

**The Faces of Detention and Deportation:  
A Report on the Forced Repatriation of  
Immigrants from the  
English-Speaking Caribbean  
(and Related Policy Recommendations)**

*By*

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<p>The U.S. government should repeal certain sections of the <i>Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA)</i> and the <i>Anti-terrorism Effective Death Penalty Act (AEDPA)</i>.</p>	
<p>The U.S. government should pass the Child Citizen Protection Act (CCPA).</p>	
<p>The U.S. Government should grant citizenship to legal permanent residents who have provided military service so as to shield them against deportation.</p>	
<p>Immigration and Customs Enforcement (ICE) should be removed from New York City’s Department of Corrections (DOCS).</p>	
<p>Caribbean leaders should adopt a unified front in response to the deportation crisis and adopt the model provided by the Family Unification Resettlement Initiative (FURI).</p>	
<p>Caribbean Consulates should create public awareness on the deportation, act as advocates on behalf of Caribbean deportees and implement consular recommendations as outlined by <i>Families for Freedom</i>.</p>	

## ACKNOWLEDGMENTS

This report would not have been possible without the assistance of the following individuals:

- Laurie Anderson (New Sanctuary Movement) and Rachel Soltis (New Sanctuary Coalition of New York City) who graciously allowed me to do on-site/same day registration at the National Gathering held at Riverside Church, September 1-3, 2009. Rachel has continued to be a source of referrals and information.
- Kirin Kalia and Michelle Mittelstadt of the Migration Policy Institute for providing me with links, stats and other data on trends in migration patterns by Caribbean nationals.
- Janis Rosheuvel and Manisha Vaze of *Families for Freedom*, for extending a warm welcome whenever I dropped by unannounced at the office.
- Ravi Ragbir and Jean Murat Montrevil for opening up sharing their stories with me.
- Carmeta Albarus-Lindo of Family Unification Resettlement Initiative (FURI) for spending an afternoon with me, bringing me up to speed with the challenges of deportee integration and for re-affirming my sanity.
- My sister Alison M. Roberts, a recent inductee into the legal profession who serves as my legal editor-cum-technical assistant and always delivers even under pressure.
- The New York Public Library (NYPL) which served as my *de facto* research base for the duration of this report. The extended hours (now open till 11:00 p.m.) are a windfall.

## PREFACE

This report is a direct and natural outgrowth of an opinion piece titled *Summit of the Americas: Security as an Intermestic Issue*, which I wrote in April 2009 when Trinidad and Tobago hosted the Fifth Summit of the Americas. In my opinion piece, published online at the *Huffington Post*, I examined the relationship between deportation of Caribbean nationals and crime in the host-receiving nations in the English-speaking Caribbean – notably Trinidad and Tobago.

As I conducted research for my opinion piece, I was struck by the marked absence or under-collection of data about deportation of Caribbean nationals, as well as the indifference and inertia both in the Caribbean and Caribbean-American community. The topic of criminal deportees is deemed a ‘sensitive issue’ to be avoided – at all costs.

On opening day of the Fifth Summit of the Americas, the *Trinidad Express* reported that President Obama would hold bilateral talks on the issue of criminal deportees to the Caribbean, as part of a discussion on security co-operation. On day three of the Summit, it was reported that President Obama had pledged \$30 million to fight regional crime. By the end of the Summit, it was reported that Caricom leaders would meet with President Obama in Washington, DC in the fall to discuss crime in the region.

The goal of this report is to provide a critical analysis of the impact of deportation on the Caribbean and Caribbean-American community, with a keen eye for how/why/what accounts for the variances in deportation rates to various islands in the English-speaking Caribbean – especially Trinidad and Tobago. It is my hope that the report can serve as a prototype or influential guide to Caricom leaders and President Obama as they convene in Washington, DC. This report can also serve as an empowerment tool to individuals affected by detention/deportation and as a resource guide to activists wishing to engage in dialogue or mobilize around the issue of detention/deportation.

The policy recommendations outlined at the end of the report point to a path that can be followed in order to best address deportation of Caribbean nationals. The recommendations require the participation of governments of the United States and Caricom nations.

By way of disclosure, I undertook this report as an independent project and did not receive funding from foundations or any other institution. In addition to this report, I am writing articles on the *Huffington Post* about deportees. *The Faces of Detention and Deportation* is a year-long series of articles profiling individuals from the Caribbean who are currently in detention, facing deportation or who have been deported. To follow the series, visit <http://www.huffingtonpost.com/arlene-m-roberts>

## EXECUTIVE SUMMARY

In the summer of 2009, one of the attention grabbing news headlines was *Criminal Deportees to the Caribbean to Top 50,000 Mark in the Decade*. According to statistics released by the Department of Homeland Security, the breakdown for the English-speaking Caribbean was as follows – Jamaica (14, 006 criminal deportees); Trinidad and Tobago (2,589); Guyana (1,742); Barbados (484); Antigua and Barbuda (303); St. Vincent and the Grenadines (202); St. Lucia (192); Dominica (177); and Grenada (176).

The surge in the number of deportees to the Caribbean can trace its provenance to laws passed in 1996 - the *Illegal Immigrant Reform and Immigrant Responsibility Act (IIRIRA)* and *Antiterrorism Effective Death Penalty Act*. In theory, as intended by the framers, the purpose of the Act was to “establish measures to control the borders of the United States, protect legal workers through worksite enforcement, and remove criminal and other deportable aliens”. In actuality, the Act had pernicious effects.

Under the Act, the Bureau of Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service (INS), was granted unfettered powers. Judicial review of deportation and detention decisions made by immigration judges was now restricted.

Aggravated felony – kidnapping, rape, murder and terrorism – was previously the threshold for deportation. Under the Act, minor crimes – petty theft, shoplifting, low-level drug infractions and drunk driving – were now reclassified as aggravated felonies and added to the list of deportable offenses, along with minor traffic violations and urinating in public.

The most draconian characteristic of the Act was the fact that it was retroactive in its application. Therefore, if a non-citizen – including legal permanent residents – had a prior offense, even served out his/her mandatory sentence in the U.S. prison system – but then traveled abroad, he/she would be subject to detention and deportation upon re-entry into the United States, as provided by the Act. In other words, the Act transformed detention and deportation into mandatory minimums.

More than a decade after *IIRIRA* was passed, the full impact is being felt. According to recent reports, three Caricom nations were listed among the top twenty-five for countries whose nationals were sent back due to deportation (on average 100 deportees per year), between April 1, 1997 and August 1, 2007. Jamaica ranked seventh; Trinidad and Tobago ranked seventeenth; and Guyana ranked eighteenth.

Brooklyn is familiarly referred to as the “Caribbean capital of the world”, and is at the epicenter of deportation for Caribbean nationals. In the Caribbean-American community, families are being torn apart first when a loved one is held in detention at some remote location far away from home, then again when he/she is deported. More often than not, the individual who is detained and/or deported is the chief breadwinner for the family, thereby jeopardizing the welfare of all. On the receiving end, many Caribbean nations – ill-equipped to absorb the influx of deportees – are overwhelmed by the magnitude of it all, and are experiencing ongoing strains in social services.

A multi-pronged approach must be adopted in order to effectively address and end unjust deportation of Caribbean immigrants. First, federal lawmakers must sign the Child Citizen Protection Act (CCPA) as a means of safeguarding interests of children impacted by immigration laws and keeping families together as a cohesive unit. The U.S. Government should grant citizenship to legal permanent residents who have provided military service so as to shield them against deportation. As Comprehensive Immigration Reform gets underway, provisions must be made to ensure a minimum threshold of due process, especially during hearings and proceedings related to detention and removal.

Second, it time to remove ICE from New York's Department of Correction Services. Officials from Immigration and Customs Enforcement should not be allowed to interrogate immigrant inmates in New York City's jails, especially when the interrogation results in detainers and deportation of foreign-born nationals.

Third, Caricom leaders need to adopt a unified front in the face of deportations en masse, notwithstanding the disparities in impact that criminal deportation is having from island to island. No effort should be spared in programs designed to integrate deportees into home countries. The model provided by Family Unification Resettlement Initiative (FURI) should be replicated in all Caricom nations.

## **THE FACES of DETENTION AND DEPORTATION**

### **Caribbean islanders have a long-standing presence in the United States**

Caribbean islanders have a long-standing presence in the United States dating as far back as mid-1700s when they were brought involuntarily as slaves to South Carolina and New York.<sup>1</sup> In the early 1800s, after the Haitian revolution, enslaved and free Haitians immigrated to Louisiana.<sup>2</sup> From 1891 to 1970, Caribbean immigration (including Cuba) accounted for approximately 3.4 percent (997, 468) of all immigrants to America; and for 11.9 percent from 1971 to 2003.<sup>3</sup> There was a significant shift in voluntary migration in the mid-1960s, due to legislation passed in 1965 and fully implemented in 1968. The 1965 Hart-Celler Immigration Act abolished national-origins quota system (originally established in 1921 and modified in 1952); family unification was established as the cornerstone of U.S. immigration policy.<sup>4</sup>

In 2000, census figures indicated that the Caribbean born accounted for almost 10 percent of the total U.S. foreign-born population; Cuban nationals were the largest in number, followed by Dominican Republic, Jamaica, Haiti, and Trinidad and Tobago.<sup>5</sup> In fiscal year (FY) 2005, 108, 469 Caribbean born persons became lawful permanent residents of the United States.<sup>6</sup> Generally speaking, the Caribbean born were more likely to be citizens than the foreign-born population.

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<sup>1</sup> See generally Morgan, Philip. 1998. *Slave Counterpoint: Black Culture in the Eighteenth-Century Chesapeake and Lowcountry*. Chapel Hill: University of North Carolina Press.

<sup>2</sup> Pamphile, Leon D. 2001. *Haitians and African Americans: A Heritage of Tragedy and Hope*. Gainesville: University Press of Florida.

<sup>3</sup> Shaw-Taylor, Yoku and Steven A. Tuch, Editors. 2007. *The Other African-Americans – Contemporary African and Caribbean Immigrants in the United States*. Maryland: Rowman & Littlefield Publishers, Inc.

<sup>4</sup> *Ibid.* p.7

<sup>5</sup> MIGRATION POLICY INSTITUTE, DETAILED CHARACTERISTICS OF THE CARIBBEAN BORN IN THE UNITED STATES, (July 2006) *available at* <http://www.migrationinformation.org/USFocus/display.cfm?ID=408> (accessed September 2009)

<sup>6</sup> See DEPARTMENT OF HOMELAND SECURITY (DHS) YEARBOOK OF IMMIGRATION STATISTICS: 2007 (Sept 2008), "Persons Obtaining Legal Permanent Resident Status By Broad Class Of Admission and Region And Country of Birth: Fiscal Year 2007, *available at* <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2008/table03d.xls>

Although Caribbean immigrants are scattered across the United States, the largest Caribbean communities can be found primarily along the eastern seaboard. Florida, New York, New Jersey, Massachusetts, and California were the top five states in which the Caribbean born resided in 2000.<sup>7</sup> Florida was home to 1, 105, 079 (36.4 percent), New York to 1, 004, 344 (33.1 percent), New Jersey to 238, 572 (7.9 percent), Massachusetts to 112, 116 (3.7 percent), and California to 70, 135 (2.3 percent).<sup>8</sup>

The Caribbean born (age 16 and older in the civilian labor force) were more likely to work in sales and office occupations (24.6 percent), as well as service occupations (24.4 percent) than the overall foreign-born population.<sup>9</sup> In 2000, 45.7 percent of Caribbean born households owned their homes, compared with 49.8 percent of all foreign-born householders.

The strength of the Caribbean-American presence is felt most during one particular holiday in September more than any other time of the year. The holiday is Labor Day Monday; the occasion is the annual West Indian American Day Carnival and Parade (otherwise referred to as the West Indian day Parade). Now in its 42<sup>nd</sup> year, the West Indian Day Parade is the largest cultural celebration in New York City, drawing onlookers and celebrants in the millions, from as far north as Canada and as far south as Florida and beyond.

But the parade is not only about revelry, gaiety and masqueraders. The parade is a major economic windfall to New York City's economy, generating revenues in the hundreds of thousands. The West Indian Day Parade has also become a major magnet for politicians – incumbent and newcomers alike - courting the Caribbean-American vote. In 2003, Sen. Hillary Rodham Clinton was a Grand Marshall; Cong. Charles B. Rangel has been a regular fixture. Organizers of the parade also honor and celebrate the achievements of notable Caribbean-Americans such as Gen. Colin Powell (Ret.), who was Grand Marshall in 2009. Also in 2009, one of the themes of the parade was *Jump*

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<sup>7</sup> *Supra* note 5.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

*Up and Be Counted*, in recognition of the Census 2010. Ironically enough, the census will be undertaken in a year when Caribbean immigrants will be transferred or removed from their local communities, significantly affected allocation of resources.

Unfortunately, the foundation laid by Caribbean immigrants is eroding. Inroads made are being reversed, only to be replaced by trends in ‘*involuntary migration*’ – more commonly referred to as criminal deportation – which is eating away at the fabric of the Caribbean community. The surge in the number of Caribbean deportees<sup>10</sup> can trace its provenance to laws passed in 1996 – the *Illegal Immigrant Reform and Immigrant Responsibility Act* and *Antiterrorism Effective Death Penalty Act*. In theory, as intended by the framers, the purpose of the Act was to “establish measures to control the borders of the United States, protect legal workers through worksite enforcement, and remove criminal and other deportable aliens”. In actuality, the Act had pernicious effects.

Under the Act, the Bureau of Immigration and Customs Enforcement (ICE), formerly the Immigration and Naturalization Service (INS), was granted unfettered powers. Judicial review of deportation and detention decisions made by immigration judges was now restricted.

Aggravated felony – kidnapping, rape, murder and terrorism – was previously the threshold for deportation. Under the Act, minor crimes – petty theft, shoplifting, low-level drug infractions and drunk driving – were now reclassified as aggravated felonies and added to the list of deportable offenses, along with minor traffic violations and urinating in public.

The most draconian characteristic of the Act was the fact that it was retroactive in its application. Therefore, if a non-citizen – including legal permanent residents – had a

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<sup>10</sup> See DEPARTMENT OF HOMELAND SECURITY (DHS), YEARBOOK OF IMMIGRATION STATISTICS: 2007 (Sept. 2008), Table 37, “Aliens Removed by Criminal Status and Region and Country of Nationality: Fiscal Years 1998 to 2007” available at [http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2007/ois\\_2007\\_yearbook.pdf](http://www.dhs.gov/xlibrary/assets/statistics/yearbook/2007/ois_2007_yearbook.pdf)

prior offense, even served out his/her mandatory sentence in the U.S. prison system – but then traveled abroad, he/she would be subject to detention and deportation upon re-entry into the United States, as provided by the Act. In other words, the Act transformed detention and deportation into mandatory minimums.

### **CARIBBEAN DETAINEES AND DEPORTEES - NATURE OF OFFENSES**

Jamaica, Guyana, and Trinidad and Tobago rank among the top twenty-five countries whose nationals were sent back due to deportation (on average 100 deportees per year) over a ten year period, from April 1, 1997 to August 1, 2007.<sup>11</sup> The majority of the offenses involve nonviolent crimes. The most common crimes committed by criminal aliens are those involving dangerous drugs, traffic offenses, simple assault and larceny.<sup>12</sup>

### **An Accusation of Fraud Followed by Conviction and Detention for Ravi Ragbir**

Ravi Ragbir<sup>13</sup>, born in Trinidad and Tobago, arrived in the United States over twenty years ago on a visitor's visa and was inspected by an immigration officer at John F. Kennedy airport. Shortly thereafter, Ravi got married to a fellow Trinidadian and began the process of adjustment of status.

In 1998, Ravi's employer accused him of fraud, and he spent the next two years under house arrest while awaiting trial. In 2000, in a trial that lasted no more than three weeks, Ravi was convicted and sentenced to two and a half years in federal prison. In 2004, Ravi began serving his sentence at the Metropolitan Detention Center (MDC) in Brooklyn. Two days prior to the expiration of his criminal sentence, Ravi received notice that ICE had placed an immigration detainer on him. Instead of being released, Ravi was

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<sup>11</sup> HUMAN RIGHTS WATCH, FORCED APART (BY THE NUMBERS): NON-CITIZENS DEPORTED MOSTLY FOR NONVIOLENT OFFENSES (Apr. 2009), *available at* <http://www.hrw.org/sites/default/files/report/us0409web.pdf> (last accessed October 2009).

<sup>12</sup> See Schriro, Dr. Dora. DEPARTMENT OF HOMELAND SECURITY - IMMIGRATION DETENTION OVERVIEW AND RECOMMENDATIONS. Oct. 6, 2009

<sup>13</sup> Interviewed at office of *Families for Freedom* on October 5, 2009.

taken into immigration custody and held at a detention facility in Bergen Country, New Jersey.

Ravi received a final order of deportation in 2006 and remained in custody for two more years – in other words, mandatory detention because of mandatory removal. It was brought to the attention of authorities that Ravi was being held in detention longer than the constitutionally permissible six months<sup>14</sup>. In February 2008, ICE began processing Ravi for release pursuant to the Intense Supervision and Appearance Program (ISAP).

Under Stage I of ISAP, which for Ravi lasted until August 2008, Ravi checked in three times per week with ICE, was subject to a 12-hour curfew, wore an ankle monitoring device and received home inspection every other week. After surrendering his documents – mainly his Trinidad passport - Ravi was moved to Stage II of ISAP, which lasted approximately one month. Under Stage II, both the ankle monitoring device and curfew were removed; check-ins were reduced to once or twice per week, but the home inspections remained in place. Ravi is currently under Stage III of ISAP, under which he is required to check in every other week and is subject to home inspections once per month.

### **Two shop-lifting violations result in deportation for Marlene Jaggernaut**

Marlene Jaggernaut<sup>15</sup> was born in Trinidad and Tobago but came to the United States in 1997 as a legal permanent resident at a very young age. More than a decade ago, during a challenging period of her life, Marlene was convicted of two shoplifting offenses. In 2003, several years after the fact, ICE detained Marlene on the premise that her shoplifting conviction was an aggravated felony.

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<sup>14</sup> Immigration proceedings are civil proceedings and immigration detention is not punishment. *Zadvydas v. Davis*, 533 U.S. 678, 609 (2001). Requires that an immigrant's period of post-removal detention be reasonably necessary to bring about an immigrant's removal.

<sup>15</sup> See STATEMENT BY MARLENE JAGGERNAUTH, *available at* [http://www.womensrefugeecommission.org/docs/marlene\\_oral\\_statement.pdf](http://www.womensrefugeecommission.org/docs/marlene_oral_statement.pdf)

On the morning of March 23, 2003 ICE agents showed up at Marlene's Florida abode. As Marlene stepped out her front door, a male officer grabbed her, pulled her hands behind her back and handcuffed her – to the consternation of her four minor children who witnessed the incident.

During the ensuing eleven months of detention, Marlene was moved to four different county jails before finally being deported to the country of her birth, where she no longer had any family ties.

The Florida Immigrant Advocacy Center took up Marlene's case, following through all the way to the Eleventh Circuit Court of Appeals, which ruled that her conviction did not constitute an aggravated felony. Marlene was brought back to the United States, where she was placed in detention once again, until her hearing for cancellation of removal.

### **A Probation Violation Results in Detention for Gulf War Veteran Warren T. Joseph**

Warren T. Joseph<sup>16</sup>, a national of Trinidad and Tobago, came to the United States over twenty two years ago as a lawful permanent resident. Shortly after his arrival, Warren enlisted in the army, served in combat in the Persian Gulf and was injured in the line of duty. Warren returned from the war not only with awards and commendations honoring his service, but also with symptoms later diagnosed as Post Traumatic Stress Disorder (PTSD).

In 2001, in an attempt to settle a debt, Warren unlawfully purchased a handgun. After his arrest, Warren cooperated fully with the Bureau of Alcohol, Tobacco and Firearms so he was spared jail time and given probation only. In 2003, Warren violated his probation after he failed to notify his probation officer of change of residence when

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<sup>16</sup> See AMERICAN CIVIL LIBERTIES UNION: NO END IN SIGHT – DETAINEE PROFILES, available at <http://www.aclu.org/immigrants/review/33931res20090617.html>

he moved to his mother's house. In 2004, upon release, Warren was subject to mandatory immigration detention and placed in removal proceedings.

As he fought his order of deportation, Warren remained in immigration detention for more than three years, never once being granted a hearing on the merits of his detention. In 2007, it took the efforts of the American Civil Liberties Union (ACLU), ACLU of New Jersey and the Law Offices of Claudia Slovinsky to secure a cancellation of removal for Warren. Finally, Warren was allowed to return home.

### **THE DETENTION DEBACLE**

ICE operates the largest detention system in the country. During Fiscal Year 2008, ICE supervised a total of 378, 582 aliens from 221 countries, with 58 percent from Mexico, 27 percent from Central American nations, and 4 percent from the Caribbean.<sup>17</sup> In Fiscal Year 2009 to date, approximately 90 percent of detainees are either from Mexico (62%), Central American nations (25%) or the Caribbean (3%).<sup>18</sup> By the end of Fiscal Year 2009, ICE will have detained 380, 000 aliens.<sup>19</sup>

Caribbean immigrants may enter the 'detention-to-deportation pipeline' via a myriad of ways. These "trigger sites"<sup>20</sup> are more common place than people realize -- re-entry at the border after a trip back home, during house or employment raids, after a traffic stop by local police or upon completion of a criminal sentence. The most common crimes committed by criminal aliens are those involving dangerous drugs, traffic offenses, simple assault and larceny.<sup>21</sup>

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<sup>17</sup> See DEPARTMENT OF HOMELAND SECURITY – IMMIGRATION DETENTION OVERVIEW AND RECOMMENDATIONS, (Oct. 6, 2009) available at [http://www.ice.gov/doclib/091005\\_ice\\_detention\\_report-final.pdf](http://www.ice.gov/doclib/091005_ice_detention_report-final.pdf)

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> For a complete list of "Trigger Sites for Deportation", see *Families for Freedom* listing available at [www.familiesforfreedom.org](http://www.familiesforfreedom.org)

<sup>21</sup> *Supra* note 17

## **JFK Re-entry triggers probe for Councilwoman's Chief of Staff – Raymond Martin**

On May 22, 2008 the headlines of a local New York newspaper read, *Pol's Aide May Get Deported for Pot Bust in '80s*<sup>22</sup>. As it turned out, Raymond Martin, 44 and the deputy chief of staff to Brooklyn Councilmember Letitia James, was taken into custody by the Department of Homeland Security on account of a drug charge that occurred thirty three years prior, and for failing to attend an immigration hearing back in 2001.

In 1977, Raymond came to the United States from Jamaica as a legal permanent resident but never became a citizen. In 1985, Raymond was arrested in a Brooklyn drug raid and sentenced to five years' probation. In March 2001, Raymond traveled to Barbados for his sister's wedding. His return to JFK triggered a probe which eventually led to his arrest.<sup>23</sup>

## **Collusion between ICE and local law enforcement**

Immigration and Customs Enforcement (ICE) agents frequently targets foreign-born nationals at local jails for deportation.<sup>24</sup> News of ICE's tactics and collusion with local law enforcement is of great concern for Caribbean nationals. As of December 31, 2007 there were 6,528 foreign-born inmates under Department custody, representing 10 percent of the total inmate population.<sup>25</sup> Although these foreign-born inmates came from 124 different countries across the globe, nearly three-quarters (74 percent) of the inmates

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<sup>22</sup> Jotham Sederstrom, *Pol's aide may get deported for pot bust in '80s*. NY DAILY NEWS, May 22, 2008 at [http://www.nydailynews.com/ny.../2008-05-22\\_pols\\_aide\\_may\\_get\\_deported\\_for\\_pot\\_bust.html](http://www.nydailynews.com/ny.../2008-05-22_pols_aide_may_get_deported_for_pot_bust.html)

<sup>23</sup> In September 2009 I contacted Cheryl David, the attorney for Raymond Martin, but she declined to be interviewed for this report.

<sup>24</sup> Nina Bernstein, *Immigration Officials Often Detain Foreign-born Rikers Inmates for Deportation*, N.Y. TIMES, Aug. 25, 2009

<sup>25</sup> STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES (DOCS), THE IMPACT OF FOREIGN-BORN INMATES ON THE NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES 2 (Jul. 2008) available at [http://www.docs.state.ny.us/Research/Reports/2008/Impact\\_of\\_Foreign-Born\\_Inmates\\_2008.pdf](http://www.docs.state.ny.us/Research/Reports/2008/Impact_of_Foreign-Born_Inmates_2008.pdf) (accessed Oct. 2009)

who claim foreign birth came from just ten countries.<sup>26</sup> Three of every five (or 61 percent) foreign-born inmates were born in one of six countries: Dominican Republic, Jamaica, Mexico, Cuba, Guyana, and Trinidad and Tobago.

### **Arbitrary detention followed by transfer without notice**

Amnesty International documented significant barriers immigrants face in accessing assistance and support while in detention.<sup>27</sup> Problems included lack of access to legal counsel and consulates; lack of access to law libraries along with inadequate access to telephones; and frequent and sudden transfers of detainees to facilities located far away from courts, advocates and families.

When Ravi Ragbir was taken into immigration custody, he was moved from the Manhattan Detention Center (MDC) and held at a detention facility in Bergen County, New Jersey before being transferred to another facility in Alabama.<sup>28</sup> Ravi pointed out that he was allowed contact visits with his daughter while he was serving his criminal sentence at MDC, but was denied contact visits during while in immigration detention.<sup>29</sup> Marlene Jaggernaut was moved to four different county jails over a period of eleven months before being deported to Trinidad and Tobago.<sup>30</sup>

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<sup>26</sup> Id.

<sup>27</sup> AMNESTY INTERNATIONAL, JAILED WITHOUT JUSTICE: IMMIGRATION DETENTION IN THE USA (2009) available at <http://www.amnestyusa.org/uploads/JailedWithoutJustice.pdf> (accessed Sept. 2009)

<sup>28</sup> *Supra* note 13

<sup>29</sup> *Supra* note 13

<sup>30</sup> *Supra* note 15

## **Lack of uniform standards of accountability in detention**

Amnesty International documented pervasive problems with conditions in detention, such as commingling of immigration detainees with individuals convicted of criminal offenses; inappropriate and excessive use of restraints; inadequate access to healthcare, including mental health services; and inadequate access to exercise.

Marlene Jaggernaut attested to a similar experience while in detention. In her statement she recounted, “When I was apprehended I was scheduled to see my gynecologist, and asked for a gynecological visit once I arrived in detention. However, throughout the eleven months I was detained, I filed repeated requests for an exam, and I was never permitted to see a gynecologist. I also repeatedly witnessed the inhumane treatment of the elderly and the mentally ill. As a mental health worker, I recognized that a German woman who was detained for several months was likely a paranoid schizophrenic. During her delusions, the guards humiliated her, joined in making fun of her, and used excessive force when transferring her. At another facility, I remember waking up in the middle of the night to loud, painful screams by another mentally ill woman held in a confined space without being let out for fresh air. These women clearly lacked access to proper medical and psychiatric care”.<sup>31</sup>

According to Justice Strategies, ICE has already been the focus of eight internal Homeland Security audits and mismanagement of the civil detention system, ICE’s largest devolution program, is the most frequent theme.<sup>32</sup> One audit notes, “ICE is not well positioned to oversee the growing detention caseload. Over eighty people have died in “civil” custody, yet ICE lobbies for more resources to detain non-citizens who have not been deemed either a flight risk or threat to society.

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<sup>31</sup> *Supra* note 15..

<sup>32</sup> JUSTICE STRATEGIES, LOCAL DEMOCRACY ON ICE: Why State and Local Governments Have No Business in Federal Immigration Law Enforcement (Feb. 2009) *available at* <http://www.justicestrategies.org/sites/default/files/JS-Democracy-on-Ice.pdf>

## **THE REALITIES OF REPATRIATION AND REINTEGRATION**

### **Caribbean Deportees are stigmatized upon re-entry**

Many deportees left the Caribbean a long time ago, either as children accompanying parents or as teenagers. The prospect of being sent back to a country with which they had minimal contact and where they have few or no family members, can be rather daunting. In fact, the entire deportation process can be a traumatic experience, from start to finish.

Moreover, deportees to the Caribbean are not given the red carpet treatment upon returning to the country of their birth. Rather they face stigmas and labels. In Trinidad, post-summit headlines in local newspapers read, *19 Jailbirds Returned to T&T*.<sup>33</sup> Yet another headline recently read, *Deportee jailed for stealing dog chow, smashing door*.<sup>34</sup> Similar incident occur in neighboring islands. Carmeta Albarus-Lindo, a licensed forensic social worker based in Harlem, recounted an occasion when she attended a reception in Kingston, Jamaica. A guest approached her and, in a low voice whispered, “I am one of them, you know. I am a deportee.”<sup>35</sup> But such stigmas are not warranted.

### **Family Unification Resttlement Initiative (FURI)**

Concerned about the impact of deportation on Jamaican nationals as well as the impact displaced returnees<sup>36</sup> can have on Jamaica’s development, Ms. Albarus-Lindo started the Family Unification Resettlement Initiative (FURI).<sup>37</sup> As a forensic social worker, Ms. Albarus-Lindo has almost twenty years experience working within the criminal justice system in the United States.

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<sup>33</sup> Darryl Heeralal, *19 Jailbirds sent back to T&T*, TRINIDAD EXPRESS, Jun. 3, 2009 available at <http://www.trinidadexpress.com/index.pl/article?id=16145711>

<sup>34</sup> Nikita Braxton, *Deportee jailed for stealing dog chow, smashing door*, TRINIDAD EXPRESS, Oct. 8, 2009, available at [http://www.trinidadexpress.com/index.pl/article\\_news?id=161541615](http://www.trinidadexpress.com/index.pl/article_news?id=161541615)

<sup>35</sup> Interview with Carmeta Albarus-Lindo in Harlem, NYC on October 9, 2009.

<sup>36</sup> Ms. Lindo prefers the term *returnees* rather than *deportees*.

<sup>37</sup> For more about FURI, visit <http://www.familyunification.net>

FURI's mission is to help Jamaican deportees plan for a brighter tomorrow both by focusing on self-improvement as well as participating in the development of home countries. To that end, FURI has partnered with government agencies and concerned individuals so as to provide reintegration assistance in the following areas - living accommodation and meals; employment counseling and training; drug and alcohol abuse counseling; self-esteem and peer development assistance; vocational training; assistance in locating and reestablishing family connections; and liaison between the deportees and family connections in the United States.<sup>38</sup>

FURI has offices in both the United States and in Jamaica. FURI-Jamaica opened its office in Kingston (Kingston Resettlement Center of KRC) with a focus on providing accommodation and training. Prior to leaving the program each returnee will be provided with skills to establish them as productive citizens. More than 200 individuals have received assistance since the establishment of the organization, and the group has now embarked upon a new venture with the opening of a 100-acre farm in St. Thomas six months ago, where deportees can go and work.<sup>39</sup> The farm is a joint venture between FURI, Food for the Poor, and the Church of Jesus Christ of Latter Day Saints Humanitarian Services.<sup>40</sup>

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<sup>38</sup> <http://www.jamaicans.com/helpjamaica/nonprofitprofiles/furi>

<sup>39</sup> See *Coming in from the cold – Local group helps deportees rebuild their lives*. JAMAICAN GLEANER Sept. 7, 2009 available at <http://www.jamaica-gleaner.com/gleaner/20090907/news/news3.html>

<sup>40</sup> *Id.*

## **POLICY RECOMMENDATIONS FOR U.S. GOVERNMENT**

### **A. The U.S. Government should repeal sections of IIRIRA and AEDPA.**

Not only should the policies of mandatory detention and deportation be revisited and revised, but the definition of aggravated felony should be retracted. Discretionary power/authority should be restored to immigration judges so they can make determinations on a case-by-case basis. Congress should re-instate waivers pursuant to Section 212 (c).

### **B. Pass the Child Citizen Protection Act (CCPA) – H.R. 182.**

Contrary to prevailing law, the Child Citizen Protection Act will allow judges the latitude to consider the interests of U.S. citizen children in deportation cases. CCPA would be a step in the right direction toward keeping families intact.

### **C. Comprehensive Immigration Reform should benefit all sides.**

As President Obama embarks on Comprehensive Immigration Reform, benefits should accrue to ALL immigrants affected. No one group or category should enjoy more favored status over another – especially those individuals with criminal convictions.

### **D. Veterans Must be Granted Citizenship and Exempted from Deportation.**

After a legal permanent resident has served time in any branch of the U.S. military, upon return s/he must be put on the fast track to citizenship – in the same fashion that they are fast tracked for other purposes – and be shielded against deportation.

### **E. De-ICE the Department of Corrections.**

According to recent reports, Immigration and Customs Enforcement (ICE) has set up a base at Rikers in New York City and targets foreign-born nationals. ICE officials interrogate detainees, without explaining the purpose or consequences, which often results in detainers or transfers. Dora Schriro, the new Commissioner of Corrections, should fight for removal of ICE from New York City's jails.

## **POLICY RECOMMENDATIONS TO CARICOM GOVERNMENTS**

### **A. CARICOM Leaders should adopt a unified front in response to deportation.**

Notwithstanding the disparities in impact that criminal deportation is having in various Caribbean islands, CARICOM leaders should adopt a unified front/strategy rather than the hodge-podge, piecemeal approach to deportation of Caribbean nationals. Some heads of state have been more vocal than others in acknowledging and confronting the issue. Jamaican activists and newspapers have brought attention to the matter; the Prime Minister of Grenada has spoken out on the matter. But many other leaders remain silent.

### **B. Provide training and funding for deportee integration programs.**

Given the challenges most deportees face upon repatriation – lack of family and support systems, alienation after being away from a country for an extended period of time - it is incumbent upon Caribbean governments to provide training and resources aimed at reintegrating deportees into society and the economy. The model provided by the Family Unification Resettlement Initiative (FURI) should be adopted throughout the Caribbean.

## **POLICY RECOMMENDATIONS FOR CARIBBEAN CONSULATES**

### **A. Create public awareness about deportation.**

Once Caribbean leaders have agreed upon a common strategy for addressing deportation, they must publicly take a stand on the matter. This can be done by holding a town hall meeting or public forum to discuss the impact of deportation on both the Caribbean and Caribbean-American community.

### **B. Act as advocates on behalf of detainees.**

The Caribbean Consulates are obligated to advocate for the rights of its citizens who are held in detention, since it can be an effective way of safeguarding against violation of detainees' rights.

### **C. Implement the Consular recommendations outlined by *Families for Freedom*:**

FAMILIES FOR FREEDOM  
INTERNATIONAL DEPORTEE JUSTICE COMMITTEE

**Consular Recommendations**

*www.familiesforfreedom.org/deporteeinternational*

**CRIMINAL ARREST** *Immigration problems typically begin when nationals are given inadequate advice about the criminal system.*

**Recommendation One: REQUIRE NOTIFICATION OF ARRESTS AS PROVIDED FOR BY THE VIENNA CONVENTION**

- Persuade all law enforcement agencies (including the Department of Corrections) to notify *all* arrestees of the rights of foreign nationals to contact their consulates.
- Mandatory notification consulates should insist that law enforcement agencies contact them immediately upon discovering that an arrestee is a foreign national.
- Insist that law enforcement notify consulates *before* sharing information about detainees with Immigration and Customs Enforcement (ICE).
- Develop a pocket card informing nationals of their right to contact the consulate upon arrest and distribute it to nationals.

**Recommendation Two: TAKE ACTION ONCE A NATIONAL IS ARRESTED**

- Inform arrestees that criminal convictions—even pleas to misdemeanors—may have potential immigration consequences and that they should obtain legal representation.
- Implement a standard written policy that details the actions that a consulate is required to take immediately upon notification that a national has been arrested. These actions should include:
  - Provide all arrested nationals with a written warning about the potential deportation consequences of a conviction. Include self-help resources.
  - Communicate with the arrestee or family members to help them obtain information or legal representation.

**IMMIGRATION ARREST** *Though similar to criminal arrests, immigration arrests require heightened vigilance: procedural protections of rights are lower and lifelong exile is a possible outcome.*

**Recommendation Three: TAKE ACTION WHEN A NATIONAL IS DETAINED BY IMMIGRATION**

- Provide all detained nationals with deportation assistance resources immediately when they are detained. The materials should also explain the deportation process.
- Prevent ICE from transferring detainees to distant locations where consulates would be inaccessible.
- Provide an 800 number for detained nationals to contact their consulate.
- Implement a standard written policy that details the actions that a consulate is required to take immediately upon notification that a national has been detained by immigration. These actions should include:
  - Always provide family members with information about a detained national's location and alien registration number (A#). Consulates can locate a detained national more quickly than his or her family.
  - Write letters of support for nationals who would suffer hardship due to illness or other reasons if deported. These letters can help convince government lawyers to exercise prosecutorial discretion in favor of a national, or convince judges in immigration court to grant discretionary relief.

FAMILIES FOR FREEDOM  
INTERNATIONAL DEPORTEE JUSTICE COMMITTEE

**Consular Recommendations**

[www.familiesforfreedom.org/deporteeinternational](http://www.familiesforfreedom.org/deporteeinternational)

**TRAVEL DOCUMENTS** *The U.S. deports people to non-continuous countries only if a deportee's home country issues travel documents.*

**Recommendation Four: IN-PERSON INTERVIEW WITH NATIONAL**

- Interview nationals in-person.
- Verify every national's identity.
- Check that the national is not being deported prematurely.
- Check that the national not been subject to abuses or other rights violations in detention.

**Recommendation Five: REQUIRE TRAVEL DOCUMENTS BEFORE EVERY DEPORTATION**

- Require that a travel document be issued prior to every deportation, even if a national has a passport.
- Before issuing travel documents, make sure all the national's rights in the deportation process have been exercised and that national has exhausted all legal and judicial remedies, including appeals.

**Recommendation Six: MAKE REQUIREMENTS FOR ISSUING TRAVEL DOCUMENTS**

- Require *verification before* issuing travel documents.
- Hold travel documents until *all* legal remedies have been exhausted.
- Ensure that nationals are not deported prematurely and in violation of their rights.
- Provide U.S. officials with a *Verification Checklist* and require U.S. officials to answer *in writing* all of the following:
  - Whether the national has exhausted all legal remedies, including all judicial remedies;
  - Whether the impact of deportation on a national's U.S. citizen family has been taken into consideration;
  - Whether the national has access to his/her financial assets in the U.S., including accrued retirement savings and pensions; and
  - Whether the national has been permitted to contact his/her relatives in the home country.

**Recommendation Seven: NOTIFY FAMILIES OF DEPORTATION DATES**

- Provide family members with the date of their loved one's deportation, even if DHS requests to the contrary. Families may make arrangements in preparation for deportation, alleviating the burden on home governments.

**DETENTION CONDITIONS** *People in immigration detention are often subject to the same harsh conditions as criminal prisoners, but they may have less protection from abuse because people assume "detention" is not "prison."*

**Recommendation Eight: INTERVENE AGAINST ABUSE OF NATIONALS IN JAILS AND DETENTION CENTERS.**

- Visit detention centers to investigate complaints of abuse.
- Intervene when detention facilities do not accommodate detainees' religious beliefs, language needs, and dietary needs.
- Ask U.S. Government officials to conduct official investigations into detainee abuse. Even when official investigations do not produce official findings, the treatment of detainees in facilities subject to investigation improve dramatically.