

**Brown, Melissa A**

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**From:** Alexander, Eric M (Hanoi)  
**Sent:** Wednesday, April 23, 2008 8:02 AM  
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**Cc:** Aloisi, Jonathan M (Hanoi); Boduszynski, Monica A (Hanoi); Russell, Mary Ann X (Ho Chi Minh City); Mattingley, Donald G (Hanoi); Preston, Courtney M (Hanoi); Schwenk, Jeffrey C (Ho Chi Minh City); Michalak, Michael W (Hanoi); Lam, Monica M (Hanoi); DeLuca, Alexandra (Hanoi); Fairfax, Kenneth J (Ho Chi Minh City)  
**Subject:** Adoption OI

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UNITED STATES DEPARTMENT OF STATE  
 REVIEW AUTHORITY: FRANK TUMMINIA  
 DATE/CASE ID: 06 FEB 2009 200801293

OFFICIAL INFORMAL #015-08CA

April 23, 2008

**(SBU) Meeting with National Commission on Trafficking** - On April 22, ConOff meet with the directors of the police investigation unit of the National Steering Committee on Trafficking. Director Nguyen Quoc Nhat told ConOff that his unit had been active in investigating recent cases involving the smuggling of children to China for adoption. He confirmed that the birth parents in these cases were generally paid an average of 5.5 million Vietnamese Dong to sell their child to a trafficker. The traffickers then resold the children in China for an average price of 20 million Vietnamese Dong. He added that the birth families were usually told that a Vietnamese family would raise their children until they were old enough to help support the birth parents. Nhat noted that it was difficult to obtain convictions for child selling/buying in Vietnam, as the law permits any exchange of funds unless it is for the express purpose of buying a child. Thus, if the child smuggler stated that he give a woman he had never met \$1000 as a gift, and the next day she give him her child, the case is not technically a violation of Vietnamese law.

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We will keep the Department informed

regarding the status of these investigations.

**(SBU) Blocked Investigations - Responding to Rumors in Phu Tho** - Beginning on April 22, Post has received multiple enquiries stating that DIA has announced that Phu Tho will allow adoption investigations. As Post had not been informed of this by DIA, we contacted them seeking clarification. DIA stated that it simply passed a message from DOJ Phu Tho to an ASP stating that Phu Tho would allow investigations, however they told us that we should first speak with the provincial DOJ. Ngo Cong Quyen, the director of DOJ in Phu Tho, stated that investigations would be permitted, provided that the visits were announced at least on week in advance and a DOJ official accompanied the investigation team. He further stated that to ensure the "security" of the team, a police officer would visit each site in advance of the team.

Post will need to respond to the enquiries from PAPs and the ASP, who are currently under the mistaken impression that Phu Thu has agreed to allow the I-604 investigations to be completed. Post would appreciate the Department's clearance overnight on the following text:

"An I-604 investigation report is required for all I-600 petitions to determine whether a child qualifies for orphan status under U.S. immigration law. On *date*, an attempt to investigate the case of *name* was blocked by Vietnamese officials in Phu Tho province. Due to these actions, the independent verification of the child's orphan status can not be completed at this time.

The U.S. Embassy and USCIS are in working closely with the Vietnamese authorities to resolving this issue so that these independent field inquiries can be completed. However, as of April 22, the Department of Justice in Phu Tho has stated that it continues to object to independent verification of orphan status by US consular

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officials. We continue to seek ways to resolve this issue; however, at this time it is impossible to predict when all of these field inquiries can be completed."

**(SBU) Blocked Investigations - Continuing Problems in Hue** - On April 22, Post attempted to conduct two I-604 investigations in Thua Thien Hue. These were the first investigations in this province since Orphan's First began. Post had previously received a diplomatic note from the People's Committee requesting that our investigations be announced and accompanied. On this trip, the investigating team arrived at the orphanage to review the cases of two children purportedly deserted there. Initially the director was cordial to the team, and permitted them to tour the facility. In the middle of the tour, however, the director returned and apologetically told the team that while he wanted to help them, the police and People's Committee had ordered him to have the team leave the orphanage immediately. He said the team could come back if they received the "necessary permissions."

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**(SBU) Raising the Profile of Pending Cases After September 1** - Post sent the following item in OI 070-08 (which is our daily OI with EAP). Our intent is to include talking points on the need for the GVN to clarify the status of pending adoptions cases as part of the routine talking points used when GVN officials meet with senior officials in the Department. We believe that this will be particularly useful in the coming weeks as preparations are made for the Prime Minister's visit. The text is repeated below for CAUSCIS readers:

On February 1, 2008 the Ambassador wrote a letter to the Minister of Justice requesting that the GVN clarify its procedures regarding adoption cases that are pending when the current MOA expires on September 1. To date, we have not received a reply to this request. Instead, we have been told that the matter has been referred to the OOG for consultation. Since this decision will affect thousands of families whose cases are in some stage of processing, it is imperative that we get an answer as soon as possible. We also have heard that several Members of Congress may raise this issue with Prime Minister Dung, if it is not resolved before his visit. As a result, we would appreciate the desk's assistance in including the following talking points in meetings between senior officials at State and the GVN.

- As you know the United States has decided not to renew its adoption agreement with Vietnam.
- We understand that Vietnamese law requires that there be a bilateral or multilateral agreement in place in order for a foreign national to adopt a child in Vietnam.
- On February 1, Ambassador Michalak requested legal clarification regarding the status of cases that are pending when the agreement expires. This letter has not been answered.

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- The U.S. believes that it is in the interests of all parties to establish the necessary procedures and cut-off dates as quickly as possible to ensure that cases where parents have received a referral can be processed under Vietnamese law.

- We would appreciate an answer to the Ambassador's letter as soon as possible. We understand that if the issue is not resolved before the Prime Minister's visit, Members of Congress plan to ask the Prime Minister to clarify the GVN's position on this issue.

**(SBU) I-600 Processing Statistics** - Attached are the latest processing statistics for I-600 cases in Vietnam. The average processing time has increased slightly to 46 days. Overall the processing time for routine cases is continuing to fall, however, for those cases where the initial I-604 investigation uncovers significant irregularities, processing times continue to exceed 60 days.



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stats.xls

**(SBU) International Press Reports on Baby Smuggling to China** - New arrests have been made in an effort to break up a baby-trafficking ring in Viet Nam that may have sold as many as 30 Vietnamese infants in China in six months, BBC News reported on April 9. According to the article, "Police in Hanoi arrested four suspects in February while they were trying to take two babies out of the country." Since then, authorities have detained three more baby-smugglers. It is believed the smugglers troll the countryside for babies and poor pregnant women, whom they entice with offers of 7m dong (\$440) to 20m dong, depending on the sex of the baby.

<http://news.bbc.co.uk/2/hi/asia-pacific/7338008.stm>