Talking Points
For Meeting
With Ms. Kathleen Thompson
Immigration and Naturalization Service
Department of Justice
And
The Bureau for Population, Refugees and Migration
Department of State
And
Families of Vietnamese Political Prisoners Association

Friday, November 1, 1996, @ 11:00 a.m.

I. Review the text of the new law. Discussion of the new law:

(a) 21 years of age or older and;

(b) Unmarried as of the date of acceptance of the alien's parent for resettlement as a former political reeducation camp prisoner under the Orderly Departure Program.

(c) Applies to children of former prisoners who have already been accepted for resettlement and those who are accepted in the future.

II. Procedures for Recall of the Affected Cases of those children whose parents have already been resettled:

(a) Compilation and availability of cases now eligible under the new law. How many and how we can obtain copies of the list so we can publish in the Vietnamese press?

(b) How will ODP notify the cases to be recalled? Will ODP ask the Vietnamese government to publish the list? Will ODP provide lists of resettled cases in the U.S. to the respective volags so that the volags can provide to ODP updated addresses and identities of those qualified applicants.

(c) We have received may inquiries from concerned former political prisoner parents already in the United States as immigrants. What is the procedure and paperwork for the parents to submit so that their children can join them in the U.S.?

(d) Any further suggestions on what we can to help notify applicants.

III. Documentation Required for the Eligible Applicants:

(a) For those children 21 years of age or older and unmarried at the date of parents acceptance.

(b) For those children 21 years of age or older and unmarried the date of the acceptance for resettlement of their mother, the widow of a prisoner who died in reeducation camp.

(c) For those children 21 years of age or older and unmarried at the date of parents' acceptance, <u>but</u> who have since married, will their families also enjoy derivative status?

(d) For spouses who remained behind with their unmarried children while the principal applicant was resettled in the United States.

(e) For those former prisoners who withdrew their resettlement applications after learning that their adult children would be unable to accompany them, will these families' requests for reconsideration be honored? We feel that in the unexpected policy change, these families were forced to make a choice most difficult, cruel, and unfair, whether to abandon their children to face an uncertain future alone in a new land, or to keep their family intact in a land where they faced a life of hardship and persecution.

(f) For those unmarried children, rejected on other grounds (i.e., lack of continuous concurrent residence), whose cases are favorably reviewed but who have in the meantime become 21 or older (e.g., the case of Nguyen Van Dang, IV-253834, H27-193). (Attachment #1)

(g) For lost documentation, INS has suggested that applicants go to Ministry of Interior or to obtain sworn affidavits from friends or fellow prisoners, etc.

(h) Form letter for Former Political Prisoners (FPP) (Attachment #2)

IV. Interview Criteria and Procedures:

(a) When will the interviews begin?

(b) How many months to complete initial interviews?

(c) What do the eligible applicants need to bring to the interview?

(d) Range and scope of questions; we need confirmation that interview is to establish derivative status only and will not require evidence of political persecution.

(e) Issue of Household Residency: we assume that, according to the latest guidance from the State Department an INS Headquarters, ODP now applies the policy that lack of co-residency should not be used to exclude otherwise qualified family members from derivative refugee status. (Attachment #3)

(f) Assessment of Unmarried Status. In the past, many single children of former political prisoners were rejected due to the suspicion that the child was married. What evidence will ODP accept as proof of single status? Does the term "unmarried" include children who were once married, but whose spousal relationship ended in death or divorce?

V. The issue of rejection, fraud and appeals:

(a) Detailed explanation of reason for rejection. The moment an applicant is informed of a rejection is a highly emotional and confusing one, and many do not have a clear understanding as to why they have been rejected, or an ability to express themselves to explain or appeal the decision. Request that the decision be in writing, and that an applicant who does not understand the decision be able to meet shortly afterward with an American officer or clerk to clarify reason for denial and learn what he may do to merit reconsideration.

(b) Lack of documentation and question of identity, if they resubmit, how long will they wait for approval or reinterview.

(c) For those cases which were denied without reasons being given.

(d) Cases rejected for the reason "207.1(d)". Former prisoners with children in the U.S. are often told that their children must file immigrant visa petitions. What if the children are not in contact with their parents, are not yet citizens, or if they are, what if they cannot provide the means to support their parents as immigrants? What exactly must these children do before their parents may be reconsidered for refugee status? When will INS accept that all avenues of immigrant eligibility have been exhausted and acknowledge that the financial means are just not there?

VI. Other Issues

(a) How many former political prisoners and family members remain to be interviewed? How many HO lists to be completed and will you accept any more from the Vietnamese government?

(b) Southeast Asian Admission Numbers for FY97: possible total requirements, including Hmong, the unmarried adult children, ROVR and the completion of the regular ODP sub-program for former political prisoners and their families, is likely to substantially exceed the 10,000 figure mentioned in the FY 1997 consultations.

(c) Implementation of ROVR, per letter of October 7, 1996 (e.g., case of Huong T. Nguyen, IV# 245015/E18-1603). (Attachment #4)

(d) Disposition of ODP case file records and processing of cases if and when ODP files are moved to Ho Chi Minh City.

The Minutes
For the Meeting
With Ms. Kathleen Thompson
Immigration and Naturalization Service
Department of Justice
And
The Bureau for Population, Refugees and Migration
Department of State
And
Families of Vietnamese Political Prisoners Association
Concerning the Implementation of the McCain Amendment Which Restored Eligibility to the Over-21 Unmarried Adult Children of the Former Vietnamese Political Prisoners

November 1, 1996

On November 1, 1996, a delegation headed by Mrs. Khuc Minh Tho of the Families of Vietnamese Political Prisoners Association (FVPPA), joined by Ms. Trinh Ngoc Dung of FVPPA, Mr. Le Van Ba of the Washington Area League of Vietnamese Associations and Mr. Nguyen Ngoc Bich, Executive President of the National Congress of Vietnamese in America (NCVA), met with Ms. Kathleen Thompson and Lorie Heinrich of INS and Ms. Whitney Reitz of the Department of State.

By way of introduction and general response to the agenda items submitted by the FVPPA, Ms. Thompson stated that no new procedures are under consideration and that existing procedures in the HO subprogram will be used to process the reestablished caseload of the unmarried over-21 adult children whose eligibility was restored by the McCain Amendment.

Ms. Thompson shared the following developments about the implementation of the amendment:

(1) Processing has already begun in Bangkok and the group of the affected cases, numbering 2,900 so far, has been separated.

(2) LOI's (Letters of Introduction) are being prepared for the affected cases that have been identified so far, which include cases adjudicated between April 1, 1995 and October 1, 1996. The LOI's will be distributed in the next several weeks.

(3) The affected applicants will need to obtain exit permits from the Vietnamese government if they do not already have exit permits before they can be interviewed by ODP officers. These interviews will probably begin in December, 1996.

(4) The processing steps will be as follows:

(a) LOI is issued for affected applicants to obtain their exit permits from the Vietnamese government.

(DRAFT)

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(3) The affected applicants will need to obtain exit permits from the Vietnamese government if they do not already have exit permits before they can be interviewed by ODP officers. These interviews ~~should~~ will probably begin in December, 1996.

(4) The processing steps will be as follows:

(a) LOI is issued for affected applicants to obtain their exit permits from the Vietnamese government.

(b) the applicant submits exit permits to ODP.

(c) the interview is scheduled and takes place, at which time applicants submit proof-of-relationship and other documents. Proof of persecution will be not required to document refugee status beyond the relationship of the applicant to the father from whom ~~derivative~~ eligibility is claimed.

(d) over-21 adult children who were unmarried at the time of the principal's interview but married after the interview should submit old and/or new "ho khau" to document their single status at the time of their fathers' acceptance for refugee status, along with any other documentation (e.g. marriage certificates), that will establish the chronology of their marriage in relation to their father's acceptance for refugee status.

In response to the request of the FVPPA for the list of 2,900 cases identified to date by ODP, Ms. Thompson stated that this was not necessary, although she did recommend that the FVPPA publicize the new law so that affected families can contact ODP as soon as possible.

Ms. Reitz of the State Department stated that she would provide the FVPPA some suggested changes for the form letter of inquiry presented by FVPPA.

In response to specific agenda times raised by the delegation, Ms. Thompson and Ms. Reitz stated the following:

I(c) The qualification should read as follows: "applies to children of former prisoners who have already been accepted as refugees for resettlement on or after April 1, 1996 and those who will be accepted in the future."

II(c) Ms. Thompson clearly stated that former political prisoners who came to the US as immigrants are not covered by the McCain amendment. If the family members of these cases want the relatives left in Vietnam to come, then the parents here must file immigrant petitions.

III(b) Ms. Thompson stated that the new amendment does not appear to cover the cases of children over-21 and unmarried at the time that their widowed mother was accepted for resettlement. FVPPA noted that in the past ODP processed widows of the former political prisoner who died in camp along with the children in the same way as if the prisoner were still alive. FVPPA stated its belief that the unmarried over-21 adult children of widows who were accepted for refugee status, which is very small in number, should be treated in same way with restored derivative eligibility. Ms. Thompson agreed to research this issue.

III(c) Ms. Thompson agreed that adult children who were unmarried at the time of the interview, but who subsequently married and/or had children, would be entitled to ~~derivative~~ status under the new amendment.

III(d) Spouses who remained behind with unmarried children while the principal former political prisoner resettled in the US will* be eligible to ~~accompany her adult children~~ with a visas 93 filed by the husband. go to the U.S. ~~The time~~ (this year the left Khung Lai)

III(e) Former political prisoners who withdrew their application due to the fact that their unmarried children would not accompany them will now have reopen their cases by writing a letter expressing their in the program.

III(g) Ms. Thompson emphasized that the adjudicating officer is responsible to determine if lost documentation disqualifies an applicant although Mrs. Tho noted that cases had been rejected even if replacement documents were submitted. Mrs. Tho asked that ODP give credibility to these replacement documents for consideration of the cases.

At this point in the meeting, both Ms. Thompson and Ms Reitz urged that applicants should bring as much documentation as possible about their relationship to the principal.

* not be eligible under the McCain amendment but should be ---

V(a) There will be no change of procedures to assure clear oral explanations for the reasons of rejection following an interview. Ms. Thompson added that she will remind ODP officers in the field to provide written explanations for the reasons of rejection.

V(d) Former political prisoners who have citizen children in the US generally must come as immigrants (INA, 207.1(9)). However, Mrs. Tho pointed that there are cases where the children cannot be found, or the children are unwilling, for **deep personal reasons**, to sponsor the parent's immigration, or the children, though willing, are not financially able to sponsor their parents immigration despite their best efforts to find cosponsors, and asked that these exceptional cases be considered for refugee status. Ms. Thompson ~~agreed to look into the issue of how INS processes these cases.~~ stated that INS can consider these cases on a case-by-case basis.

Name: _____

Address: _____

_____

_____

Telephone: _____

Date: _____

Mr. Dewey Pendergrass, Director
Orderly Departure Program
Box 58 - American Embassy
APO AP 96546

RE#: _____

IV#: _____

HO#: _____

Dear Mr. Pendergrass:

I am writing on behalf of my (son, daughter, children),

_____

_____

_____

I believe that (his, her, their) status under the eligibility guidelines of the Orderly Departure Program (ODP) is affected by the McCain Amendment of the 1997 Foreign Operation Act which restores eligibility to the unmarried over-21 sons and daughters of the former Vietnamese political prisoners.

I request that ODP check the case(s) according to the case numbers provided above and confirm for me that the son(s) or daughters(s) listed above are eligible and part of the group that ODP is now contacting to invite to interview. If a new letter of introduction has already been sent, I would appreciate knowing the date it was sent and to what address in Vietnam. That will help me ensure it arrives.

I appreciate that your office is busy with many cases, but my family and I are equally anxious to ensure that the case of our children be reconsidered under the new law before their eligibility expires.

On behalf of my family, I thank you for your help in this matter.

Sincerely,

cc: FVPPA, 7813 Marthas Lane, Falls Church, VA 22043
"For Information and Follow-up"

(b) Lack of documentation and question of identity, if they resubmit, how long will they wait for approval or reinterview.

(c) For those cases which were denied without reasons being given.

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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

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Vietnamese Associations.

2/ - Mr. Bich, Nguyen Ngoc, DOB. 07/26/37; SSN
President of National Congress of Vietnamese
in America

3/ - Mrs. Khuc, Minh Tho, DOB. 01/12/39; SSN
Association's President.

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*3/ - **Trinh, Ngoc Dung, DOB. 10/28/36; SSN**
Association's Adivsor.

4/ - Mrs. Khuc, Minh Tho, DOB. 01/12/39; SSN ,
Association's President.

MINUTES OF MEETING WITH INS
November 1, 1996

On November 1, 1996, a delegation led by Mrs. Khuc Minh Tho of the Families of Political Prisoners Association (FPPA) met with Ms. Kathleen Thompson, INS, and Ms. of the State Department Bureau for Population, Refugees and Migration. Mrs. Tho was accompanied by Ms. Trinh Thi Ngoc Dung of FPPA, Mr. Le Van Ba of the Washington Area League of Vietnamese Associations and Mr. Nguyen Ngoc Bich, Executive President of NCVA (National Congress of Vietnamese in America).

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As a general answer to a list of questions submitted by FPPA regarding the implementation of the recently passed McCain Amendment, Ms. Thompson said that no new procedures are being contemplated. In other words no new system is being created and processing is the same as in the past. Some good news she shared with the group:

- Processing (in Bangkok) has already started.
- Files already separated and set aside in a box in Bangkok when the McCain Amendment was known to be on the way, in case it would get passed.
- LOIs (Letters of Introduction) are to be sent to each of the 2900 cases of single children over 21 that ODP is aware of and can separate out. These are cases adjudicated to be covered by the law (April 1, 1995-October 1, 1996). The LOIs are going out in the next week or two.

The interested parties will need to secure exit permissions from the Vietnamese government before they can be interviewed by American case officers. The interviews are now projected to start in December 1996.

Thus the processing mechanism is as follows:

1. A LOI would invite the person concerned for an interview.
2. The person is to bring an exit permission and documents to show the relationship to the former political prisoner already resettled in the U.S.
3. He/she would then come for an interview.

As theirs is a derivative status, they will not need to prove their refugee status. But it is always advisable to bring to the interview as much documentation as they can.

On the question of establishing relationships, a single child at the time the father got accepted as a refugee but who has since married must establish that the marriage occurred after that date. An old "ho khau" is good for establishing such facts but one should bring the new "ho khau" as well.

In response to a request from the FPPA to have the list of 2900 cases so far identified by ODP (so that it can help alert people to their new chance under the McCain Amendment), Ms. Thompson said that INS has discussed this and found it not appropriate to hand it over, there being no need to advertize the issue, to make a big thing out of it. On the other hand, one can get the word out both in Vietnam and to the families who are covered by the amendment to contact as soon as they can ODP in Bangkok. As

far as the form letter proposed by FPPA is concerned, Ms. said that she would have suggestions to make in altering the second paragraph.

In answer to specific questions and points raised by the FPPA, Ms. Thompson and Ms. made the following clarifications:

I(c) should read: "Applies to children of former prisoners who have already been accepted as refugees for resettlement on or after April 1, 1995 and those who will be accepted in the future."

Example: The father, a former political prisoner, may have been accepted, say, in 1993. The single children over 21 were already covered by the then legislation. The McCain Amendment would not apply to them since it applies only to those rejected on or after April 1, 1995. There is no authority to review the cases of those rejected before April 1, 1995.

I(b): The children have to be unmarried on the date of the interview of the parent.

II(c): Former political prisoners who came here as immigrants are not covered by the McCain Amendment. If they want the rest of the family to come, brothers and sisters already here must apply for family reunification.

III(b) Children 21 years of age or older and unmarried at the date of the acceptance for resettlement of their mother, the widow of a prisoner who died in reeducation camp. The new legislation does not seem to cover these cases. Mrs. Tho pleaded for special consideration of these cases. Ms. Thompson said she will have counsel look into this but she cannot promise anything.

III(c) Children 21 years of age or older and unmarried at the date of parents' acceptance but who have since married: Their families (wife and children born since) will enjoy derivative status.

III(d) Spouses who remained behind with their unmarried children while the principal applicant was resettled in the U.S.: The principal applicant will have to apply for a Visa 93 using Form I-730 (there is no waiting period) if the wife does not choose to come within four months after the husband has been admitted.

III(e) Former prisoners who withdrew their resettlement applications after they learned that their adult children would not be able to accompany them: They have to be considered new cases since by withdrawing their applications, they have never been accepted for resettlement and thus the children cannot enjoy derivative status. To qualify now the over 21 children must be [illegible] will have to make a new application altogether as they [illegible] the McCain Amend[illegible]

III(g) Lost documentation: [illegible] officer cannot take responsibility for the loss of the documents. When [illegible] he/she will make a determination to say No. No one can from the [illegible] to accept doubtful cases. Mrs. Tho said that there have been cases [illegible] were submitted but they still get rejected with no explanation given.

IV(a) For the interview bring as much documentation as one can. The chil[illegible] must prove their relationship as son(s) or daughter(s) single on the day of the paren[illegible]

acceptance as refugee. And as long as one is not a criminal or child molester, etc. one would be admissible, INS not really looking to persecution.

IV(f) Forged documents are known to be purchasable. Therefore the adjudicating officer will be extra careful in evaluating the documents.

V(a) There will be no change of procedure other than the ones already in place. Thus, no "American officer or clerk" will be instituted extra to check on the process. Everyone will get a notification (written notice with reason given). Ms. Thompson said INS will send a reminder to the field to make sure that reasons are given for rejection.

V(d) Former prisoners cannot go as H.O's if they have children who are U.S. citizens, in which case they must go as PIPs. Any specific case that deserves special consideration must be brought to the attention of INS to be dealt with case by case.