

**AGENDA FOR MEETING WITH  
MR. ERIC P. SCHWARTZ, DIRECTOR  
HUMAN RIGHTS, REFUGEES AND HUMANITARIAN AFFAIRS  
NATIONAL SECURITY COUNCIL  
EXECUTIVE OFFICE OF THE PRESIDENT  
THE WHITE HOUSE**

**Thursday, January 19, 1995  
3:00 p.m.**

1. Background of events leading to current situation. Meeting with Deputy Assistant Secretary Charles Sykes on October 26, 1994, in which we discussed issues relating to processing of former political prisoners. No indication of change at that meeting regarding unmarried children over-21 years of age. A letter from Terry Rusch dated December 6, 1994 announced the change.
2. Why we think the decision ending eligibility of unmarried sons and daughters over-21 years of age is unfair. Letter from Ms. Rusch indicates that fraud is one reason for the change; however, fraud is a problem for many programs. This drastic and sudden change in policy comes at a time when processing for the HO program is near completion and many families have waited for a very long time in queue. This decision is also inconsistent with the way in which ODP has administered the HO program since 1989. For example, ODP in some cases allows the parents of former political prisoners to accompany the former prisoner if he is the only child of the parents. As you know, the former political prisoners rely on their children for support and need their assistance when they are resettled here in the United States. Most of the political prisoners do not speak English and are in poor physical health, in addition to being old. It is in the interests of all that the families be resettled intact as units.
3. The State Department argues that the children can immigrate to the United States to join families "within a few years" (reference letter from Dewey Pendergrass dated January 12, 1995). As you know from your experience working with these issues, this is not true. The former political prisoners must wait at least one year before they can adjust their status, then file a petition for their unmarried sons and daughters. According to the Visa Bulletin released on January 12, 1995 by the State Department's Visa Office; regarding this particular family preference (i.e. 2B), visas will be available in February 1995 only for those petitions filed prior to March 8, 1990. Realistically for 2B family preference petitions filed in 1995, visas will not become available to beneficiaries until at least eight (8) years or more have elapsed, according to experts.

- Page Two -

4. We ask your help in seeking review of this decision by the Department of State. We believe that the decision is unfair and we are also concerned that the decision was hastily made with no prior consultation with interested groups here in the United States. According to the letter from Mr. Dewey Pendergrass, the State Department informed the Vietnamese government of its decision on December 8, 1994, only two days after the receipt of the letter from Ms. Rusch informing us of the change. In addition, the State Department announced the decision during the holiday period when it is difficult to reach people. With the effective date of February 1, 1995 only two weeks away, we urgently need your assistance.

We again thank you for the time and consideration you have given to explore our issues and concerns. We are hopeful that you will be able to appropriately intervene in this decision and would be willing to enter into further dialogue with other individuals you may deem appropriate.

**Respectfully Submitted By**

**The Families of Vietnamese Political  
Prisoners Association**



United States Department of State

Washington, D.C. 20520

January 12, 1995

Mrs. Khuc Minh Tho  
President  
Families of Vietnamese Political  
Prisoners Association  
P.O. Box 5435  
Arlington, VA 22205-0635

Dear Mrs. Tho:

This is in response to your letter of December 16, 1994, to Deputy Assistant Secretary Sykes, in which you expressed disagreement with the recent change in Orderly Departure Program (ODP) eligibility criteria which will limit derivative refugee status in former re-education camp detainee cases to spouses and unmarried children who have not yet attained the age of twenty-one.

We realize that this change in ODP policy will come as a great disappointment to many former re-education camp detainees who have yet to be interviewed by INS and to those who advocate for certain policies on their behalf. We regret that the new policy may cause hardship for families that have counted on being admitted to the United States as a family unit. However, it is an unfortunate fact of life that the level of fraud associated with refugee applications by former detainees had become unacceptable, with many sons and daughters of former detainees claiming to be single when in fact they had married and many persons over the age of twenty-one claiming to be sons and daughters of applicants when in fact they were more distant relations or not even related.

As the amount of time spent by INS officers attempting to resolve these fraudulent cases grew greater and greater, it became apparent that it would not be possible to complete interviews of the former detainee caseload within an acceptable time period unless drastic measures were taken. After considering the situation carefully, representatives of INS and the Department of State determined that the best solution would be to bring ODP processing into line with standard refugee family composition criteria, which limits cases to the spouses and minor unmarried children of principal applicants.

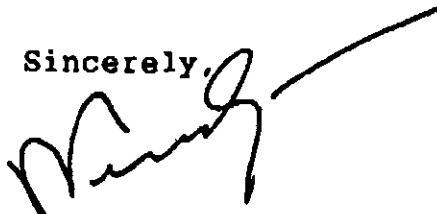
This change in policy was announced to your organization and to other advocacy groups within a few

days of the policy decision being made, and to the Vietnamese government on December 8. I regret that there is no possibility of reversing the decision.

Members of your organization should be aware that persons admitted as refugees are eligible to adjust status to that of Permanent Resident Aliens one year after admission, whereupon they may file 2nd Preference immigrant visa petitions for unmarried sons and daughters over the age of twenty-one who remain in Vietnam. While it may take some time for immigrant numbers to become available for this type of visa, the possibility still remains for remaining family members to immigrate to the U.S. within a few years. For the meantime, our assessment is that the adult sons and daughters of former detainees are not subject to persecution because of that relationship.

Again, we regret that this change of policy comes as such a disappointment to the members of your organization. However, we hope that you can see that the change was made in the best interests of the U.S. refugee admissions program.

Sincerely,



Dewey Pendergrass  
Chief, Overseas Operations Division  
Office of Admissions  
Bureau for Population, Refugees,  
and Migration



United States Department of State

Washington, D.C. 20520

December 6, 1994

Mrs. Khuc Minh Tho  
President  
Families of Vietnamese Political  
Prisoners Association  
P.O. Box 5435  
Arlington, VA 22205-0635

Dear Mrs. Tho:

I would like to advise you of a change in the interview criteria for the Orderly Departure Program's Former Re-Education Camp Detainee sub-program. As of February 1, 1995, re-ed cases proposed for interview will include in addition to the principal applicant only spouses and unmarried children who have not yet attained the age of twenty-one. Children over twenty-one will no longer be eligible for interview. Exceptions to this limitation will be made in instances in which it is determined, at the discretion of INS, that a last remaining, dependent, family member should be allowed to accompany an approved principal applicant for humanitarian reasons.

As you may be aware, normally, in refugee admissions programs for other nationalities, only spouses and unmarried children under the age of twenty-one are considered for admission along with principal applicants. Thus, the change to be instituted in February is a continuation of U.S. Government efforts to bring ODP processing more into line with worldwide refugee and immigrant visa processing standards.

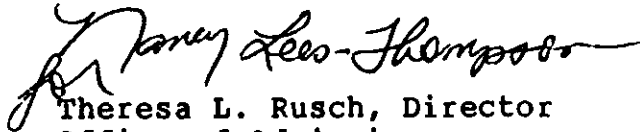
Moreover, recent reports from the field have unfortunately indicated a dramatic rise in the incidence of fraudulent claims relating to the identity, age, and marital status of sons and daughters claimed by principal applicants in re-ed cases. These fraudulent claims have come to require a disproportionate amount of INS interviewing resources at the expense of bona fide applicants. The net result is significant delay in the processing of this priority caseload.

You may be assured that INS and ODP officers will remain alert for individual cases in which there may be significant humanitarian reasons for including an aged-out son or daughter

in a re-ed case. Exceptional cases might include, for example, disabled sons or daughters who would not have family remaining in Vietnam to care for them or cases where the remaining son or daughter might be subject to other forms of severe hardship. For those aged-out sons or daughters who may no longer qualify for interview, once the parents have been in the U.S. for one year after admission as refugees and adjusted status, they may file family 2nd preference immigrant visa petitions for their unmarried children over twenty-one. Petitions for married sons and daughters may be filed by parents after they have become U.S. citizens.

If you have any questions about this change in ODP interview criteria, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Theresa L. Rusch". The signature is written in dark ink and is positioned above the typed name and title.

Theresa L. Rusch, Director  
Office of Admissions  
Bureau of Population,  
Refugees, and Migration

## Meeting with Eric Schwartz - Talking Points

(1) The negotiations that led to the July 19, 1989 agreement between the governments of the United States and Vietnam, as well as the very language of the agreement itself, emphasized the resettlement of the former political prisoners and **"their close family members."** It was clearly the intent of the HO resettlement subprogram of ODP that the former political prisoners and their close family members were to be resettled together as **a family unit based on family values.**

(2) Throughout the five year life of ODP processing up to February, 1995, there was only one modification made to the definition of family members for the resettlement of the former political prisoners. This change, gradually introduced by ODP throughout 1991-1992 following extensive consultations with Vietnamese-American interest groups such as the FVPPA along with many others, stipulated that the married sons and daughters of former political prisoners would no longer be eligible. This slight change recognized that some of the sons and daughters had grown, married, had children of their own, and established separate and independent lives away from the households of the former prisoners. This change in no way undermined the principle of family unity in the HO resettlement program.

(3) In December of 1994, Mr. Dewey Pendergrass of the Bureau of Refugees, Population and Migration (PRM) at the State Department, abruptly announced that ODP, effective February 1995, would automatically and irrevocably exclude any unmarried over-21 unmarried sons and daughters from derivative eligibility in the cases of the former political prisoners. This ill-considered and unfortunate change assaulted the integrity of family resettlement which had been the bedrock foundation of the HO program from its beginning. The change totally disregarded that fact that many of these children had lived for, dreamed of, and awaited their turn in the processing queue so that they could care for and support their long-suffering parents in the few sunset year remaining to them.

(4) Following protests from the FVPPA and the Vietnamese-American community at large, PRM and INS agreed to allow for humanitarian exceptions based on extreme hardship. This exception was never fully or consistently implemented in the field and few cases were even given consideration for this exception by ODP in the field. In the meantime, Mr. Dewey Pendergrass and others at PRM argued that the change was necessary to bring processing of the former political prisoner caseload into conformity with worldwide immigration and refugee processing guidelines and practices. This is a grievously flawed argument, since the HO program for the former political prisoners addressed a special group of long-suffering individuals under unique and difficult circumstances.

(5) **Bottom line:** the HO subprogram for the former political prisoners is unique. Arguments that the aged and long-suffering former political prisoners can resettle in the U.S. by themselves and then petition for their sons and daughters is an unrealistic and cruel alternative that will not meet the urgent needs of their resettlement as a family unit. To make this change so late in the program when the caseload is near completion is to pay a cruel and cold bureaucratic trick on those who have waited the longest to resettle in the U.S. as a family fortified by the American principle of strength through family values. These alternatives, subsequent petitioning or humanitarian exception, have been tried and they have demonstrably and miserably failed. There is no fair or just alternative but to return to the original principle of the HO subprogram, family unity and family resettlement. Please help.

To: Mrs. Tho

### Meeting with Eric Schwartz - Talking Points

(1) The negotiations that led to the July 19, 1989 agreement between the governments of the United States and Vietnam, as well as the very language of the agreement itself, emphasized the resettlement of the former political prisoners and "their close family members." It was clearly the intent of the HO resettlement subprogram of ODP that the former political prisoners and their close family members were to be resettled together as a family unit based on family values.

(2) Throughout the five year life of ODP processing up to February, 1995, there was only one modification made to the definition of family members for the resettlement of the former political prisoners. This change, gradually introduced by ODP throughout 1991-1992 following extensive consultations with Vietnamese-American interest groups such as the FVPPA along with many others, stipulated that the married sons and daughters of former political prisoners would no longer be eligible. This slight change recognized that some of the sons and daughters had grown, married, had children of their own, and established separate and independent lives away from the households of the former prisoners. This change in no way undermined the principle of family unity in the HO resettlement program.

(3) In December of 1994, ... the Bureau of Refugees, Population and Migration (PRM) at the State Department, abruptly announced that ODP, effective February 1995, would automatically and irrevocably exclude any unmarried over-21 unmarried sons and daughters from derivative eligibility in the cases of the former political prisoners. This ill-considered and unfortunate change assaulted the integrity of family resettlement which had been the bedrock foundation of the HO program from its beginning. The change totally disregarded that fact that many of these children had lived for, dreamed of, and awaited their turn in the processing queue so that they could care for and support their long-suffering parents in the few sunset year remaining to them.

(4) Following protests from the FVPPA and the Vietnamese-American community at large, PRM and INS agreed to allow for humanitarian exceptions based on extreme hardship. This exception was never fully or consistently implemented in the field and few cases were even given consideration for this exception by ODP in the field. In the meantime, ... PRM argued that the change was necessary to bring processing of the former political prisoner caseload into conformity with worldwide immigration and refugee processing guidelines and practices. This is a grievously flawed argument, since the HO program for the former political prisoners addressed a special group of long-suffering individuals under unique and difficult circumstances.

(5) **Bottom line:** the HO subprogram for the former political prisoners is unique. Arguments that the aged and long-suffering former political prisoners can resettle in the U.S. by themselves and then petition for their sons and daughters is an unrealistic and cruel alternative that will not meet the urgent needs of their resettlement as a family unit. To make this change so late in the program when the caseload is near completion is to pay a cruel and cold bureaucratic trick on those who have waited the longest to resettle in the U.S. as a family fortified by the American principle of strength through family values. These alternatives, subsequent petitioning or humanitarian exception, have been tried and they have demonstrably and miserably failed. There is no fair or just alternative but to return to the original principle of the HO subprogram, family unity and family resettlement. Please help.



# HỘI GIA-ĐÌNH TÙ NHÂN CHÍNH-TRỊ VIỆT-NAM

FAMILIES OF VIETNAMESE POLITICAL PRISONERS ASSOCIATION

P.O. BOX 5435, ARLINGTON, VA. 22205-0635

Telephone: (703) 560-0058 • Fax: (703) 204-0394

## Hội Đồng Quản Trị Board of Directors

KHÚC MINH THO  
NGUYỄN QUỲNH GIAO  
NGUYỄN VĂN GIỚI  
NGUYỄN XUÂN LAN  
HIỆP LOWMAN  
TRƯƠNG THỊ LANG ANH  
TRẦN KIM DUNG  
NGUYỄN THỊ KHEN

## Ban Chấp Hành T.Ư. Executive Board

KHÚC MINH THO  
President  
NGUYỄN QUỲNH GIAO  
Vice President  
NGUYỄN VĂN GIỚI  
Secretary General  
TRƯƠNG THỊ LANG ANH  
Treasurer  
NGUYỄN THỊ KHEN  
Deputy Treasurer

## Cố Vấn Đoàn Advisory Committee

HIỆP LOWMAN  
NGUYỄN XUÂN LAN  
TRẦN KIM DUNG

LIST OF ATTENDEES FOR MEETING WITH  
MR. ERIC P. SCHWARTZ, DIRECTOR, HUMAN RIGHTS,  
REFUGEES AND HUMANITARIAN AFFAIRS, NATIONAL  
SECURITY COUNCIL, EXECUTIVE OFFICE OF THE  
PRESIDENT, THE WHITE HOUSE

THURSDAY, JANUARY 19, 1995  
3:00 P.M.

----

- 1/- Mr. Le, Ba Van DOB. 05/01/21 ; SS# [REDACTED]  
President of Washington Area League of  
Vietnamese Associations.
- 2/- Mr. Bich, Nguyen Ngoc DOB. 07/26/37; [REDACTED]  
President of National Congress of Vietnamese  
in America.
- 3/- Mr. Tran, Thanh Tu DOB. 05/25/45 ; [REDACTED]  
Secretary General of International League for  
Human Rights, VIETNAM Chapter.
- 4/- Mr. Le, Trung Tho DOB. 02/02/30 ; [REDACTED]  
Former Political Prisoner (Colonel), 13 years in Camp.
- 5/- Mr. Thai, Toan Quy DOB. 11/16/39 ; [REDACTED]  
Association's Advisor.
- 6/- Mrs. Khuc, Minh Tho DOB. 01/12/39 ; [REDACTED]  
Association's President.

**Pages Removed (S.S.)**

1 page(s) was/were removed from the file of OFFICE MEETING - LIST OF ATTENDEES  
FOR 1-19-1995 MEETING WITH ERIC P. SCHWARTZ  
(          ) due to containing Social Security numbers. The page(s) was/were copied  
with the Social Security numbers covered up. The copy/copies was/were placed back into  
the above mentioned file and the original(s) was/were placed into the Restricted/Reserved  
files.

-Anna Mallett

Date: MARCH 10, 2008