

**AGENDA FOR MEETING WITH
MR. ALAN C. KRECZKO
SENIOR DEPUTY ASSISTANT SECRETARY
BUREAU FOR POPULATION, REFUGEES AND MIGRATION
U.S. DEPARTMENT OF STATE
AND
FAMILIES OF VIETNAMESE POLITICAL PRISONERS ASSOCIATION
AND
WASHINGTON AREA LEAGUE OF VIETNAMESE ASSOCIATIONS**

THURSDAY, FEBRUARY 5, 1998, 4:00 PM

(1) Our most urgent concern is the extension of the McCain amendment, which restored derivative eligibility to the unmarried over-21 children of the former political prisoners. The extended and amended legislation would clarify the inclusion of the unmarried children of widows and of former political prisoners who resettled in the US as immigrants at the convenience of the US government. We expected that this amendment would be extended through September 1998 with the passage of the Department's 1998 spending bill. Unfortunately, with the press of last minute business, the language of the amendment was not included in the final spending legislation. Our Association is seeking to remedy this now that the Congress has reconvened and we would like to work with you and your staff to accomplish this. It will be important for the Administration to show its support for the amendment. We know that the Department of State indicated its support informally but there was no formal Administration position on the amendment. We believe that this was very unfortunate. It is clearly in the United States interest for McCain to be extended as soon as possible. If it is not, the Vietnamese government will surely react very badly, and this, in turn, can negatively affect their implementation of ROVR.

(2) We remain concerned about the high no-show rate of McCain children, up to 70%, during the previous phase of McCain. We felt that this high no-show rate was partly because the children had moved after the departure of their parents. But, we also felt that it was because of the lack of information about the program. We urged a public information program, both in Vietnam and among the Vietnamese American communities. PRM had indicated it might have such a program but this was never done. Now there has been an interruption in McCain processing, we believe that will be even more confusion about who is eligible, and therefore, such a public information campaign will be even more important. We would be happy to work with the Bureau on such a campaign.

(3) We have doubts about many cases of the McCain children who are being denied for the reasons "that they failed to establish their single status at the time of their father's interview." Our Association has received correspondence from many cases of this type and it is apparent that ODP is stretching for reasons to deny the children of the McCain amendment. We have noticed a tendency in these denied cases to impose on some applicants a burden of proof to show that they were single at the time of their fathers' interview and also an inclination by ODP to highlight minor and trivial discrepancies in the applicants' birth certificates. We urge that interviewing officers give adequate weight to other supporting documents and information. We

believe that the provisions of the McCain amendment should be implemented in a manner that is fair and consistent both with federal law/regulations and with the intent of the Congress.

(4) What are the criteria and procedures employed by INS to explain a denial and to afford an avenue of appeal for reconsideration? We understand that in most of the denied cases the applicants are perfunctorily pushed out the door by INS interpreters who, occasionally, tell the applicants they can appeal in writing to INS in Bangkok. Denied applicants are rarely given an opportunity to rebut, explain or present additional evidence. Applicants rarely understand the reasons for their denials and, when they submit additional documentation from existing competent authorities of Vietnam, they get a form letter from ODP saying that the evidence is insufficient to warrant review, or not credible to establish the relationship. What are the standards of proof for the applicants? Who in INS reviews the denial decisions? What are the guidelines? INS guidelines instruct overseas posts to apply generous review for requests for reconsideration since administrative or judicial appeal is not available to applicants in overseas refugee processing, but for ODP, INS does not follow this guideline.

(5) What about the use of DNA to establish conclusively the parentage of the McCain children when all other evidence is found lacking? What degree of probability would be needed for a binding presumption of parentage? We know many cases in which the DNA test results come back very high at over 98%; nevertheless, some such cases have been rejected. Why can't this procedure be used more readily and more often? We ask that this procedure be more widely used by ODP when doubt remains after all available documentation has been submitted. We also ask that in cases of extreme hardship, the cost of DNA testing not be imposed upon the applicants and their families, who in many cases cannot afford the cost.

(6) What about the status of denied refugee cases under appeal and those of the hundreds of political prisoners who do not fit the traditional HO eligibility guidelines but who suffered persecution because of post-1975 political, religious or human rights activities? ODP is ignoring these cases. We understand that ODP in Bangkok intends to transfer all denied refugee files from the JVA to INS. We are not confident that the INS office in Bangkok is staffed or equipped to maintain and to review all ODP cases, including McCain and other urgent cases, until the termination of the resettlement program. We ask you to reconsider this proposed action.

(7) We would like to know the statistics for processing to date under the McCain amendment: How many already interviewed, how many approved, how many denied and how many pending (RFI). What about the availability of refugee admission numbers to ensure that completion of all the cases of the former Vietnamese political prisoners and their families, including the McCain children?

**List of Attendees for Meeting Between
Mr. Alan J. Kreczko
Senior Deputy Assistant Secretary
Bureau for Population, Refugees and Migration
and
Families of Vietnamese Political Prisoners Association
and
Washington Area League of Vietnamese Associations**

Thursday, February 5, 1998 at 4:00 P.M.

- 1/ - **Mr. Le, Ba Van**, President of Washington Area League of Vietnamese Associations
DOB: Jan. 5, 1921
SS#:
- 2/ - **Mrs. Khuc, Minh-Tho**, President of the Families of Vietnamese Political Prisoners Association
DOB: Jan. 12, 1939
SS#:
- 3/ - **Mrs. Lowman, Hiep**, Advisor to the Association
DOB: Dec. 20, 1939
SS#:
- 4/ - **Mr. Hoang, Thuy Hai**, Association's Member, Former Political Prisoner
DOB: March 1st, 1930
SS#:
- 5/ - **Mr. Nguyen, Van Hoang**, Special Assistant to the Association President
DOB: June 13, 1957
SS#:

NOTES FOR TALKING

(Meeting with Alan Kreczko, February 5, 1998)

Welcome and Introduction:

- (1) Introduce members of your delegation.**
- (2) Welcome him to his new position.**
- (3) Restate the purpose and history of FVPPA. It is totally voluntary. We receive no financial assistance from any organization. We have no political agenda except to help the families.**

Paragraph (1):

(a) Our biggest concern now is to secure extension of the McCain amendment. We ask that the meeting today be focused on this issue. We understand that Congress will pass the extension of the McCain amendment when it returns in January.

(b) Do you know anything about the extension of the amendment? We want to work with your Bureau to ensure passage of the amendment and completion of the McCain caseload.

(c) We believe that it is in the interest of the US Government to complete the McCain caseload so that the Vietnamese government will see a consistent approach and do likewise with the ROVR.

Paragraph (2):

(a) Why the high no-show rate among the McCain caseload?

(b) We think there is a need for a public information campaign and we can help with that.

Paragraph (3):

(a) Unreasonable standards and trivial reasons for denials.

(b) We ask that INS give consideration and weight to other documents and information. (In a previous meeting (November 1, 1996) with Kathleen Thompson and Whitney Reitz, we understood that there was agreement on this issue.)

Paragraph (4):

(a) How does INS review new documents issued after 1975?

(b) How does INS explain the reasons for denial to the applicants

(c) What new documents must be submitted?

(d) What are the guidelines and procedures for reviewing appealed cases? What instructions does INS give to ODP interviewing for reconsideration of denied cases?

Paragraph (5):

(a) What about the use of DNA testing to establish parentage when all other evidence is found insufficient?

(b) Can INS use DNA testing more often and sooner in the processing of the case?

(c) Who can help pay for DNA testing if the family is unable to pay?

(d) What about the final disposition of denied cases when the McCain amendment expires? Will all denied cases be given another interview even if the amendment expires or not renewed if applicants submit additional evidence of have DNA testing?

Paragraph (6):

(a) What about denied refugee cases under appeal and cases that do not fit the traditional ODP/HO processing guidelines?

(b) Please reconsider plans to transfer files of denied refugee cases from JVA to INS. We understand that these files will not be readily accessible for appeal review if transferred from the JVA location to INS in Bangkok.

Paragraph 7:

(a) We receive many questions from the Vietnamese community and Association members about statistics for processing?

Concluding Remarks at the end of the meeting: We thank you very much for taking the time to meet with us. We look forward to working with your office to meet our mutual goals.