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ACTION VO-06

RELEASED IN FULL

INFO LOG-00 ARA-01 CA-02 CIAE-00 DS-00 FBIE-00 INSE-00
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R 162343Z DEC 91
FM AMEMBASSY GUATEMALA
TO SECSTATE WASHDC 3953

UNCLAS SECTION 01 OF 02 GUATEMALA 12693

E.O. 12356: N/A
TAGS: CVIS, CASC, KREFD, GT
SUBJECT: REQUEST FOR GUIDANCE IN DEALING WITH
UNSCRUPULOUS ADOPTION ATTORNEYS

REF: STATE 395045

1. IN RESPONSE TO THE QUESTIONS POSED IN REFTEL, POST
PROVIDES THE FOLLOWING INFORMATION IN THE ORDER
REQUESTED:

-- THE ATTORNEYS INVOLVED ARE ALL GUATEMALAN MEMBERS
OF THE GUATEMALAN BAR.

-- APPROXIMATELY 15 TO 20 ATTORNEYS ARE INVOLVED IN
WHAT WE CONSIDER SHADY LEGAL PRACTICES, THREE OR FOUR
PRINCIPALS AND THEIR KNOWN ASSOCIATES.

-- SINCE WE BEGAN ROUTINE INTERVIEWING OF BIRTH
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MOTHERS ONE YEAR AGO, WE HAVE DETECTED CASES OF BABY
SELLING (FOR VERY MODEST SUMS), IMPOSTER MOTHERS,
PRESENTATION OF FALSE BIRTH CERTIFICATES, CHILDREN NOT
MEETING THE LEGAL DEFINITION OF ORPHAN AND DECEPTION
OF BIRTH MOTHERS AS TO THE LEGAL CONSEQUENCES OF
ADOPTION BY LOCAL ATTORNEYS. WE DETECT THIS TYPE OF
OBVIOUS IRREGULARITY IN ABOUT 5 PERCENT OF THE CASES
PRESENTED.

-- THE LOCAL (OFTEN UNRELIABLE) PRESS HAS REPORTED

CASES OF ATTORNEY INVOLVEMENT IN PURCHASING CHILDREN FOR INTERNATIONAL ADOPTION, COMPLICITY IN CHILD KIDNAPPING, AND RUNNING ILLEGAL FOSTER CARE NURSERIES, KNOWN LOCALLY AS "FATTENING HOUSES".

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-- THE ONLY WAY TO EFFECTIVELY BAR THE ATTORNEYS INVOLVED WOULD BE TO REFUSE TO PROCESS VISA CASES IN WHICH THEY WERE INVOLVED AND TO SO ADVISE U.S. ADOPTION AGENCIES. WHILE WE HAVE INITIATED STEPS TO NOTIFY ADOPTION AGENCIES OF ATTORNEYS WHOSE WORK HAS BEEN SUBSTANDARD OR POSSIBLY ILLEGAL, WE ARE UNABLE TO LOCATE ANY LEGAL OR REGULATORY AUTHORITY FOR ABSOLUTELY BARRING SUCH ATTORNEYS FROM PROCESSING ADOPTION CASES FOR IMMIGRATION TO THE U.S. IN THE EVENT THAT BARRING WERE INSTITUTED, ONGOING VIGILANCE WOULD BE REQUIRED ON THE PART OF OUR ANTI-FRAUD INVESTIGATORS TO DETERMINE IF OTHER ATTORNEYS WERE "FRONTING" FOR THOSE WHO HAD BEEN BARRED.

-- WE BELIEVE THAT BARRING COULD BE INSTITUTED WITH A MINIMUM OF INCONVENIENCE TO AMCITS WITH ACTIVE CASES

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BY USE OF A "GRANDFATHER CLAUSE" PERMITTING COMPLETION OF ALL PENDING CASES. UNDER OUR CURRENT POLICY REQUIRING INTERVIEW OF THE BIRTH MOTHER PRIOR TO THE COMPLETION OF THE ADOPTION, WE BELIEVE WE COULD IDENTIFY THE CASES INVOLVING BARRED ATTORNEYS EARLY ENOUGH IN THE PROCESS TO AVOID UNDUE INCONVENIENCE OR EMOTIONAL HARDSHIP TO PROSPECTIVE ADOPTIVE PARENTS.

-- THE LOCAL BAR ASSOCIATION PROVIDES NO EFFECTIVE OVERSIGHT OR DISCIPLINE OF ITS MEMBERS. LAWS REGULATING ATTORNEY CONDUCT ARE NOT ROUTINELY ENFORCED.

-- OTHER EMBASSIES, MOST PARTICULARLY THE CANADIANS WHO WILL PROCESS OVER ONE HUNDRED ADOPTIONS THIS YEAR, ARE SEEING SIMILAR PROBLEMS AND WRESTLING WITH THE SAME ISSUES.

2. IN RESPONSE TO THE QUESTION POSED IN PARAGRAPH 2 POST IS SENDING VIA POUCH A COPY OF A LETTER FAXED TO US BY A U.S. ADOPTION AGENCY.

3. IT IS IMPORTANT TO NOTE THAT GUATEMALA IS CURRENTLY AN ADOPTION MARKET WITH LITTLE EFFECTIVE

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OVERSIGHT BY LOCAL AUTHORITIES. FOREIGN ADOPTIONS REPRESENT A LUCRATIVE BUSINESS TO GUATEMALAN ATTORNEYS WHO SPECIALIZE IN THEM, AS U.S. ADOPTIVE PARENTS WILLINGLY PAY FROM \$5-15,000 FOR SERVICES THAT WOULD COST GUATEMALANS APPROXIMATELY \$1000. CHARGING AN EXHORBITANT FEE FOR THE COMPLETION OF A RELATIVELY SIMPLE LEGAL PROCEDURE LENDS CREDIBILITY TO THE PERCEPTION THAT LEGAL SERVICES ARE NOT THE ONLY

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COMMODITY CHANGING HANDS.

4. UNDER CURRENT GUATEMALAN LAW, ATTORNEYS ARE ALLOWED TO LOCATE CHILDREN AND COMPLETE THE ENTIRE ADOPTION PROCESS WITHOUT DIRECT INVOLVEMENT BY THE COURT SYSTEM OR MEANINGFUL REVIEW BY A CHILD WELFARE AGENCY. WHILE THE AVAILABILITY OF ADOPTABLE CHILDREN IN A FAIRLY SHORT TIMEFRAME (USUALLY UNDER A YEAR FROM START TO FINISH) ATTRACTS MANY U.S. ADOPTIVE PARENTS, IT ALSO CREATES AN ENVIRONMENT THAT IS CHALLENGING IN

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THE EXTREME TO THOSE CHARGED WITH FAITHFULLY APPLYING
U.S. IMMIGRATION LAW.

5. ACTION REQUEST: PLEASE PROVIDE POST REQUESTED
GUIDANCE AS TO THE LEGALITY OF BARRING LOCAL ADOPTION
ATTORNEYS WHO HAVE ENGAGED IN IMPROPER OR ILLEGAL
CONDUCT. STROOCK

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