PAX COVER SHEET

DATE

TO:

FROM:

SUBJECT:
INS ISSUES GUIDANCE ON PUBLIC INTEREST PAROLEES (PIP’S)

The Immigration and Naturalization Service (INS) has circulated a memorandum to its officers indicating that they should not revoke the public interest parole status of non-Lautenberg public interest parolees from Laos, Cambodia, and Vietnam in the late 1980’s. (See Attachment #3). Moreover, this memorandum explicitly states that employment authorization granted to these cases pursuant to 8 FFR 274a.12(c)11 should not be terminated simply because adjustment of status is denied to such cases. However, INS officers are not precluded from terminating PIP and placing an alien in deportation proceedings if the person had been convicted of a serious crime after arrival in the United States.

This announcement by INS was welcomed by the InterAction Working Group on Immigration-Related Refugee Issues which had raised legal and fairness issues regarding the treatment of parolees. The group’s position had been that those who mistakenly apply for Lautenberg adjustment should not automatically be terminated and that such persons should not as a general rule be placed in deportation proceedings.

As reported in the last issue of UPDATE, INS Headquarters has indicated that at least in the case of Vietnamese nationals, there is a way to verifying whether or not the parolees are eligible for adjustment of status under the Lautenberg amendment. For further information on this subject, please refer to issue 96 #1.
8. INS Discusses Parolees Denied Adjustment Under Lautenberg Amendment

Public interest parolees who mistakenly apply for adjustment of status under the provisions of the Lautenberg Amendment should not have their parole revoked solely on the basis of the denial of adjustment. So says the INS' Associate Commissioner for Examinations, Louis D. Crocetti, in a recent memorandum to the field.

Mr. Crocetti's February 13, 1996 memorandum resulted from discussions in December 1995 between the INS and InterAction, a refugee advocacy group, on specific immigration-related problems faced by aliens who have received refugee status, as well as those who have been paroled into the U.S. for public interest reasons.

Included in the topics discussed was a problem related to the Lautenberg Amendment, which benefits certain refugees and immigrants from the former Soviet Union and from Indochina.
The Lautenberg amendment was originally enacted as part of the foreign operations appropriations act for fiscal year 1990 (Pub. L. No. 101-167). The first part of the Amendment targets for special consideration in refugee processing persons from the former Soviet Union who are Jews, Evangelical Christians, or active in the Ukrainian Catholic Church or the Ukrainian Orthodox Church. The second part of the Lautenberg Amendment provides for adjustment of status to permanent residence for persons from the former Soviet Union and from Cambodia, Laos and Vietnam who were paroled into the U.S. after August 15, 1988, after being denied refugee status.

The discussions in December focused on a problem that arises when non-Lautenberg Amendment public interest parolees, who were paroled into the U.S. primarily from Laos, Cambodia and Vietnam in the late 1980s, mistakenly apply for adjustment of status under Lautenberg. Mr. Crocetti's memo notes that such applications must be denied, but in most cases, the aliens should be allowed to retain their public interest parole status and benefits.

Mr. Crocetti's memorandum instructs INS officers that public interest parole should not be revoked solely on the basis of a denial of an adjustment of status application. Moreover, employment authorization that was granted pursuant to 8 CFR § 274a.12(c)(11) should not be terminated solely because adjustment was denied. Officers are not precluded from terminating parole and placing the alien in deportation proceedings for good reason, such as conviction of a serious crime in the U.S.

Mr. Crocetti's memo is reproduced in Appendix V of this Release.

According to John E. Whitfield of the Lutheran Immigration and Refugee Service and chair of Interaction's Technical Working Group on Immigration-Related Refugee Issues, this memo addresses the problem resulting when Indochinese parolees denied adjustment under Lautenberg have found themselves automatically placed in exclusion proceedings in some INS districts. The working group has raised legal and fairness issues regarding such treatment.
REFUGEE PROCESSING - CROATIA...

INS interviews were conducted in Split from January 10 to 18 and in Zagreb from January 16 to 25. ICMC was commended once again by the INS officers on the quality of research and documentation for its AOR cases in particular.

Total AORs located and pre-screened in January numbered 49 cases/117 people. ICMC pre-screened 112 cases/284 people who are eligible for INS interview.

There were four departures scheduled for January. The U.S. Government budget crisis as well as the severe snowstorms which hit the U.S. east coast reduced the number of departures by 70% in comparison to the previous month. A total of 16 cases/38 persons departed to the United States in January.

ADDRESS CORRECTION FOR INQUIRIES ON LAUTENBERG AMENDMENT...

In the Flash 96/#2 issue, MRS ran an article naming a contact person and address to which all inquiries regarding status adjustment under the Lautenberg amendment could be sent by Vietnamese nationals. ODP sends a corrected address for verification:

Orderly Departure Program
Attn: JVAR (Lautenberg)
Box 58 - American Embassy
APO AP 96546
Fax: 011 332 287-2337
E-mail: JVAODP@DELPHI.COM.
ODP program was set up specifically to encourage families to stay together and to migrate legally in a safe and secure manner. This program has proven successful in deterring the dangerous escape by sea which required family members to split up, female members to be subjected to unspeakable brutality at the hands of the pirates and large loss of life.

The success of the program created trust and faith among the former Political Prisoners that they could safely and securely as a family unit escape the persecution. These families waited patiently for their turn to be interviewed.

With the trust built up in the program, many children of the former Political prisoners remain single in order to qualify to come to the U.S. This is also in keeping with the Vietnamese traditions of maintaining a family economic unit. The children of the former Political Prisoners were also subjected to persecution and discrimination from the current regime (forced labor in the new economic zone, denied higher education and employment).

The remaining former Political prisoners have earned a right to fair and equitable treatment. They are no different than families processed under the old rules. These are the very people that have fought and sacrificed along with the Americans, why should they suffered more persecution now in trying to emigrate.

The government policy is to promote family values. It seems contradictory to have an immigration policy that specifically split the family up simply because of age.

Look at the records of the immigrants that came with their children. In a short period of adjustment all children (employable members) become proficient in providing not only for themselves but also for their parents. Thus overall supporting cost are dramatically reduced.

The program will end in a few more months, why is it necessary to end it on such a sour note!

Anh Davis.
A FAIR AND HUMANE END TO THE ODP

The Orderly Departure Program has brought over 150,000 former Vietnamese political prisoners and former employees of the United States, and their families to the United States.

Most of these spent three years or more in re-education camps. Especially in the early years, these camps were hellish with prisoners dying from starvation, overwork, brutality and lack of medical care.

These were some those who suffered most from association with the United States.

This is a program to complete an obligation which we feel towards those former prisoners. It has been a very useful program.

It is being ended on a sour and inequitable note.

Administrative rules and artificial deadlines are causing files to be closed and make it likely that 15,000 to 25,000 eligible applicants may never have the opportunity for an interview. (Lionel Rosenblatt’s “Findings” from his recent visit to Bangkok lay out these problems).

At the last minute, after waiting for years, the former prisoners were told that they could not bring their adult unmarried children. This is a change at the end of the program after thousands of such children have already come to the United States.

It is a mean spirited and inequitable change at the last minute.

It is also bad resettlement. The former prisoners are older and often have medical problems. Over 1,000 of those still waiting spent nine years or more in prison. They need their children to help them in establishing a new life in the United States.

The Administration should:

Keep the ODP program for former prisoners open until all eligibles have been interviewed, including those found on lists submitted by the Vietnamese government, and

- Reverse the decisions making adult, unmarried children of former prisoners ineligible to accompany the principal applicant.
Some Background on refugee code 5 cases issue with the Department of State and Catholic Community Services of Western Washington (local Votenl affiliate of USCC/MRS)

The Department of State conducted a site review of Voluntary Agencies in the Seattle area in July, 1995. They issued their report in December 1995 which found USCC to be an “unsatisfactory” program. Among other things, the determination was based on their concern with our code 5 or “friend” caseload. Since they had discovered no material findings of violations with the code 5 cases they had reviewed, we argued that this should not be a factor in scoring our program.

On Feb. 14, 1996 DOS issued a letter stating that, based on their findings, they were moving ahead to re-code the code 5 portion of our caseload to code 3 or free cases, and remove them from the Seattle/Tacoma USCC caseload effective March 1, 1996. This has since been adjusted to March 15.

This represents as much as 50% of our caseload and for the remainder of FY96 it will mean approx. 300 fewer refugees will arrive. These are refugees who have stated they want to come to Seattle and join a friend who has signed a sponsor form stating his willingness to provide support of the new arrival. If they aren’t resettled here they will surely migrate back to Washington State but without the local agencies’ support and resources.

Code 5 cases are those refugees sponsored by friends living in the U.S. In this situation it applies to former political prisoners and their families in Vietnam. These are cases that would otherwise be resettled as “free cases” if they had no relationship to anyone already in the U.S. The State Department has increasingly scrutinized this area of the overall refugee caseload nationally because they believe the relationships are not always true or adequately documented. They don’t want what in their eyes are more accurately “free cases” going to sites where they will not as likely achieve early employment outcomes.

For the past year DOS has required better documentation of code 5 sponsorships. We have met these requirements as they and our National office have requested. In fact, the recent DOS site review did not uncover even one such violation on our part. Still they are pulling these cases; cases which stand to receive significant support from friends and their ethnic community.

Given the facts, we are only left to believe that DOS is making an example out of Seattle, both to send a message to other areas with similar practices (e.g. California) and to Congress as an indication they are doing something related to earlier employment outcomes and self-sufficiency. These are goals we all support but this is not the way to achieve them.

For more information contact Denny Hunthausen, Resettlement director for USCC/MRS in Seattle/Tacoma, ph. (206) 505-2704 fax (206) 572-3193
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