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THE WHITE HOUSE

WASHINGTON

April 17, 1975

MEMORANDUM FOR:

THE PRESIDENT

FROM:

PHILIP BUCHEN *P.W.B.*
JOHN MARSH *JM*
GENERAL SCOWCROFT

Section 212(d) (5) of the Immigration and Nationality Act provides inter alia that "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States...."

A history of the use of this authority is provided at Tab A.

From April 3 through April 15, 1,703 orphans have been flown out of Vietnam/Cambodia. The parole process has been applied in these cases. An updated report of this action is attached at Tab B.

On April 13, authorization for movement of families accompanying U. S. citizens returning from Vietnam was given. Parole is being used in this action. It is estimated that between 3,000 and 5,000 persons are involved.

It is now essential to consider additional actions:

1. There are 1,000 Cambodians now in Thailand who were evacuated as part of "Eagle Pull" and who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement. State and Justice request your authorization to proceed with parole for these persons. We recommend your approval.

AGREE *MC7*

DISAGREE _____

950

2. There are about 100 South Vietnamese at Clark Air Force Base whose presence is straining our relationship with the Philippine Government. Those who qualify for immigrant status under the INA should be paroled into the United States as soon as possible. State recommends that the remainder also be paroled. INS agrees "provided that the number admitted is subtracted from the total number of parolees finally admitted." We recommend parole without caveat.

AGREE MR9

DISAGREE _____

3. There are approximately 3,000 Vietnamese relatives of American citizens or permanent resident aliens in the United States for whom petitions for entry have already been filed and who would otherwise be admissible in due course under normal immigration procedures. State and INS recommend the use of parole to permit their processing to be completed while they are in the United States. Their status will then be converted to the appropriate INA preference as soon as feasible after their arrival here as parolees. We recommend your approval.

AGREE MR9

DISAGREE _____

4. There are also Vietnamese nationals (estimated to number between 10,000 and 75,000) who are immediate relatives of American citizens and permanent residents and for whom petitions have not as yet been filed. The number of those who would and could accept an offer of parole is unknown. State and Justice both recommend parole. We recommend your approval.

AGREE MR9

DISAGREE _____

5. Approximately 5,000 Cambodian diplomats and other refugees in third countries may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. State will make every effort to assist and persuade the UNHC for Refugees to arrange for the relocation of refugees throughout the world, but State also wishes the President to request the Justice

Department to authorize entry into the United States of all such persons by parole whenever State determines that the efforts of the UNHC for Refugees are not successful.

We recommend that the State Department position be accepted.

AGREE

DISAGREE

6. Planning is also now required for the potential evacuation of certain high risk Vietnamese. These include U. S. employees, labor leaders engaged in the free trade labor movement (particularly those who have worked with U. S. unions), governmental personnel and others along with their dependents. There is no clear indication of just how great the number will be. Every effort will be made to involve third countries, both directly and through international mechanisms such as the UNHCR and the International Committee for European Refugees. Nevertheless, it is apparent that a large number will wish to come to the United States. This will require the Attorney General's use of parole.

State and INS agree that parole should be exercised for such Vietnamese, but differ sharply as to numbers.

State believes that we should take our fair share of refugees who are unable to be settled elsewhere, and recognizes that the total number, given logistical and political limitations could be approximately 200,000. INS would limit the use of parole to 50,000 or 40% of the total number to be evacuated, whichever is less. It is their view that (1) the domestic impact on our society of admitting a large number is undesirable and (2) the Cuban experiences, wherein the President permitted 675,000 persons to enter the United States, should not be repeated. The INS also believes that it may be necessary to publicly announce this limit to prevent a mass exodus based on false hopes.

The State Department has now accepted the INS limitation based upon presently perceived political problems with the U. S. Congress.

We recommend that planning begin at once to process parole candidates from the category of "high-risk" Vietnamese but that we not attempt to set a limit now. When planning is completed and when efforts of International cooperation have gone further you will better be able to determine what is possible. Practically, it may not be possible to reach the

level of 200,000 that the State Department originally fore-
saw.

AGREE

NR7

DISAGREE _____

7. We recommend that you direct establishment of a small full-time task force with the necessary authority to improve your decision making data base, assume interdepartmental coordination, and advise you in this emergency. This task force should include high level representatives from the Departments of State, Justice, Labor, HEW and HUD.

AGREE

NR7.

DISAGREE _____

HISTORY OF THE USE OF PAROLE

Parole is a device by which an inadmissible alien seeking entry is permitted to proceed into the United States, but in contemplation of law is considered to be standing at the water's edge. He is not deemed to be in the United States within the meaning of the expulsion provisions or other provisions of the Immigration and Nationality Act. Standing at the water's edge, as it were, he may be removed only in exclusion proceedings.

Parole is resorted to only in exceptional situations such as emergent medical treatment, avoiding unwarranted detention, and prosecution of criminals returned to the United States. It has also been used for refugees and orphans.

The first express statutory authorization for parole appeared in the Immigration and Nationality Act which became effective December 24, 1952. 1/ The statute provides that the Attorney General in his discretion may parole any alien seeking admission for emergent reasons or for reasons deemed strictly in the public interest.

Before 1952, parole was utilized as an administrative expedient. 2/ It's peculiar status was recognized by the Supreme Court 50 years ago in the case of Kaplan v. Tod. 3/

There has never been any question concerning the authority to parole individual aliens. However, questions have been raised by the Congress concerning authority to parole groups of aliens. For example, a question was raised after 224 Russian Orthodox Old Believers were paroled into the United States in June 1963. In the House Report on the 1965 Amendments, which established permanent Legislation for the conditional entry of refugees, the following statement was made: "The parole provisions were designed to authorize the Attorney General to act only in emergent, individual and isolated situations, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside of the limit of the law." 4/

Nevertheless, under the general parole authority of the 1952 Act, large numbers of refugees have been allowed to come into the United States after, as well as before publication of the House Report. 5/ These include:

Over 30,000 refugees from the 1956 Hungarian Revolution, by direction of President Eisenhower.

Over 600,000 refugees from Cuba who began to come to the United States in an almost unbroken stream for more than a decade after the Castro takeover in 1959. (In 1965 when

he signed into law the abolition of the National Origins System, President Johnson revived the Cuban parole program despite the House report.)

15,000 Chinese refugees from Hong Kong, by direction of President Kennedy in 1962.

6,500 Czechoslovak refugees after the Soviet invasion of that country in 1968, at the urging of Congress.

Several hundred Soviet Jews and other minorities in the U.S.S.R., at the urging of Congress in 1971.

1,000 stateless Ugandan-Asians, authorized in 1972, at the urgent request of the State Department.

Following the suppression of the abortive Hungarian revolt in the Fall of 1956 over 200,000 Hungarian refugees fled the country, especially to Austria (180,000) and to Yugoslavia (20,000). Resettlement missions from many countries were eager to accept Hungarian refugees, and the asylum countries -- especially Austria -- served as staging areas. President Eisenhower and the American people in general were eager to accept a generous quota of the Hungarians. Fewer than 7,000 refugee visas remained available, however, under the Refugee Relief Act of 1953 as amended. These were quickly used for Hungarians. At this juncture the decision was made to invoke Section 212 (d) (5) of the Immigration and Nationality Act in order to parole larger numbers of Hungarian refugees into the United States.

The sympathetic 85th Congress enacted P.L. 85-559, which provides for adjustment of status of paroled Hungarians to that of permanent immigrants to the U.S. The majority of the refugees were brought in from Austria into a U.S. staging area, in Camp Kilmer, New Jersey, administered by the Department of the Army. The refugees were resettled from Camp Kilmer, primarily through the efforts of interested voluntary agencies. A total of 30,701 Hungarian refugees regularized their status in the United States under P.L. 85-559 during 1958-59. This represented the overwhelming majority of the Hungarian refugees who were paroled into this country.

The Cuban refugee situation differs from others in that the United States was the country of first asylum. From 1957-72 this country admitted 621,403 Cuban nationals who fled from Cuba. That exodus was generally divided into three distinct periods: from the advent of the Castro government in 1959 to the breaking of diplomatic relations in January 1961; from 1961 until the end of commercial travel in October, 1962; the subsequent period. While diplomatic

relations existed, Cubans who wanted to leave Cuba went to the consulate in Havana. They were issued B-2 (tourist visas) which documented them and enabled commercial carriers to bring them to the United States. On arrival (usually Miami) the B-2 visa was cancelled by the Immigration Service (INS) and they were paroled into the United States under the parole provisions of the Immigration Act. The B-2 visa was "pro-forma" documentation to enable travel to commence.

After the break in diplomatic relations, the United States initially avoided the use of parole for Cubans fleeing the island the resorted to the device of waiving the visa requirement on a mass basis on the theory that each case represented an unforeseen emergency because of the unavailability of consular services in Cuba. This program largely terminated at the time of the Cuban Missile Crisis of 1962 because travel out of Cuba became impossible.

In October 1962, all commercial transportation between Cuba and the U.S. ended. The Cuban refugee flow was reduced to a trickle. In December 1962 the American Red Cross began sponsoring airlifts and vessels which brought Cuban refugees to the United States, primarily relatives of Cubans already here and prisoners from the "Bay of Pigs" invasion. These people were directly paroled.

In 1965, Castro announced that certain Cubans who wanted to leave were free to do so. President Johnson responded that the U.S. would accept all. Direct parole was the method of entry. Some Cubans went to third countries (primarily Spain) as they were unable to get places on the airlifts. Those with close relatives in the U.S. were given "pre-parole" documentation (medicals, affidavit of support, security clearance) by our consulate in Madrid. When they arrived at the U.S. port of entry, they were paroled into the U.S. by INS. In October, 1973, the Attorney General agreed to a one year parole program for those without close relatives here. Documentation was prepared by the consulates as with the pre-parole program, but INS personnel interviewed and issued the actual parole document in Madrid. Cubans in the U.S. were received and processed by the Cuban Refugee Center in Miami run by HEW. The Act of November 2, 1966 enabled Cuban refugees to adjust status to permanent residents.

B

16 April 1975

Point Paper for the Special Assistant to the Secretary and
Deputy Secretary of Defense

SUBJECT: Orphan Evacuation Program - Vietnam/Cambodia

MAIN THRUST OF POINT PAPER

- Provides an update on the orphan evacuation program.

DISCUSSION

- On 3 Apr 75, DOD developed procedures for orphan evacuation.
State/AID wholeheartedly concurred.

-- All orphans, upon verification by US Embassy in Vietnam
and Cambodia, would be airlifted on first available
military or commercial contract aircraft to Clark AB.

-- At Clark AB medical evaluation would be made to determine if
orphans should be hospitalized, proceed on normal airlift,
or be medically evacuated.

-- Flights then proceed to San Francisco or Los Angeles with
Seattle as backup where military and volunteer agency
personnel would further process them.

- From 3 through 15 April a total of 1703 orphans (52 Cambodians)
have been flown out of Vietnam/Cambodia. Military Airlift Command
(MAC) transported 883 through Clark AFB, Philippines, of which 43
are currently enroute. Non-DOD carriers, chartered by private
arrangements, transported the balance of 820 orphans.

-- 914 orphans have been moved to San Francisco.

-- 330 orphans have been moved to Los Angeles.

-- 409 orphans have been moved to Seattle.

-- 201 orphans have been moved to Fort Benning, Ga.

(These figures do not total 1703 due to double handling, i.e.,
L.A. and Benning)

- Number and location of orphans currently being processed:

-- Clark AB, Philippines - 5 hospitalized.

Hickam AB, Hawaii - 5 hospitalized.

San Francisco - 65

Los Angeles - 87

Seattle - 18

Fort Benning - 170 (14 hospitalized)

- Enroute - 43 from Clark AB to Los Alamedas Air Station, Ca.
 - Deaths:
 - 5 April crash of C-5 - 190 (figure not final)
 - One died enroute to Clark AB - cause of death, extreme dehydration. (Infant)
 - One died at Clark AB Hospital - cause of death, sepsis (absorption of pathogenic microorganisms into blood stream). (Infant)
 - One died enroute to Los Angeles - cause of death, pneumonia, dehydration and prematurity. Reported 24 days old.
 - Prognosis - No more deaths expected.
 - Future orphan airlift requirements:
 - Known - zero - original "Reported 2000" all processed
 - Possible - 80 (Vietnam) Rumors of 500 to 5000 more. Tracking this.
 - Problems:
 - Despite the official State/AID/DOD system, certain individuals have operated as free agents making arrangements for contract flights and direct liaison with the orphanages.
 - This has caused considerable confusion and resulted in less than desirable service for the orphans.
 - News reporters covering commercial arrivals at San Francisco and Seattle (outside the State/AID/DOD system) cited health problems with orphans on these flights.
 - Current funding status (funded by State/AID):
 - Airlift \$1,156,772
 - Medical 166,938
 - Support 71,916
 - Total obligated as of 15 Apr - \$1,395,626
- Prepared by: MGEN M.F. Casey, USAF
DOD Orphan Lift Coordinator
OX 74121

THE WHITE HOUSE

WASHINGTON

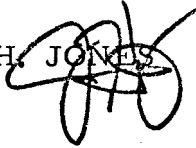
April 18, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

PHILIP BUCHEN
JOHN MARSH
GENERAL SCOWCROFT

FROM:

JERRY H. JONES 

Your memorandum to the President of April 17 regarding Section 212(d)(5) of the Immigration and Nationality Act has been reviewed and the seven actions outlined in your memo have been approved.

Please follow-up with the appropriate action.

Thank you.

cc: Don Rumsfeld