

ACTION OCS-00

INFO LOG-00 CA-00 WHA-00 DS-00 UTED-00 H-00 TEDE-00
 L-00 PPT-00 TEST-00 VO-00 DSCC-00 SAS-00 /000W
 -----4357CF 211828Z /38

P 211827Z JUL 04
 FM AMEMBASSY GUATEMALA
 TO SECSTATE WASHDC PRIORITY 3760
 AMEMBASSY MEXICO PRIORITY
 HOMELAND SECURITY CENTER WASHDC PRIORITY

UNCLAS GUATEMALA 001805

RELEASED IN FULL

DEPT FOR CA/OCS/CI AND WHA/CEN
 ALSO FOR CA/P AND CA/VO

DHS FOR OIA/CIS JOE CUDDIHY

MEXICO FOR DHS

SENSITIVE

E.O. 12958: N/A
 TAGS: KOCI, CVIS, CASC, PREL, PGOV, KHLS, KFRD, GT
 SUBJECT: GUATEMALA ADOPTIONS: BREAKING RECORDS

REF: (A) GUATEMALA 773 AND PREVIOUS
 (B) GUATEMALA 1094
 (C) JACOBSEN/BOSWELL FAX 6/17/04

1. (SBU) Summary: Embassy Guatemala has already broken its previous annual high for adoption visas, and the time it takes to complete an average adoption here appears to be getting shorter. The two Guatemalan Congressional committees considering adoption reform legislation appear close to sending a bill to the full Congress, but numerous interest groups are poised to contest it. There have been several recent reminders of the recurring abuses that make adoption reform legislation necessary. End Summary.

RECORD-BREAKING YEAR

2. (U) By July 1, we had already broken our previous record high for adoption visas. In fact, in FY2004 we expect to issue about 3,300 cases, which is nearly 900 more adoptions than the old record set in FY2002 when we issued 2,419 such visas. The figure of 3,300 immigrant visas also represents a 42 percent increase over the 2,326 visas

UNITED STATES DEPARTMENT OF STATE
 REVIEW AUTHORITY: FRANK TUMMINIA
 DATE/CASE ID: 22 JUN 2010 201000013

UNCLASSIFIED

issued in FY2003. So far, in FY2004, the IV section has created 1,939 new (future) cases in its system based on receipt of a Visas 37/38/39 cable, thus assuring an upward adoptions trend into the near future. DHS will also set a one-year record, as it expects to take in 3,200 petitions in FY2004.

3. (U) This upward trend is not surprising. In fact, it was already underway before the GOG's failed attempt to implement the Hague Adoption Convention delayed case processing during the summer of 2003 (ref A). From FY1999 to 2002, we went from issuing 1,002 cases to 2,419 cases, a 141 percent increase in just three years, and this despite the implementation of DNA testing and birth mother interviews in 2000 to counter incidents of document fraud and baby smuggling. Even with the delays caused by the failure of the Convention in 2003, the number of cases issued in FY2003 nearly broke the record set the previous year.

4. (U) More and more Americans appear to be choosing to adopt in Guatemala because of its reputation for being relatively quick and due to the availability of infants. An informal recent survey suggested that from the time an adoption case arrives at Embassy Guatemala for pre-approval by DHS until time the adopted child actually receives an immigrant visa is often less than four months. Many of the children coming in for visa interviews now were born in 2004. Cases are moving through the PGN -- the agency that is responsible for issuing final approval on behalf of the GOG -- often in less than a month. Adopting AmCits also have no shortage of Guatemalan children to choose from, as the numbers attest. The adoption attorneys are highly organized and apparently very aggressive in locating children to match with adopting parents. Many AmCit parents accept referrals for Guatemalan children when the children are less than a week old and often visit the children at that time. In such cases, the adoption is likely being arranged prior to the birth of the child.

UPDATE ON HAGUE CASES

5. (U) As of July 1, 94 percent (982 out of 1,045) of the cases that were delayed by the failed implementation of the Hague Adoption Convention during the summer of 2003 had been completed. Of the remaining 63 cases, 8 have been issued pink slips, meaning they are ready for the visa interview. This leaves only 55 outstanding cases. Possibly up to a third of these remaining cases will likely never be

completed for a variety of factors. In some cases the birth mother has disappeared, others have been abandoned but remain in our system, and in two cases the adopting parents have already completed adoptions with different referrals.

UNCLASSIFIED

DOCUMENT FRAUD AND BABY SMUGGLING

6. (SBU) Recent incidents underscore the basic flaw in the Guatemalan adoption system, in which private attorneys and notaries essentially have a legal monopoly over the

critical intake and referral phase of the adoption process. For the first time at this post, we have banned the filing of further adoption cases by an adoption attorney, and we have revoked her nonimmigrant tourist visa under Section 212(a)(6)(E) (viz. alien smuggling) (ref B). The attorney was found to have falsified documents on at least two occasions in order to classify children as orphans eligible for adoption. She was also involved with International Adoption Resources, Inc., based in Coral Springs, Florida, an adoption agency that was banned in May 2004 from engaging in international adoptions in Florida. The Florida State's Attorney concluded the agency violated numerous local laws in connection with a widely-publicized incident in which the agency, apparently working through an internationally-known child smuggler, attempted to process Guatemalan children for international adoption via Costa Rica (ref A).

7. (U) According to a report in the May 31 edition of the daily newspaper El Periodico ("Alarm growing from the theft of children for adoptions"), Guatemalan special investigators raided 9 "casas cunas" in May alone and recovered 26 stolen children. On May 14, in the department (state) of Chimaltenango, three babies were taken into the care of the state, and four women were arrested for allegedly running an illegal casa cuna or private foster-care home, which are controlled by attorneys who hire women to care for children prior to their adoption. Recovered in the raid were 30 identification cards for local women, 200 children's birth certificates, evidence of pre-natal ultrasounds, and 300 photographs of children with foreigners, presumably adoptive parents. Police speculate that pregnant women were brought to this house to relinquish their newborns for foreign adoption.

8. (U) On May 19, police raided another casa cuna in Guatemala City and recovered a number of children who were

UNCLASSIFIED

being prepared for international adoption. Newspaper reports differed in reporting the number of children recovered, from 7 to 19. A woman who was six months pregnant was also staying at the house, and allegedly a number of women gave birth at the house. A mother whose three-year-old was stolen in the same neighborhood filed the complaint that led to the raid; police found the child, who had been falsely documented after the abduction. A number of other children recovered were also found to be awaiting new documentation.

UPDATE ON REFORM LEGISLATION

9. (SBU) In recent months, following the seating of the new Congress in January 2004, the heads of all major Congressional party factions as well as the Congressional leadership have told us during various meetings that they support adoption reform legislation that is flexible and consistent with the Convention. On April 16, CG and poloffs met with the president of Congress; we urged the leadership to stay engaged with the work of the two committees drafting the adoption reform bill, and he assured us the leadership would allow us to review and comment on the particulars of the bill. The two committees that are considering reform legislation are close to reporting out a bill; we have obtained a copy of the final draft and forwarded it to the Department for review and comment (ref C).

10. (U) Unlike the legislation the leadership submitted to the committees for consideration in February 2004, which would have established a separate adoption regime, the revised bill calls for amendments to the existing law on adoptions. The chairman of one of the committees has made public statements indicating the amendments will still incorporate the basic protections found in the Convention. However, the head of the National Movement for Children's Rights, which claims to represent one hundred NGOs, says he will contest the proposed amendments because they largely perpetuate the current system. A fair number of attorneys and notaries, meanwhile, reportedly do not object to the revised bill. Note: After a bill is reported out of committee to the full Congress, it can be amended at any time during the three hearings that are required to take place under the Constitution before the measure is finally voted on by the full Congress. There is also the possibility that during this process, it will be sent back

to committee for more work.

