm due to see Colleen on Monday as well. Kelly

---

**From:** Chang, Carrol [(b) (6)]  
**Sent:** Thursday, May 20, 2010 6:41 PM  
**To:** Heinrich, Kelly E  
**Cc:** Carey, Ramona; Zengotitabengoa, Colleen R  
**Subject:** Ideas for A3/G5 implementation meeting

Hi Kelly,

USCIS will be meeting this coming Monday on the implementation of the A3/G5 provision. In advance of that meeting, I'd like to get some more info from DOS on the beginning steps of the following sketch- please see questions in red and pass along to the appropriate POCs within DOS, or let me know whom to contact and I'll reach out right away.

We'd love to have an action plan by the end of Monday's meeting- this seems to be something pretty turnkey to



implement, and thank you Kelly, for bringing it to our attention.

Carrol

(b) (5)

Carrol Chang  
Office of the Director  
U.S. Citizenship and Immigration Services  
Department of Homeland Security

(b) (6)

A3/G5 visa holders

**Gregory, Peter D**

---

**From:** Heinrich, Kelly E [(b) (6)]  
**Sent:** Thursday, February 25, 2010 7:00 AM  
**To:** Chang, Carrol; Carey, Ramona  
**Subject:** A3/G5 visa holders  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Hello ladies, I forgot one thing on my list. As you may know the State Department has been regularly meeting with attorneys and NGOs regarding domestic servants. We also have regular internal meetings as well to keep the process moving along. At the last NGO meeting, one of the attorneys inquired as to when a process would be developed (and what it would be) related to allowing domestic servants who have filed civil suits to remain in the U.S. with work authorization. I of course said I'd look into it!

I've pasted the relevant passage of the TVPRA below for your reference. Just a few things I would highlight for your consideration. Note the section is entitled "effect of complaint filing" indicates to me that the filing triggers the protection and there would not need to be a lengthy process associated with this. What if the victim submits an I-765 (work author.) along with the complaint and some sort of cover letter (does it have to be a new form?) indicating the relief requested? If you determine there needs to be a new form, regs and comment etc., is there any way to devise even an interim process so that these victims have immediate relief given that we are 14 months beyond the TVPRA's enactment? I'd like to get back to them rather quickly. Thanks for your help and advice, Kelly

(c) PROTECTION FROM REMOVAL DURING LEGAL ACTIONS

AGAINST FORMER EMPLOYERS.—

(1) REMAINING IN THE UNITED STATES TO SEEK LEGAL

REDRESS.—

(A) EFFECT OF COMPLAINT FILING.—Except as provided

in subparagraph (B), if a nonimmigrant holding an A–

3 visa or a G–5 visa working in the United States files

a civil action under section 1595 of title 18, United States

Code, or a civil action regarding a violation of any of

the terms contained in the contract or violation of any

other Federal, State, or local law in the United States

governing the terms and conditions of employment of the

nonimmigrant that are associated with acts covered by

## A3/G5 visa holders

such section, the Attorney General and the Secretary of Homeland Security shall permit the nonimmigrant to remain legally in the United States for time sufficient to fully and effectively participate in all legal proceedings related to such action.

(B) EXCEPTION.—An alien described in subparagraph

(A) may be deported before the conclusion of the legal

H. R. 7311—16

proceedings related to a civil action described in such subparagraph if such alien is—

(i) inadmissible under paragraph (2)(A)(i)(II),

(2)(B), (2)(C), (2)(E), (2)(H), (2)(I), (3)(A)(i), (3)(A)(iii),

(3)(B), (3)(C), or (3)(F) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)); or

(ii) deportable under paragraph (2)(A)(ii),

(2)(A)(iii), (4)(A)(i), (4)(A)(iii), (4)(B), or (4)(C) of section 237(a) of such Act (8 U.S.C. 1227(a)).

(C) FAILURE TO EXERCISE DUE DILIGENCE.—If the Secretary

of Homeland Security, after consultation with the

Attorney General, determines that the nonimmigrant

holding an A-3 visa or a G-5 visa has failed to exercise

due diligence in pursuing an action described in subparagraph

(A), the Secretary may terminate the status of the

A-3 or G-5 nonimmigrant.

(2) AUTHORIZATION TO WORK.—The Attorney General and

the Secretary of Homeland Security shall authorize any nonimmigrant

described in paragraph (1) to engage in employment

A3/G5 visa holders

in the United States during the period the nonimmigrant is

in the United States pursuant to paragraph (1).

Kelly Heinrich

Senior Counsel | Office to Monitor and Combat Trafficking in Persons

U.S. Department of State (b) (6)



**From:** (b) (6) on behalf of Munoz, Cecilia  
(b) (6)  
**Sent:** Friday, June 11, 2010 5:53 PM  
**To:** (b) (6)  
**Cc:** (b) (6)  
**Subject:** FW: (b) (6), and family  
**Attachments:** 2010 05 24 Deferred Action Request (b) (6) pdf; 2010 05 24 Deferred Action Denial (b) (6) pdf; 2010 03 19 Deferred Action and Release Request (b) (6) pdf; 2010 05 07 Ltr from (b) (6) re Deferred Action Request for (b) (6) pdf

Hi (b) (6) – sending, for your information, some information that came up at a meeting with the Dream Act students who walked to DC from Florida. Am not asking for anything – just wanted you to know, since they're getting a lot of media....

---

**From:** (b) (6)  
**Sent:** Friday, June 11, 2010 5:26 PM  
**To:** (b) (6)  
**Cc:** (b) (6) Munoz, Cecilia  
**Subject:** FW: (b) (6) and family

Thanks, (b) (6) It's good to meet another member of the FIAC team. I'm cc'ing (b) (6) correct email address here.

---

**From:** (b) (6)  
**Sent:** Friday, June 11, 2010 5:15 PM  
**To:** (b) (6)  
**Cc:** (b) (6)  
**Subject:** FW: (b) (6), and family

Dear (b) (6)

I work with (b) (6) and (b) (6) at FIAC. I believe you also met with the Trail of DREAMs walkers this afternoon. (b) (6) called me and asked me to send (b) (6) the information below and attached. I also tried to send the copies of their deferred action requests, but they did not go through. Can you help? Thank you for everything,

(b) (6)  
Statewide Director

**Florida Immigrant Advocacy Center**  
3000 Biscayne Blvd., Ste. 400  
Miami, FL 33137  
Tel: (b) (6)  
Fax: (b) (6)  
(b) (6)

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(b) (6)



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**From:** (b) (6)  
**Sent:** Friday, June 11, 2010 5:06 PM  
**To:** c.munoz@ (b) (6)  
**Cc:** (b) (6)  
**Subject:** (b) (6) and family

Dear (b) (6)

I understand that you and some of your colleagues just met with the Trail of DREAMs walkers this afternoon (b) (6). (b) (6) asked me to forward you the information about (b) (6) and (b) (6) family, who (b) (6) talked about during your meeting. (b) (6) is the (b) (6)-year old who was stopped by Border Patrol at a commuter rail station on (b) (6) way to college class. (b) (6) was detained, and although (b) (6) was later released, CBP then issued NTAs against (b) (6) and (b) (6) parents after (b) (6) story was covered in the press. The whole family is now in proceedings (b) (6) have both been denied deferred action. A longer summary of their situation is below, as written by my colleague, (b) (6) who represents (b) (6) and (b) (6) family. Attached are the letters requesting deferred action, and the denials. Anything you can do would be deeply appreciated.

I also wanted to let you know that the Florida Immigrant Advocacy Center (FIAC) represents (b) (6). We requested deferred action for (b) (6) through USCIS, since they have never been in proceedings. It is my understanding that these requests are now working their way to CIS headquarters. I will send you separately their requests (the attachments are large). Their cases are so compelling and inspiring, and I know that you have seen yourself how truly remarkable each of them is---we feel honored to represent them. We would appreciate anything you can do to weigh in on this process. Please feel free to contact me with any questions, my direct line is (b) (6). Thank you,

(b) (6)  
Statewide Director

**Florida Immigrant Advocacy Center**  
3000 Biscayne Blvd., Ste. 400  
Miami, FL 33137

(b) (6)

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Summary of (b) (6) and family's case:

(b) (6) is an exceptional (b) (6) college student who graduated from high school with honors and

(b) (6)



was recognized for hundreds of hours of community service.

In March 2010, (b) (6) was stopped and questioned by two border patrol agents at a commuter rail station as she was on her way to take the train to school. We believe (b) (6) was singled out based on (b) (6) appearance. The station's security guard tried to vouch for (b) (6), telling the agents that (b) (6) was just a student, and that (b) (6) takes the train all the time. But (b) (6) was ignored. After relentless questioning by the border patrol agents (b) (6) was detained and taken to the Broward Transitional Center (BTC) in Fort Lauderdale. Had (b) (6) not been detained that day (b) (6) would have participated in a benefit to raise money for the victims of the recent earthquake in Chile.

We sent a letter to ICE asking for (b) (6) release and for deferred action, given (b) (6) outstanding student record and contributions to the community.

After about 10 days, ICE finally released (b) (6). We were not notified, but I happened to be at the facility to visit her that day and we were therefore able to contact her family to make arrangements to pick her up. By that time (b) (6) had developed a fungal infection on (b) (6) arm for which (b) (6) was given a cream at the facility, though (b) (6) medical release states (b) (6) had no medical issues. (b) (6) was placed on an order of supervision and enrolled in the ISAP program.

In March and April, (b) (6) ordeal was reported in the local press.

After the news reports, the same border patrol agent who detained (b) (6) apparently issued NTAs and warrants for arrest for (b) (6) sister and parents. (b) (6) NTA was only recently filed with the immigration court. (b) (6) is charged as a visa overstay having entered the United States as a child.

As for her family, (b) (6) says that (b) (6) was asked for information about sister and parents at an ISAP appointment, and was assured that if (b) (6) provided that information, immigration would not go after them. It is worth pointing out that we (b) (6) legal representatives, were denied access to (b) (6) ISAP appointments even though we asked to be present.

So, we are concerned about both the initial stop and detention of (b) (6) who was simply a (b) (6) student walking toward (b) (6) train one morning, and what now appears to be the retaliatory actions against her family since (b) (6) spoke out about what happened. In any event, this family definitely does not fit the "dangerous criminal alien" enforcement priority articulated by DHS.

Both (b) (6) and (b) (6) sister have been denied deferred action. The family is scheduled for an immigration court appearance in September.

(b) (6) full contact information is as follows (but note (b) (6) is currently on vacation so I am sending this in (b) (6) absence):

(b) (6)

Adrienne Arsht Human Rights Fellow  
Florida Immigrant Advocacy Center  
3000 Biscayne Blvd., Ste. 400  
Miami, Fla. 33137

(b) (6)



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**From:** (b) (6)  
**Sent:** Friday, August 13, 2010 4:48 PM  
**To:** Baran, Amanda  
**Cc:** Crow, Melissa  
**Subject:** Re: DREAM Act case

Glad to hear it, and thanks for responding so quickly. Please do what you can.

Thanks,

--(b) (6)

On Fri, Aug 13, 2010 at 4:43 PM, Baran, Amanda (b) (6) wrote:  
Hey (b) (6) - we are aware of this case.

---

**From:** (b) (6)  
**To:** Melissa E. Crow (b) (6); Amanda Baran (b) (6)  
**Sent:** Fri Aug 13 16:39:01 2010  
**Subject:** DREAM Act case

Hi (b) (6) and (b) (6)

Is the case of (b) (6) on your radar screen? (b) (6) was apparently ordered removed in absentia 10 years ago when (b) (6) was 12, and (b) (6) spent the last 3 months plus in detention. (b) (6) mother has been removed, but (b) (6) stepfather and fiancée are U.S. citizens. In addition to (b) (6) family ties, (b) (6) has a very sympathetic story, and (b) (6) is appealing the denial of (b) (6) motion to reopen to the BIS. Can (b) (6) at least get out of detention while the motion is being considered, if not deferred action right away?

Thanks,

--(b) (6)

(b)(5)

(b)(5)

(b)

(5)



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(5)

## **WHY IS (b) (6) BEING DEPORTED?**

(b) (6) is a (b) (6) year-old senior at (b) (6) University who has been looking forward to graduating this coming fall. (b) (6) is majoring in political science and minoring in French. (b) (6) is a founding (b) (6) Inc., and plans to continue (b) (6) education and become a lawyer. Her friends affirm that (b) (6) is a brilliant young (b) (6), an excellent student who studies hard. In addition to studying, in order to pay (b) (6) tuition (b) (6) works nights with (b) (6) mother, as a janitor, cleaning office buildings in the Atlanta Metro Area. (b) (6) grew up here in Georgia and has never been in trouble with the law.

***So, why is (b) (6) sitting behind bars in a detention center in Gadsden, Alabama awaiting deportation to a country (b) (6) hasn't seen in over 10 years?***

(b) (6) came to the United States as a (b) (6) more than 10 years ago, with (b) (6) mother. (b) (6) has lived, studied, and worked here ever since, contributing to (b) (6) community, enriching (b) (6) friends' lives, paying taxes, living (b) (6) life.

And then on Monday, March 29<sup>th</sup>, everything changed.

That day, a (b) (6) University campus police officer 'pulled (b) (6) over' when (b) (6) was parking in the University parking lot. According to the officer, (b) (6) was "impeding the flow of traffic."

(b) (6) was asked for (b) (6) license and when (b) (6) informed the officer (b) (6) did not have one (b) (6) was told to come to his office the day after or he would issue an arrest warrant for (b) (6) (b) (6) went to the office on Tuesday, March 30<sup>th</sup>, 2010 and told the truth. (b) (6) explained there was no possible way for (b) (6) to obtain a license because, though (b) (6) had lived almost all of (b) (6) life in Georgia, (b) (6) was legally undocumented. The officer charged with campus security proceeded to detain her. (b) (6) was arrested and jailed in Cobb County where the county's 287(g) agreement allows for local sheriffs to enforce federal immigration law. From there (b) (6) was put directly into deportation proceedings and has been behind bars ever since.

Yesterday afternoon, an immigration judge denied (b) (6) bond and ordered (b) (6) to leave the country within 30 days. (b) (6) is being sent back to Mexico, a country (b) (6) hasn't been to since (b) (6) was 10 years old, only months before (b) (6) is to graduate from college.

Why is (b) (6) being deported? Has (b) (6) committed some terrible crime? Is (b) (6) 'sapping precious state resources' from citizens? Is (b) (6) the "illegal alien" we're told we should fear?

No.

(b) (6) is a hard working, smart college student who enriches the state of Georgia and the United States of America by (b) (6) presence and (b) (6) contributions. We want (b) (6) nightmare to end. (b) (6) represents the kind of young person that makes Georgia a better place; (b) (6) should be allowed to remain in the state and country in which (b) (6) grew up.

***We support (b) (6) we march for (b) (6), we fight for (b) (6) to remain in Georgia!  
Contact representative John Lewis at (404) 659-0116 or (202) 225-3801 and ask him to:***

- 1) GET INVOLVED in (b) (6) case! Tell him to contact DHS and STOP (b) (6) deportation!
- 2) SPONSOR the Dream Act to help students like (b) (6) and thousands of others!

For more information on (b) (6) and students like (b) (6), call GLAHR at 404-457-5232



Crow, Melissa

---

From: (b) (6)  
Sent: Thursday, July 15, 2010 5:46 PM  
To: (b) (6)  
Subject: Mo's parents

Importance: High

Hi Melissa –

The DREAM activist I mentioned is (b) (6) and (b) (6) (b) (6) was one of the 5 youth who was detained in Arizona following a protest in Senator's McCain's office. (b) (6) mother's name is (b) (6) and (b) (6) father's name is (b) (6). Both of his parents have PhDs, have never committed any crimes, own their 350k house and pay taxes. Even a quick Google search of (b) (6) last name yielded a hit for (b) (6) father who is a popular professor in Michigan and is on ratemyprofessor.com. (b) (6) was detained in AZ, (b) (6) was interviewed by a special task force agent because (b) (6) was born in Iran (b) (6) was told that by the agent). The agent also said that they would conduct additional investigation and (b) (6) believes that the agent's visit to (b) (6) parent's house yesterday was a part of that investigation. Although (b) (6) did not provide information about (b) (6) parents, the Notice to Appear filed by (b) (6) attorney in relation to his Arizona case did include (b) (6) parent's home address. The attorney who is representing (b) (6) and the other folks who were arrested in Senator McCain's office spoke to the agent this morning and he said that he planned to file a notice to appear.

The agent who visited (b) (6) parent's home and who spoke to (b) (6) little brother is:  
Michael B. Williams  
Special Agent  
Detroit Metro  
(b) (6)  
Fax: 734-941-6697

I will certainly let you know if I hear anything else.

Thanks

(b) (6)

(b) (6)  
National Immigration Law Center  
1444 Eye Street NW, Suite 1110  
Washington, DC 20024

(b) (6)  
(202) 216-0266  
[www.nilc.org](http://www.nilc.org)



Please consider the environment before printing this email



**Crow, Melissa**

---

**From:** Adey Fisseha [fisseha@nilc.org]  
**Sent:** Thursday, July 01, 2010 9:10 PM  
**To:** (b) (6)  
**Subject:** Another DREAM Case  
**Attachments:** (b) (6) - Help Request.docx

Hi Melissa –

Attached is a case of 3 DREAM eligible youth from the same family. They are all currently in deportation proceedings. Details of their case and case numbers are in the attached document.

The oldest is (b) (6), she's the one who contacted us. (b) (6) and I have both spoken to (b) (6). (b) (6) contact information is (b) (6) and email (b) (6)

(b) (6)

(b) (6)  
National Immigration Law Center  
1444 Eye Street NW, Suite 1110  
Washington, DC 20024

(b) (6)  
(202) 216-0266  
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My name is (b) (6). I have two brothers (b) (6). We were brought to America 20 years ago, in 1990, by my mother under visitor-visas from Mexico. I was 7 years old and my brothers were 5 and 3 years old.

We have lived virtually our entire lives in America and have fully assimilated into our American culture. We have worked and studied in America and have no ties to Mexico. We have no known family or prospects and no knowledge of the culture or the language of our native country.

I am writing to you today, to tell you our story. We are in need of help and have nowhere else to turn.

When I was 18 years old, my parents were approached by a notary who advised them that we could petition to stay in America under an asylum petition. This notary told my parents that he was an attorney and that petitioning for asylum was an option for us to permanently stay in America. I had just graduated high school and was in my first year of college. I found myself transferring in and out from different levels of shock; from learning what my legal status actually was, to possibly never attending college, to finding out that there was a possible way to correct our problem. I was afraid for my family and myself. My brothers were graduating high school and approaching their college years as well and were just as fearful. My parents prayed for years that we could someday be able to correct our immigration status so when they met this notary and learned that there was a way to correct our legal status, my parents believed their prayers had been answered.

My parents began the process of filing petitions for asylum with this notary. They paid the notary thousands of dollars and within a short period, we received social security numbers, work permits, and the ability to obtain driver licenses. We were in heaven. I worked four jobs to put myself thru college and so did my brothers.

During my sophomore year of college in 2002, we received the news that we were being placed under deportation proceedings. My parents turned to the notary, who filed our paper work, but found out he had fled town. The only thing we saw of him after receiving our notice was a vacant office in shambles because he literally ran out of town. We quickly turned and sought help from an attorney who was connected to the notary.

As the filing for asylum process got underway, the notary told my parents that the attorney, his partner, would handle all the paperwork after filing.

The attorney, who the notary left us with, was quick to file a petition to appeal our deportation order. With the filed appeal we were able to continue our stay. We continued to live our lives. Our work permits were renewed every year. I finished my bachelor's degree from CSULA in English Literature and continued on to work on my paralegal certification. My brother (b) (6) graduated from CalPoly Pomona with a degree in Business Administration in Hospitality. And then in 2005 we learned that our appeal had been denied. At that same time, my father was awarded his residency thru LULAC.



My father tried to petition for our stay thru a different route once he obtained his residence but we were told that we did not meet the deadline for filing this petition. We turned to another attorney, who took our case and tried yet again to appeal our deportation.

This past June, my youngest brother, (b) (6), graduated CalPoly Pomona with a degree in Business Administration in Accounting with a minor in Finance. A couple of weeks after his graduation, we received another denial to reopen our case and we are currently waiting to receive our mandate to leave our home.

I understand that filing for asylum was an error and that Mexico isn't recognized for asylum but how can we be asked to return to a country that we've never known? My brothers and I were 7, 5, and 3 years old when we arrived in the U.S. We are now 28, 26, and 24 years old. We are college graduates, we have careers, we have followed law, and have paid taxes ever since we've started working. We don't have any family in Mexico – We don't know where to arrive, what to do, or who to go to. Our crime wasn't premeditated. We simply followed our parents. Our entire lives are in America.

The DREAM ACT is legislation that we have followed for years. We are candidates and if passed and allowed, we would continue to contribute to America, our home- the only home we know.

My hope is that you read this letter and can feel the desperation we have had for years and the panic that we find ourselves in. Please read thru my words and feel our pain. We are being asked to pick up 20 years of our lives and move what little can take with us to a country where we have never been and will be at a disadvantage. I seek your help! With your assistance and support, I seek to defer our deportation and have a chance to continue our lives thru the DREAM ACT.

(b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



(b) (6)

Enterprise Vault Archived Item

Page 1 of 1


From (b) (6)

Date Monday, June 14, 2010 7:46:00 PM

To (b) (6)

Cc

Subject (b) (6)

 06.11.10 Deferred Action Request to (b) (6).PDF (102 KB HTML )

Hi Melissa—

Good seeing you today. Attached is an electronic version of the case materials I gave you at the meeting today.

Thanks

(b) (6)

(b) (6)  
National Immigration Law Center  
1444 Eye Street NW, Suite 1110  
Washington, DC 20024

(b) (6)  
(202) 216-0266  
[www.nilc.org](http://www.nilc.org)



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**Join NILC in challenging Arizona's new anti-immigrant law and defending constitutional principles of fairness, justice, and equality. Donate TODAY!**

(b) (6)



DREAM



June 11, 2010

## ATTORNEYS AT LAW

555 CALIFORNIA STREET  
SUITE 1700  
SAN FRANCISCO, CA 94104-1520  
415.434.4484 TEL  
415.434.4507 FAX  
foley.com

VIA EMAIL

WRITER'S DIRECT LINE

(b) (6)

(b) (6)

Immigration & Customs Enforcement  
Office of Detention & Removal Operations  
(ICE/ DRO)

James T. Hayes, Jr., Director  
US Department of Homeland Security  
500 12th Street, SW  
Washington, DC 20536

Re: (b) (6)

**I. Request To Immigration And Customs Enforcement (ICE) To Grant Deferred Action  
In The Case of (b) (6) In The Exercise of Prosecutorial Discretion.**

Dear Director Hayes:

We request that Immigration & Customs Enforcement agree to grant our client, Ms. Yessica Ramirez, deferred action in the United States. (b) (6) is a twenty-five (25) year old Mexican national who has resided in the United States since the age of two (2). (b) (6) story is inspiring. It is not only a story of hard work and dedication to pursue a lifelong dream of becoming the first in her family to obtain a college degree, but also a story of unwavering commitment and determination to provide her young brother and unborn child the opportunity of a brighter future in the country that is their home. (b) (6) is emblematic of the need for the DREAM Act,<sup>1</sup> which would allow the U.S. to reap the benefits of talented foreign students who are contributing members of society, like (b) (6) by normalizing their status in the U.S.

**II. (b) (6) Is Emblematic Of the Need For The DREAM Act.**

(b) (6) faces deportation in large part due to fraud perpetrated on her parents, when she was a minor, by the notorious immigration attorney, (b) (6) scammed (b) (6) parents into paying him over fifteen thousand dollars to file bad asylum claims,

<sup>1</sup> The Development, Relief, and Education for Alien Minors Act (S. 729, HR 1751) is a bill to amend the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) of 1996 to permit States to determine State residency for higher education purposes and to authorize the cancellation of removal and adjustment of status of certain students who are long-term U.S. residents and who entered the U.S. as children. The DREAM Act has four basic requirements: 1) the student entered the country before the age of 16; 2) the student graduated from a U.S. high school or obtained a GED; 3) the student has good moral character; and 4) the student has been continuously present in the U.S. for at least five years. Ms. Ramirez meets all of these criteria.

BOSTON  
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SAN FRANCISCO  
SHANGHAI

SILICON VALLEY  
TALLAHASSEE  
TAMPA  
TOKYO  
WASHINGTON, D.C.





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June 11, 2010

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intentionally placing (b) (6) and her parents into removal proceedings, relief from which (b) (6) was prima facie ineligible, while at the same time forgoing other viable avenues to lawfully remain in the U.S.<sup>2</sup> After (b) (6) father was deported in June of 2008, and her mother's return to Mexico shortly thereafter, (b) (6) became the sole care taker of her twelve year old U.S. citizen brother, (b) (6). (b) (6) suffers from epilepsy for which he receives medication and routine assessments at the Lucille Packard Children's Hospital Neurology Clinic. (b) (6) became the sole caretaker of her brother after his return from a brief and traumatic time in Mexico. While living with (b) (6) parents in Mexico, (b) (6) was unable to obtain medical treatment and medication for his epilepsy because the medication to control his seizures is cost prohibitive and Ms. Ramirez's parents, who are unemployed and support themselves by selling their possessions, could not afford to pay for Junior's medication in Mexico. Junior's untreated epilepsy, lack of proficiency in Spanish, and lack of access to the special needs education he currently receives, forced him to stop attending school in Mexico. He returned to the United States shortly after. (b) (6) teachers at Taylor Middle School in Millbrae, California have praised Ms. Ramirez for her involvement with Junior's academic development.<sup>3</sup> (b) (6) and her U.S. citizen husband, (b) (6), have provided a loving and supportive environment for Junior since his return from Mexico. (b) (6) dedication to her brother's well being is best summarized in Junior's own words: "(b) (6) has treated me like if I were her child."<sup>4</sup>

There are no negative factors weighing against deferral in (b) (6) background. (b) (6) has lived in the U.S. for over twenty-three (23) years and has led her life honorably, with good moral character, and with love for the United States of America, to which she feels extreme loyalty. During her senior year of high school, in 2002, (b) (6) applied to enlist in the U.S. Army because she wanted to serve (b) (6) country. Ms. Ramirez passed all of the exams to enlist, but was ultimately denied enlistment because of her undocumented status. After being denied the opportunity to serve in the Armed Forces, (b) (6) graduated from Mills High School in Millbrae, California, where she excelled and took Advanced Placement courses. (b) (6) was admitted with sophomore status to San Francisco State University and took courses there, while at the same time working as a full time bank teller and as a part time bagger at a supermarket. Although (b) (6) could not continue her coursework at San Francisco State for financial reasons, she is now taking courses at the College of San Mateo and working on her A.A. degree in Sociology. (b) (6) goal is to transfer to San Jose State University to get her B.A. in Sociology and, eventually, a Master's degree in Sociology. (b) (6) pays her taxes and has never been convicted of any crime. Since the time of her arrival to this country more than 23 years ago, (b) (6) has been a good student, a loyal daughter and sibling, and a contributor to her community. Her unwavering commitment to her brother, husband and unborn child is evidenced by (b) (6) determination to pursue higher education for the betterment of her family and her

<sup>2</sup> See Oral Decision of the Immigration Judge Denying Cancellation of Removal.

<sup>3</sup> See Letters from Teachers.

<sup>4</sup> Hand-written letter by Ramon Ramirez, Jr.





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tireless efforts to ensure that her unborn child, who will be a U.S. citizen regardless of where she is born, has the opportunity of a brighter future alongside her loving parents in the country that is their home.

In addition to providing (b) (6) with the love and care he needs, seeking higher education, and preparing for the birth of her child, (b) (6) continues to actively pursue other potential forms of relief to adjust her undocumented status. (b) (6) currently has an approved I-130 petition and has filed a Motion to Reopen proceedings and for Cancellation of Removal before the Board of Immigration Appeals (BIA). A favorable exercise of discretion in this case would provide Ms. Ramirez the opportunity to continue to pursue these potential forms of relief.

Enclosed with this request are documents that evidence (b) (6) continued pursuit of higher education; her commitment to her brother (b) (6) s well being; documents evidencing that (b) (6) is seeking and receiving prenatal care; and hand-written letters from family, friends, co-workers, teachers, physicians and other community members who have come forward to ask that this remarkable young woman be given the chance to fulfill her promise in the U.S. and offer her talents to the country that she considers home.

### III. Prosecutorial Discretion Authorizes Terminating Removal Proceedings.

Deferred action has long been available to ICE to remedy unduly harsh results caused by strict enforcement of the immigration law. It vests the Field Office Director with the power not to seek the removal of removable aliens. Historically, the Director is to take into account the following factors: (1) the likelihood of removal; (2) the presence of sympathetic factors; (3) the likelihood that because of sympathetic factors, a large amount of adverse publicity will be generated; (4) whether the person's presence in the U.S. is desired by law enforcement; and (5) whether the individual is a member of a class of deportable aliens whose removal has been given high enforcement priority.<sup>5</sup>

#### A. *Exercising Favorable Prosecutorial Discretion In Yessica Ramirez's Case Is Fully Consistent With The Letter And Spirit Of The Law.*

(b) (6) seeks deferred action for a limited time to pursue potential remedies before the BIA, to begin the consular process of her approved I-130 petition and to give Congress the time to act on the DREAM Act. If such relief is not forthcoming, (b) (6) will depart the U.S. Therefore, ICE can be assured that (b) (6) will either receive immigration benefits or will depart the U.S. Second, there are significant sympathetic factors present in this case. (b) (6) came to the U.S. as a toddler, with no input into whether she should enter or not. She was committed to serving in the Armed Forces and would have done so had her immigration status not rendered her ineligible to serve the country that she has considered home for the last twenty-three

<sup>5</sup> See Standard Operating Procedures for Enforcement Officers: Arrest, Detention, Processing and Removal (Standard Operating Procedures), Part X.; Meissner, Comm., Memo, HQOPP 50/4 (November 17, 2000).





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(23). Additionally, following her parents' deportation, (b) (6) became the sole caretaker of her twelve year old U.S. citizen brother, (b) (6) who suffers from epilepsy and who, according to his physicians, will require constant adult supervision and care for many years to come.<sup>6</sup> Moreover, (b) (6) is approximately thirty (30) weeks pregnant, and her unborn child will be a U.S. citizen regardless of where she is born. If (b) (6) is forced to return to Mexico prior to or shortly after the birth of her child, both will face increased health risks due to the lack of access to prenatal and postnatal care in Mexico.<sup>7</sup> Forcing (b) (6) to depart this country and travel in her third trimester of pregnancy also places she and her child at risk. Additionally, if (b) (6) is removed to Mexico, (b) (6) her husband and a U.S. citizen, will not abandon his wife and child and will be forced to leave the U.S., the only home he knows. The couple's prospects of finding employment in Mexico are slim and the inability to find gainful employment will make access to adequate prenatal and postnatal care even more difficult. (b) (6) will have to follow Ms. (b) (6) to Mexico because no one else will be able to care for him here. Once in Mexico, he will not have access to the medical care he needs to keep his epilepsy under control. In addition to the various hardships already described, (b) (6) will be forced to abandon her lifelong dream to become the first college graduate in her family. Finally, it cannot be argued that (b) (6) is a priority for ICE. With no criminal record and an entry that occurred when she was two years old, (b) (6) is not among the classes of individuals on which ICE has focused enforcement efforts. Under the traditional criteria for deferred action (b) (6) presents an undeniably compelling case for a favorable exercise of discretion.

Recently, the use of deferred action for sympathetic classes of removable aliens, such as certain widows of U.S. citizens, demonstrates that the Department of Homeland Security recognizes that deferred action is an appropriate tool to remedy unjust situations and to give Congress an opportunity to act. DHS's recent directive grants widows and children of U.S. citizens two years of deferred action, with minimal individualized evaluation.<sup>8</sup> This reprieve emphasizes the Department's efforts to balance "strong enforcement practices with common-sense, practical solutions to complicated issues."<sup>9</sup> Without interim relief, these widows would be denied the opportunity to remain in the U.S. while a solution to the gap in the law is addressed.<sup>10</sup> It is important to note that at the time that deferred action was offered to widows, no legislation had been introduced to amend the law that permits their removal. In addition, the widows policy acknowledges and responds to humanitarian concerns raised in the complicated cases of long-time

<sup>6</sup> See Neurology Clinic's Letter dated June 2, 2010.

<sup>7</sup> See Barraza-Llorens, Mariana et al., Addressing Inequity In Health and Health Care In Mexico. HOPE – The People to People Health Foundation, Inc. (2002).

<sup>8</sup> See Memorandum, "Guidance Regarding Surviving Spouses of Deceased U.S. Citizens and Their Children," Donald Neufeld, Acting Associate Director, Office of Domestic Operations, June 15, 2009.

<sup>9</sup> See "DHS Establishes Interim Relief for Widows of U.S. Citizens," June 9, 2009.

<sup>10</sup> Id.





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U.S. residents whose removal would be certain without an interim relief to resolve their legal status.<sup>11</sup>

The case for prosecutorial discretion for (b) (6) is at least as compelling as the new policy for widows, if not moreso. Without deferred action, (b) (6) faces the same fate that Secretary Napolitano's policy for widows attempts to address. She will be denied an opportunity to remain in the country that has become her home. Moreover, Congress is certainly aware of and in the process of seeking to remedy the situation faced by individuals like (b) (6) through the DREAM Act. In the Senate, the DREAM Act has 39 sponsors and the House version has 119 co-sponsors.

#### IV. We Respectfully Request That ICE Grant Deferred Action To (b) (6)

The DREAM Act would provide relief for eligible students like (b) (6). Her removal would have tragic consequences by making her ineligible for the benefits of this legislation, which has a strong possibility of being enacted in the near future. In addition, (b) (6) removal would cause America to lose a vital asset: a promising student, and devoted daughter and sibling, who has demonstrated commitment to hard work and a strong desire to contribute to our society. (b) (6) case illustrates the compelling need for DHS to exercise favorable prosecutorial discretion and grant her deferred action. (b) (6) is emblematic of the kind of person the DREAM Act is intended to help. We respectfully ask ICE to defer any action against Ms. (b) (6) until Congress votes on the DREAM Act.

A grant of deferred action for (b) (6) would be consistent with the administration's support for the DREAM Act. President Obama voted for the DREAM Act as a Senator and supported it on the campaign trail. In confirmation hearings, Secretary Napolitano reiterated her support for the legislation. Their support recognizes that ICE can better serve its mission of protecting the homeland from security and law enforcement threats if it did not need to expend resources to remove young people like (b) (6).

It is likely that Congress will act on the DREAM Act in the near future. A grant of deferred action until the DREAM Act is considered by Congress will allow (b) (6) to participate in the debate and serve as an example of what this legislation is meant to achieve. If Congress passes the DREAM Act, (b) (6) will be eligible to seek benefits. If not, Ms. (b) (6) will have at least had the opportunity to provide her unborn child with access to prenatal and postnatal care; to pursue her Motion to Reopen before the BIA; to start her consular process for her approved I-130 petition in the U.S.; and most importantly, the opportunity for her husband, brother, and child to better prepare for the possibility of leaving their home.

We thank you for your attention to this matter. Please let us know if you have any questions.

---

<sup>11</sup> Office of the Press Secretary. *DHS Establishes Interim Relief for Widows of U.S. Citizens*.





June 11, 2010  
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Respectfully,

A handwritten signature in black ink, appearing to be 'D. G.', followed by a horizontal line.

(b) (6)

PRB:mam



**Crow, Melissa**

---

**From:** (b) (6)  
**Sent:** Monday, May 17, 2010 9:07 AM  
**To:** Crow, Melissa  
**Subject:** Re: (b) (6) (g) case -- detention and removal of potential DREAM-eligible woman

They let her go! Did you not see the cnn report where I gave a shout out to ice.

Sent from my Blackberry. Please forgive the typos.

(b) (6)  
Managing Partner  
Kuck Immigration Partners LLC--The Immigration Law Firm

8010 Roswell Road, Suite 300  
Atlanta, GA 30350

(b) (6)  
Phone: 404/816-8611  
Fax: 404/949-8144

(b) (6)

With additional offices in Charlotte, North Carolina.

Toll Free: 1-866-286-6200

----- Original Message -----

**From:** Crow, Melissa (b) (6)  
**To:** (b) (6)  
**Sent:** Mon May 17 08:54:24 2010  
**Subject:** RE: (b) (6) case -- detention and removal of potential DREAM-eligible woman

(b) (6) What happened when (b) (6) reported on Friday? Thx, Melissa

Melissa Crow  
Senior Policy Advisor  
Office of Policy - Immigration and Border Security  
Department of Homeland Security

(b) (6)

-----Original Message-----

**From:** (b) (6)  
**Sent:** Thursday, May 13, 2010 7:08 PM  
**To:** Crow, Melissa  
**Subject:** FW: (b) (6) -- detention and removal of potential DREAM-eligible woman

I will have my G-28 signed tomorrow to you. Attached is information about her case and her deferred inspection. Here (b) (6)

(b) (6)  
Managing Partner  
Kuck Immigration Partners LLC--The Immigration Law Firm 8010 Roswell Road, Suite 300 Atlanta, GA 30350  
(b) (6)



Phone: 404/816-8611

Fax: 404/816-8615

(b) (6) Follow us on Twitter: [www.twitter.com/ckuck](http://www.twitter.com/ckuck) or [www.twitter.com/immman](http://www.twitter.com/immman)  
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Solutions for Your Immigration Problems

With additional offices in Charlotte, North Carolina, Orlando, Florida, and Gainesville and Dalton, Georgia.

-----Original Message-----

From: (b) (6)  
Sent: Thursday, May 13, 2010 4:13 PM  
To: (b) (6)  
Cc: (b) (6)  
Subject: FW: (b) (6) -- detention and removal of potential DREAM-eligible woman

(b) (6)

Melissa Crow is the DHS person we had been in touch with. Her email address is below. If and when you call her, please let her know that you obtained her contact info. through us.

Thanks much,  
Azadeh

-----Original Message-----

From: Crow, Melissa (b) (6)  
Sent: Monday, May 03, 2010 4:26 PM  
To: (b) (6)  
Subject: FW: (b) (6) detention and removal of potential DREAM-eligible woman

(b) (6) Can you pls call me ASAP about this case? At a minimum, I need this woman's A-number. Also, please let me know what happened at the bond hearing. Did she take voluntary departure? If so, under what circumstances? Was she represented? Thx,  
Melissa

Melissa Crow  
Senior Policy Advisor  
Office of Policy - Immigration and Border Security Department of Homeland Security

(b) (6)



**Crow, Melissa**

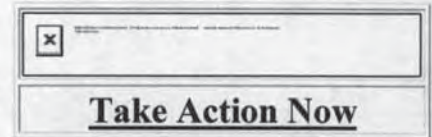
**From:** (b) (6) on behalf of Valencia, Stephanie M.  
**Sent:** Wednesday, August 04, 2010 1:22 PM  
**To:** Esther Olavarria; Crow, Melissa; Odio, Carlos P.; Escobar, Felicia; Luis\_A.\_Miranda-  
**Subject:** (b) (6) Munoz, Cecilia  
FW: This is horrible

FYI

**From:** (b) (6)  
**Sent:** Wednesday, August 04, 2010 1:21 PM  
**To:** Valencia, Stephanie M.  
**Subject:** This is horrible

Greetings--

We must act quickly to save an aspiring Arizona preschool teacher from being ripped away from her family.



On Saturday, August 8th, the Department of Homeland Security will force (b) (6) to leave her husband and two small children. They will deport her to a country she barely knows - unless we act now to stop it.

**Click here to send a fax to the Department of Homeland Security (DHS) to stop this shameful act:**

**<http://AmericasVoiceOnline.org/MotherOfTwo>**

Like other young people eligible for the DREAM Act, (b) (6) was brought to the United States at a young age. She is now married to a legal permanent resident and a mother to two U.S. citizen children: 3-year-old (b) (6)

(b) (6) parents always taught her to value education. Through hard work, she was the first person in her family to graduate from high school. (b) (6) hopes to someday take her passion for learning and children and teach preschool. Like so many young people, she has been waiting for years to fulfill her dreams.

We must stop the Department of Homeland Security from ripping (b) (6) away from (b) (6) on Saturday.

**Help us reach our goal of 5,000 faxes to DHS Secretary Janet Napolitano to stop (b) (6) deportation:**

**<http://AmericasVoiceOnline.org/MotherOfTwo>**

Thanks for raising your voice and forwarding this letter.

Sincerely,

(b) (6)  
America's Voice



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This email was sent to:

(b) (6)

To unsubscribe, go to:

<http://americasvoiceonline.org/unsubscribe>

**Crow, Melissa**

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**From:** [REDACTED] (b) (6)  
**Sent:** Friday, August 06, 2010 7:25 AM  
**To:** Melissa E. Crow  
**Subject:** DA Granted?

Hi Melissa,

I got a cryptic note that Deferred Action was granted in [REDACTED] (b) (6) case. Can you confirm that?

-- Josh

Sent from my cell phone



**Mayorkas, Alejandro N**

(b)(6)

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**From:** McCament, James W [REDACTED]  
**Sent:** Tuesday, December 15, 2009 5:45 PM  
**To:** Mayorkas, Alejandro N; Kielsmeier, Lauren; Aytes, Michael; Jones, Rendell L; Neufeld, Donald; Scialabba, Lori; Ratliff, Gerri; Bacon, Roxana; Carpenter, Dea D; Humphrey, Buck H; Melero, Mariela; Chang, Pearl B; Collett, Greg L  
**Subject:** Gutierrez Comprehensive Immigration Reform Legislation  
**Attachments:** CIR ASAP Summary 12 15 09.pdf; Overview of Gutierrez Bill-CIR ASAP.DOC

All:

As several of you have heard, at 12:30 today Rep. Luis Gutierrez (D-IL) introduced a Comprehensive Immigration Reform bill on behalf of the Congressional Hispanic Caucus. Attached is the official summary of the bill provisions. I have also attached a smaller, unofficial summary of the bill for your review.

In the introduction of the bill this afternoon, it was noted that the House Majority Leader has told Rep. Velazquez that the Senate would have time on the table in February-March for this debate. In addition, the statement was made that Sen. Schumer's CIR bill was expected to be introduced in January. We will keep you posted on any further action occurring on the bill.

Thanks very much.

James

*James W. McCament*  
 Chief-Office of Congressional Relations  
 U.S. Citizenship and Immigration Services  
 20 Massachusetts Avenue, NW  
 Washington, DC 20529-2150

(b)(6)

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12/30/2009



**Gregory, Peter D**

**From:** Mayorkas, Alejandro N  
**Sent:** Monday, March 08, 2010 9:13 AM  
**To:** Olavarria, Esther; Martin, David A  
**Cc:** Roxie Bacon; Kielsmeier, Lauren; Rosado, Timothy A  
**Subject:** FW: CIR high-level estimates

Esther, David,  
Here are our costing estimates for the three options. We are available for follow up as needed.  
Thank you. Ali

Alejandro N. Mayorkas  
Director  
United States Citizenship and Immigration Services  
20 Massachusetts Avenue NW, Suite 5110  
Washington, DC 20529

(b)(6)

**From:** Rosado, Timothy A  
**Sent:** Monday, March 08, 2010 10:11 AM  
**To:** Mayorkas, Alejandro N  
**Cc:** Kielsmeier, Lauren; Jones, Rendell L; Bacon, Roxana; Aytes, Michael  
**Subject:** CIR high-level estimates

Below are high-level cost estimates of the requested CIR options.

(b)(5)

Let me know if you need anything else.

**Gregory, Peter D**

**From:** Kielsmeier, Lauren  
**Sent:** Wednesday, July 21, 2010 5:14 PM  
**To:** Mayorkas, Alejandro N  
**Subject:** Fw: deferred action info for the web

I need to discuss strategy with you re: this messaging. I know it's urgent, but it is also sensitive -- and it appears that OPE, OCOMM and OLA are just now being brought in.

----- Original Message -----

**From:** Rogers, Debra A  
**To:** Kielsmeier, Lauren  
**Cc:** Harrison, Julia L; Mattice, Michael; Humphrey, Buck H; Alfonso-Royals, Angelica M; Melero, Mariela; McCament, James W  
**Sent:** Wed Jul 21 17:39:52 2010  
**Subject:** Re: deferred action info for the web

Hi Lauren: The materials were cleared by all the components through the Exec Sec process. I also gave everyone a heads up on these materials last week.

The idea is to post information on deferred action on the web. I would appreciate OCOMM and OPE, OCR's... input and suggestions on the best way to communicate this information externally.

I am most anxious about distributing the Q and A internally to ensure that officers are equipped to answer questions about DA. We have been hearing reports that some customers were advised that they could not make a DA request. We want to make sure that does not happen.

I believe the idea was to post this information on the web so that customers would know the process. I am not sure if we wanted to do an Alert or draw particular attention to the information. I can give you a call to discuss tonight or tomorrow. Debbie

----- Original Message -----

**From:** Kielsmeier, Lauren  
**To:** Rogers, Debra A  
**Cc:** Harrison, Julia L; Mattice, Michael; Humphrey, Buck H; Alfonso-Royals, Angelica M; Melero, Mariela; McCament, James W  
**Sent:** Wed Jul 21 17:06:11 2010  
**Subject:** RE: deferred action info for the web

Debbie, I have the folder -- where is this going, on USCIS.gov? Is there an accompanying USCIS update? Are OCOMM and OPE engaged? Is OLA in the loop in case we get congressional interest (do we need to proactively push through James' shop)? Adding folks for input/visibility.

I am not clear on how we are pushing out this message. Thanks.

-----Original Message-----

**From:** Rogers, Debra A  
**Sent:** Tuesday, July 20, 2010 8:06 PM  
**To:** Mattice, Michael  
**Cc:** Kielsmeier, Lauren; USCIS Exec Sec; Carter, Constance L; McWhirter, Robert C; Harrison, Julia L  
**Subject:** Re: deferred action info for the web

Thanks mike!

----- Original Message -----

From: Mattice, Michael

To: Rogers, Debra A

Cc: Kielsmeier, Lauren; USCIS Exec Sec; Carter, Constance L; McWhirter, Robert C; Harrison, Julia L

Sent: Tue Jul 20 18:49:43 2010

Subject: Fw: deferred action info for the web

Debbie,

Yes, of course.

Mike Mattice

USCIS Executive Secretariat

(b)(6) [redacted] Please send action items (Monday through Friday) to [uscisexecsec@dhs.gov](mailto:uscisexecsec@dhs.gov)

----- Original Message -----

From: Rogers, Debra A

To: Harrison, Julia L; Mattice, Michael; Kielsmeier, Lauren

Sent: Tue Jul 20 17:21:53 2010

Subject: Fw: deferred action info for the web

Mike: Can you expedite this through front office clearance? (Ali and Lauren) We need to provide the internal guidance as soon as possible, hopefully by COB tomorrow. Thanks,  
Debbie

----- Original Message -----

From: Harrison, Julia L

To: Rogers, Debra A

Sent: Tue Jul 20 16:24:04 2010

Subject: deferred action info for the web

Here are the final versions w/comments and edits incorporated from the concurrence process (let me know if you want to see the redlined versions). No real changes just some minor wordsmithing and formatting. We did get one question from OCC asking why we prepared an internal background doc since the info was the same as in the external materials. I think we thought we would get that out faster but regardless- they are the same so we can probably just send these out to the RDs and DDs as a heads up before they are posted. I'm not sure if these need to go to Ali 1st before I send them to OCOMM for posting. ??

Julia L. Harrison

Chief, Operations Division

Field Operations Directorate

111 Massachusetts Ave.

(b)(6) [redacted]