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INS URGED NOT TO GRANT PERMANENT RESIDENCY TO REFUGEES WHO COMMIT MAJOR CRIMES

The Washington Legal Foundation (WLF) this week urged the Immigration and Naturalization Service (INS) to adopt rules that would prohibit granting permanent resident alien status to refugees who commit major crimes after arriving in this country. WLF argued that Congress has made clear that even permanent resident aliens who commit felonies should be deported as soon as possible, so there can be no justification for granting more leniency to refugees who engage in criminal activity.

WLF's filing came in response to an INS proposal to tighten immigration rules for refugees who commit crimes. The proposal was instigated in response to two recent decisions from the Board of Immigration Appeals (BIA) which granted permanent resident alien status to refugees despite their commission of violent crimes. In one case, the refugee was convicted of robbery. In the other case, a refugee was convicted of homicide after she beat and violently shook a baby left in her care. In both cases, the BIA ruled that the refugees should be granted permanent resident alien status despite their crimes because denial would have caused hardship to their families. The public outcry following those decisions was sufficient to induce Attorney General John Ashcroft to overturn the BIA decision in the homicide case.

To ensure that the BIA does not render similar decisions in the future, the INS is proposing to amend its regulations to provide that refugees who commit violent crimes should only be granted permanent resident alien status in the most extraordinary of circumstances. WLF's filing applauds the INS proposal as a step in the right direction. WLF argued, however, that the proposed rule should be amended to provide that refugees who commit aggravated felonies while in this country should *never* be granted permanent resident alien status.

The INS is issuing its proposed regulation pursuant to 8 U.S.C. § 1159(c), a law that provides that the Attorney General has discretion to waive a refugee's criminal background -- a background that would otherwise bar a refugee from being granted permanent resident alien status. The INS's proposed rule states that only rarely will it grant a waiver to aliens who have committed

violent crimes. WLF's filing noted that no similar waiver provision exists for permanent resident aliens who commit aggravated felonies; the law *requires* that such individuals be deported and that they be detained by the INS until deportation can be effected. Accordingly, WLF argued, it makes no sense *ever* to permit refugees to stay in this country following commission of an aggravated felony, given that Congress has always intended that refugees be accorded fewer rights than permanent resident aliens. WLF argued that the grant of waivers to refugees under § 1159(c) is totally discretionary, and thus INS is free to establish a rule that it will *never* grant waivers to refugees who commit aggravated felonies.

WLF is a public interest law and policy center with supporters in all 50 states. It devotes a significant portion of its resources to combating illegal immigration and ensuring that aliens who engage in criminal activities are excluded from American society.

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For further information, contact WLF Chief Counsel Richard Samp, (202) 588-0302. WLF's filing is posted on its web site, www.wlf.org.