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REVIEW OF THE ADMINISTRATION OF THE  
IMMIGRATION AND NATIONALITY ACT

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DOCUMENTS

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KANSAS STATE UNIVERSITY

HEARINGS

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,  
AND INTERNATIONAL LAW

OF THE

COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

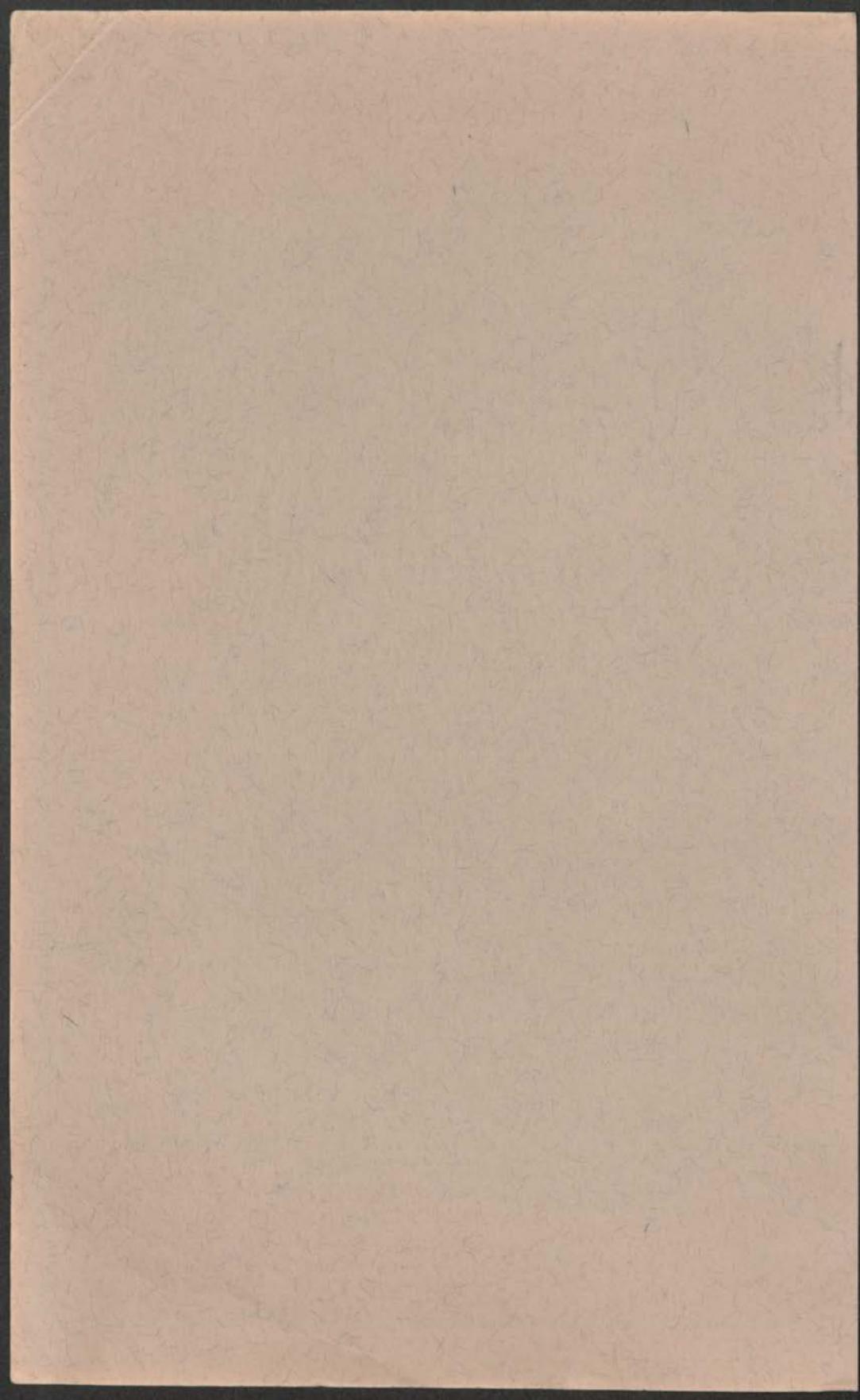
LEGISLATIVE OVERSIGHT OF THE IMMIGRATION AND  
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JULY 26; SEPTEMBER 13, 18, AND 20, 1973

Serial No. 22

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Printed for the use of the Committee on the Judiciary

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WASHINGTON : 1973

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## REVIEW OF THE ADMINISTRATION OF THE IMMIGRATION AND NATIONALITY ACT

THURSDAY, JULY 26, 1973

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION,  
CITIZENSHIP, AND INTERNATIONAL LAW  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 1:40 p.m., pursuant to call, in room H-128, the Capitol, Hon. Joshua Eilberg, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Holtzman, Keating, and Wiggins.

Also present: Garner J. Cline, counsel; Arthur P. Endres, Jr., assistant counsel; and Donald G. Benn, associate counsel.

Mr. EILBERG. Ladies and gentlemen, I am going to read a statement and I suppose you will have a statement also, Mr. Greene.

Mr. GREENE. A very short opening comment, and I will introduce the people with me.

Mr. EILBERG. Let us just quickly review who is accompanying the Acting Commissioner, Jim Greene.

Just give your names and your titles again.

Mr. WILLIAMS. Donald Williams, Acting District Director, Los Angeles.

Mr. SURECK. Joseph Sureck, Regional Counsel for San Pedro, Calif.

Mr. MARKS. Sol Marks, District Director, New York.

Mr. GORDON. Charles Gordon, General Counsel.

Mr. EILBERG. Section 118 of the Legislative Reorganization Act of 1970 requires standing committees of the House to review and study on a continuing basis, the application, administration, and execution of those laws, the subject matter of which is within the jurisdiction of that committee.

The Judiciary Committee and particularly this subcommittee has exclusive legislative jurisdiction over immigration and nationality matters. Therefore, today's hearings have been called in order to properly exercise the legislative oversight responsibilities of this committee.

More specifically, we intend to determine whether certain provisions contained in the Immigration and Nationality Act have been reasonably and properly administered by the Immigration and Naturalization Service.

For example, section 287 (a) (1) of the Immigration and Nationality Act authorizes an immigration officer without warrant to interrogate

any alien or any person he believes to be an alien as to his right to be or to remain in the United States. A related section, section 287 (a) (3) authorizes an INS officer to board and search vessels and vehicles without warrant and within a reasonable distance from any external boundary of the United States.

The statutory term "reasonable distance" has been defined by regulation to mean 100 miles, and both the statute and the regulation were discussed in the Supreme Court's recent decision in *Almeida-Sanchez v. United States*.

It is unquestionable that these powers which have been conferred by statute upon INS officers are extremely broad but at the same time this broad delegation of authority represents a congressional recognition of the difficult job confronting INS officers in locating and deporting illegal aliens.

However, we have received numerous complaints from citizens and Members of Congress—and then I might depart from this only to say that there are many Members from the State of New York and the State of California who have talked to me on the floor, and that is the occasion for calling you here today. I would also say that one of my colleagues on the committee is here, and I am delighted he is here.

As I said, we received numerous allegations from citizens and Members of Congress that in performing this job INS officers have, on several recent occasions, infringed upon the constitutional rights and civil liberties of individuals. It is not the purpose of this hearing to decide whether violations of civil liberties have occurred in these cases—I might add, that function is not even within the jurisdiction of our subcommittee—for those are matters that will ultimately be decided by the courts.

In this regard, I understand that a class action has been instituted in California with respect to this matter. On the other hand, it is the purpose of this hearing to ascertain whether there has been an abuse or misuse of the powers which have been bestowed upon INS officers by section 287 of the Immigration and Nationality Act.

Consequently, we have invited various officials of the Immigration and Naturalization Service to appear before the subcommittee. We understand that these gentlemen have firsthand knowledge of the roundups of illegal aliens which took place last fall in New York City and more recently in Los Angeles, Calif. We will now ask these gentlemen to step forward to explain the general methods and procedures which are followed in locating and apprehending illegal aliens as well as any particular information you can provide relating to the situations in New York and California.

Now, I would just like to say that Mr. Keating and I have a very pressing obligation at 4 p.m., which we must keep, with the Attorney General so that we will have to stop if we are not over by that time. I hope that we perhaps can finish the matter before 4 o'clock.

Do you have a statement you want to read, Mr. Greene, before we start our questioning?

TESTIMONY OF HON. JAMES F. GREENE, ACTING COMMISSIONER,  
 IMMIGRATION AND NATURALIZATION SERVICE; ACCOMPANIED  
 BY DONALD T. WILLIAMS, ACTING DISTRICT DIRECTOR, LOS AN-  
 GELES; JOSEPH SURECK, REGIONAL COUNSEL; SOL MARKS, DIS-  
 TRICT DIRECTOR, NEW YORK; CHARLES GORDON, GENERAL  
 COUNSEL FOR THE IMMIGRATION SERVICE; AND C. LEARY,  
 ASSISTANT COMMISSIONER

Mr. GREENE. Mr. Chairman, I do not have a statement. I have with me the two gentlemen who are in direct charge of the two districts involved. You have laid it out completely, so I will not reiterate what was said.

These two men should be in a position to give you firsthand information as to what actually transpired, what orders were issued, et cetera. I will keep my comments extremely brief so we can get on with it.

With regard to New York, although there has not been too much activity in recent months, they have an ongoing program looking toward the location and apprehension of aliens in the environs of the city.

With regard to Los Angeles, it came to my attention in the middle of May that we were going to have some extra funds as we were under a hiring freeze during the early part of this year. The question arose, what would we do with these funds in regard to enforcement activities? After discussing the matter with the region it was decided to bring a group of officers into the city of Los Angeles to accomplish several things. There has been testimony before your committee about the thousands of illegal aliens in that city.

Also, when I was before the Government Operations Committee last spring, Congressman Randall questioned me about abandoning "sweeps" that we used to conduct. It has been several years since we have conducted accelerated roundups in the city of Los Angeles. This was due to a shortage of funds.

So, with those thoughts in mind, we decided to mount this operation. The regional office was given the responsibility for the immediate directive and the indoctrination of the officers. The detail of officers was brought in from all over the United States.

I would now like Mr. Williams, who participated in the instructions and carrying out of the orders, to fill you in on what transpired.

Ms. HOLTZMAN. May I ask a question?

Mr. EILBERG. Yes. As a matter of fact, I was going to announce that while it is usually my prerogative as chairman to lead off the questions and so forth—at this time I have a lot of questions, but I am going to yield to you, Ms. Holtzman, and you, Mr. Wiggins.

If either of you have questions, please proceed, because your States are the most directly affected.

Ms. HOLTZMAN. I would just like a statement from you, sir, as to what the national policy is with respect to roundup procedures and whether or not you have any regulations or directives in respect to how they are conducted, and procedural safeguard that are to be followed.

Mr. GREENE. Yes, I think I can answer that.

We do not have a regulation, but we do have a number of instructions with regard to how these operations are carried out. It is a national policy.

A question was addressed last spring after the New York operations to the Attorney General and he informed the president of the Immigration Lawyers' Association that he thought it was a proper operation.

Ms. HOLTZMAN. Do you have a copy of those guidelines that you could furnish to the committee?

Mr. GREENE. We would be happy to furnish them.

Ms. HOLTZMAN. Thank you.

Mr. EILBERG. Mr. Donald Williams, Acting District Director, Los Angeles.

Mr. WILLIAMS. Thank you.

During the period from—

Mr. EILBERG. Again, we apologize to you gentlemen. We kept you waiting all morning due to circumstances beyond our control.

Mr. GREENE. I certainly understand that.

Mr. WILLIAMS. During the period from May 23 to June 20, we were assigned a detail of special border patrol agents in addition to our regular ongoing force, which is engaged in the location of aliens at all times. Now, the force of agents amounted to about 50, which dwindled slightly over the period that was involved. And they worked with about 25 of our own investigators who are engaged in this kind of work.

The planning was set up by the regional office, the regional commissioner, and the detail was laid out in every stage. We set up a staging area at the naval base in Los Alamedos and also utilized a facility which we have in the Federal Building in Los Angeles.

The agents were broken up into groups and were given various assignments, based primarily on information which we had accumulated and which indicated to us that there were large numbers of illegal aliens employed in many of the industries in the Los Angeles general area.

Throughout this period, this force of about 70 officers located 11,500 illegal aliens. Now, most of these were found to be eligible for voluntary departure and were not required to undergo deportation proceedings or lengthy detention. We sent them to the border on the same day they were located. There were some, of course, who were held for deportation proceedings—approximately 400—and there was another group that were located who fell within an equity program which permits us to allow them to remain in the United States until they can make arrangements to obtain an immigrant visa, if they are eligible to apply.

The operation was given widespread publicity and there was quite a large reaction. We received a very favorable reaction from most members of the community, but there was some unfavorable reaction which was spearheaded basically by some militant groups which have consistently taken a position against all immigration laws and have frequently tried to interfere with the enforcement of those laws. But it seemed to us that this type of reaction was more in the minority rather than the majority.

The officers engaged in this program were under the supervision of experienced investigators from Los Angeles who are familiar with the area and with the laws, and of course they were briefed thoroughly on the type of conduct they should engage in. We received many complaints, some of them in connection with the lawsuit that you mentioned earlier, and have been in the process of investigating all these allegations.

We have found no case of an American citizen being deported and there has been very little evidence of any misconduct that we have located up to this point.

Mr. EILBERG. I am going to resist the temptation to ask questions because I want to defer to my colleagues as they are more closely connected with these problems.

Mr. WILLIAMS. Yes.

Mr. EILBERG. Did you have any other special order, Mr. Greene, as to who will speak next?

Mr. GREENE. No, I thought perhaps we could dispose of the Los Angeles operation, if it is agreeable to you, and then move on to New York.

Mr. EILBERG. Mr. Wiggins, do you wish to proceed or are you ready to proceed?

Mr. WIGGINS. I would like to ask Mr. Williams some questions.

Mr. EILBERG. Why don't you go ahead. I was going to let you and Ms. Holtzman take over the proceedings, and I have quite a few questions but I do not want to take the time away from you.

Mr. WILLIAMS. I am at your disposal. Whatever you wish.

Mr. EILBERG. Let me just ask a few questions.

Would you describe briefly what methods are utilized in the round-ups of illegal aliens?

This is directed to any one of you.

Mr. WILLIAMS. Yes. The main emphasis in Los Angeles was placed on those aliens employed in various factories and industrial plants; it is the policy of the Service not to force our way into any such plant. This is done with the permission of the owner if it can be obtained. Of course, recently most of the owners of plants who habitually employ illegal aliens will not give us permission to enter. The result is that we are required to apprehend these illegal workers generally on their way into the plant in the morning, usually as they are arriving in the parking lots and that sort of thing.

Mr. EILBERG. Are the plants that deny you entry the ones that have been previously involved in the hiring of illegal aliens?

Mr. WILLIAMS. Yes. They are habitual employers of illegal aliens.

Mr. EILBERG. Go ahead.

Mr. WILLIAMS. That is the way we apprehended the aliens in those particular areas. There were a few labor camps that were checked during this period of time, out in Orange County, but for the most part the aliens that were located, were located in the industrial areas.

Mr. EILBERG. What about this electronic method which is receiving so much publicity now, the sensor operations? Would you describe that?

Mr. GREENE. May I address myself to that? I have lived with it for about a week now.

Mr. EILBERG. We will strike that question for the present time.

Now, Mr. Williams, are these area-control operations under the direct and immediate supervision of an experienced supervisory INS officer?

Mr. WILLIAMS. Yes.

Mr. EILBERG. And what is the average number of years of experience possessed by the Service personnel who participated in these area-control operations?

Mr. WILLIAMS. The leaders, the team leaders had 30 years experience in almost every case.

Mr. EILBERG. Thirty years.

What special training, if any, do these INS officers receive for such operations?

Mr. WILLIAMS. Well, first they receive their general training throughout their service careers, which begins in most cases with the Border Patrol Academy, and that course lasts 14 weeks, and then they receive continuous on-the-job training and there are numerous courses held throughout the year at our training academy where they receive investigative courses of all types, including—

Mr. EILBERG. It is the purpose of these hearings to discuss mainly the "sweep" operations. I am interested in what training your people have for—

Mr. WILLIAMS. For this particular operation?

Mr. EILBERG. Yes.

Mr. WILLIAMS. Well, most of the investigators who were involved in Los Angeles have engaged in this type of operation many times before, and in the Los Angeles area. The investigators were all given a thorough briefing as to how they would exercise their authority and as to what they could go into and what they could not go into, and of course they have received consistent training over the years in connection with their duties and their authorities.

Mr. EILBERG. I am tempted but I will not go into the court cases yet. Some of the court cases are adverse to what has happened, but I am sure my colleagues will assist us in bringing out those things.

It is my understanding that prior to the conduct of such operations a profile of suspected illegal aliens is developed. How is such a profile developed and are only those who meet the specific profile detained and interrogated?

Mr. WILLIAMS. I am not quite sure what you mean by profile. We do have, of course, a large number of complaints and investigative leads which we use to determine where we are going to go and what places we are going to check, and of course we did this.

Now, as to profiles concerning individuals, then we do have a profile set up where we determine which aliens are going to be permitted to depart voluntarily from the United States, and those which may have to be held for deportation proceedings, possibly prosecution.

Mr. EILBERG. Well, let me address first those profiles. What is the duration of the training in this kind of operation? What questions is he going to ask and what kind of person is he looking for?

Mr. WILLIAMS. Well, he looks first for an illegal alien and, based on his past experience, he looks for individuals who by their speech—perhaps he can't speak English—and sometimes by their appearance,

he can determine that they may be from one of the countries where a large number of illegal aliens are coming in from.

Mr. EILBERG. So the elements of speech and appearance are the items?

Mr. WILLIAMS. Well, they are two of the items.

Mr. EILBERG. Are there any other items?

Mr. WILLIAMS. There are other items having to do with the location where the aliens are found. Our information will indicate generally what areas they will be located, and generally where they might be working.

Mr. EILBERG. Mr. Williams, have you received complaints that one characteristic is, by profile, the color of the individual; that is if he is brown skinned he is more likely to be questioned than if he is white skinned?

Now, would you care to comment on that?

Mr. WILLIAMS. Well, Latin American appearance, certainly is going to be a factor when you are working in an area like Los Angeles and you are working with people that do come from those countries in large proportions.

Mr. EILBERG. Would you care to comment on whether or not some of those who are dark skinned and Spanish-speaking obviously, are detained indiscriminately as some of the complaints indicate?

Mr. WILLIAMS. They were not detained unless they were in violation of the law.

Mr. EILBERG. Now, when the individual is questioned, what is done with the individual if he refuses to respond to questions propounded by an INS officer? What is done if a detained individual indicates he is a U.S. citizen or a permanent resident alien?

Mr. WILLIAMS. Well, if he claims to be a citizen he would not be detained in the first place, unless we have evidence to establish otherwise.

Mr. EILBERG. Do you ask for proof of his status?

Mr. WILLIAMS. Well, if he is questioned and he claims to be a citizen, and there is some doubt in the mind of the investigator, he might ask to see anything that the person might have which could show citizenship. But, in the face of such a claim, the individual would not be arrested unless, as I say, it had been an ongoing investigation for some time and we had evidence to prove otherwise.

Mr. EILBERG. Most citizens, as far as I know, do not carry evidence of citizenship. I carry some identification cards with me but none of them indicates that I am a citizen.

Mr. WILLIAMS. That is true, but as I say, if the claim of citizenship is made and the investigator has no evidence to the contrary, he may not make an arrest.

Mr. EILBERG. The first part of my question was, what is done if the individual refuses to respond at all?

Mr. WILLIAMS. This seldom happens, of course. We usually get enough information initially to make determinations as to alienage and as to being in the United States in violation of the law. In those cases where the person remains mute at the outset, then of course we would be helpless. We would not be able to make an arrest again in that case.

We can try to get what information we could in order to follow up with an investigation.

Mr. EILBERG. Do you mean to say that if he remains mute that you would simply allow him to go without any further questioning?

Mr. WILLIAMS. We would not have any choice.

Mr. EILBERG. Now, if he says he is a citizen or a permanent resident alien and he does not have papers with him, what do you do then?

Mr. WILLIAMS. Frequently he is asked where his documents might be, if he claims to be a permanent resident, and then an investigator might go with him to his home or wherever he has the document to check it out.

Mr. EILBERG. What is your experience when an individual is approached; what kinds of responses do you get? In other words, the thrust of my question is: Are they evasive or do they admit their status readily, or how would you characterize their responses?

Mr. WILLIAMS. Generally, they readily admit their status. Now, of course in a situation such as the one we are describing, investigators arriving on the scene near a factory, for example, as soon as they would alight from their automobiles we would find that people would start running in all directions, and of course these turn out to be illegal aliens.

Mr. GREENE. May I interject something there?

We have also found, at a number of places, diversionary tactics. A U.S. citizen will run, and when you catch him the alien has gone the other way.

I want to make the point, that when they all start running, the alien often is lost. We cannot do anything with a U.S. citizen. They do this deliberately, particularly in agricultural work.

Mr. EILBERG. Well, if they all run at the same time, what does your man do then?

Mr. GREENE. Well, he does the best he can, and catches as many as he can, but we lose a lot of them that way.

Mr. EILBERG. You are saying that when they run that this is some evidence that they are illegals.

Mr. GREENE. Normally that is certainly a good basis for thinking you have an illegal alien ahead of you. They engage in a bit of trickery to confuse the issue.

Mr. EILBERG. Have many instances occurred in which permanent resident aliens or U.S. citizens have been deported?

Mr. GREENE. Not deported; they have been granted voluntary departure and removed from the United States. We have two instances of this, one in Florida which happened this past year and which was a great embarrassment to me and the Immigration Service, and we had one in California about 3 years ago, which was also a source of embarrassment.

Mr. EILBERG. How did those cases come about?

Mr. GREENE. In both of those cases the people claimed they were born in Mexico and were alien. But unfortunately the people were not entirely rational. They were questioned whether they knew what they were really saying. The slippage was, in the review of their cases, or the close checking of their cases, that our officers did not catch that fact.

Mr. EILBERG. I have a great many more questions, but I would prefer if Mr. Keating has no objection, that the members from the two

States that are basically affected—New York and California—be given the first opportunity to question these witnesses.

Mr. KEATING. I have no questions, but if it is all right with you, Mr. Chairman, I would like to yield my time to Congressman Wiggins.

Mr. EILBERG. Mr. Wiggins, would you proceed?

Mr. WIGGINS. Mr. Williams, has your office received the regulations which have been promulgated by the Commissioner's office here in Washington?

Mr. WILLIAMS. We have all the regulations; yes.

Mr. WIGGINS. I am talking specifically about those regulations dealing with the so-called sweep operations that Mr. Greene indicated have been promulgated.

Mr. WILLIAMS. Yes, we have that authority.

Mr. WIGGINS. Did you supplement those regulations with any field instructions, written instruction of your own?

Mr. WILLIAMS. Not any special written instructions. As I say, we had a full day of briefings with the officers involved when we did supplement these instructions.

Mr. WIGGINS. Is it true, however, that there are no written instructions that were made specifically available to the officers in the Los Angeles area with respect to this sweep?

Mr. WILLIAMS. Well, let me say this, that there are a number of written instructions that all of our officers have as a regular thing. We do distribute many things to these men having to do with, let's say, the cases of individuals who fall within this equity program where we do not require them to leave the country. They were given that sort of material.

Mr. WIGGINS. Before I get into the meat of my questions, I want to say that Congress has given all of you an almost impossible task. You are required to enforce the immigration laws and to arrest and remove from the United States aliens with very little guidance on how you identify them. That is the crux of the problem.

You have indicated that your men are instructed to go where you have reason to believe aliens may be congregated.

Mr. WILLIAMS. That is right.

Mr. WIGGINS. And to identify aliens at that scene.

Mr. WILLIAMS. Yes.

Mr. WIGGINS. Now, would you please tell me and the committee how your men identified aliens under such circumstances?

Mr. WILLIAMS. Well, if we go to a particular plant where we have information that the aliens are employed, they will begin questioning individuals on the location.

Mr. WIGGINS. As a practical matter, they begin questioning people of apparently Mexican ancestry?

Mr. WILLIAMS. Not Mexican, but the appearance may be Latin American, and in most cases in our area it is.

Mr. WIGGINS. Yes.

Mr. WILLIAMS. And whenever possible they will question generally anybody who may have just arrived at the plant at that particular time.

Mr. WIGGINS. All right. Now, stopping right at that point, I gather that you derive your authority to interrogate from section 278(a)(1).

Mr. WILLIAMS. 287.

Mr. WIGGINS. That is 287(a) (1).

What do you understand the limits of your authority to interrogate to be?

Mr. WILLIAMS. To question?

Mr. WIGGINS. Yes.

Mr. WILLIAMS. The limit would be that we would not have the authority to question anyone that we knew was not an alien and was not in the United States illegally.

Mr. WIGGINS. Well, the purpose of the interrogation—

Mr. WILLIAMS. If we had any reason to—

Mr. WIGGINS. I gather, is to determine whether he is an alien, is that right?

Mr. WILLIAMS. And whether he is here unlawfully, yes?

Mr. WIGGINS. Yes.

Do you feel that you have the right to physically detain the person suspected of being an alien?

Mr. WILLIAMS. Not without evidence.

Mr. WIGGINS. Do you feel that you have the right to physically restrain this person, even temporarily, for the purpose of the interrogation?

Mr. WILLIAMS. Just to interrogate him?

Mr. WIGGINS. Yes.

Mr. WILLIAMS. We have some court decisions which give us that authority, and which at least have held that we do have that authority, and we feel that we have the right to detain him long enough to make an initial interrogation.

Mr. WIGGINS. Do you feel that you have the right to order him to remove himself from an automobile, for example?

Mr. WILLIAMS. Yes.

Mr. WIGGINS. Now, at that time, I gather, we are dealing with an individual about whom you do not have probable cause, in the legal sense.

Mr. WILLIAMS. That could be true, yes.

Mr. WIGGINS. In most cases that is the status at that moment?

Mr. WILLIAMS. That has not been determined.

Mr. WIGGINS. Yes. Do you feel that you have the right at that time and under those circumstances to conduct a search of the person of the suspected alien?

Mr. WILLIAMS. Not at that point. We feel we have the right to conduct a search for weapons and that sort of thing after we have determined that he is a violator of the law, but not before.

Mr. WIGGINS. You may even have more rights than that with respect to weapons, but that is another issue.

Do you feel that you have the right to search his automobile if he happens to be in an automobile during the course of your interrogation?

Mr. WILLIAMS. No, not under those circumstances. The authority that we are exercising of course relates to the alien himself, and we do not say we have the right to make a search of the automobile in a situation, let's say, in Los Angeles.

Mr. WIGGINS. Are your field investigators typically Spanish-speaking?

Mr. WILLIAMS. Well, we have a number who have a Spanish American background of one kind or another and speak very fluent Spanish but all of our officers have been trained in Spanish and are quite fluent.

Mr. WIGGINS. Now, I would just assume that a typical interrogation would first involve asking the man his name, is that right?

Mr. WILLIAMS. Yes.

Mr. WIGGINS. And what else might you ask the man at that time?

Mr. WILLIAMS. Well, one of the first things would be concerning his citizenship.

Mr. WIGGINS. All right. Now, let's suppose the man says that he was born in Mexico, and says it in Spanish. Do you feel that you have at that moment a probable cause to believe that he is illegally in the United States?

Mr. WILLIAMS. No, not at that point. We would have to go a little further to determine how he came into the United States.

Mr. WIGGINS. Well, please proceed with a sample interrogation. You would ask the man his name; what else might you ask?

Mr. WILLIAMS. Where were you born. If he says he was born in Mexico, when did he come to the United States. If he says he came to the United States a year ago, where did he come in. If he says he came through a port of entry, what documentation did he have; and, are you now employed. And generally this would be about all he would need to establish alienage, and—

Mr. EILBERG. Mr. Greene?

Mr. GREENE. Yes, I would like to interject something.

All aliens in the United States must have in their possession at all times their alien registration receipt card. Once you establish alienage, or he admits he is an alien, then you can ask for his alien registration. It might be in the form of his I-151 if he is a resident alien. It might be in the form of an I-94 document showing he has been admitted as an alien. In the case of an illegal alien he would probably have nothing.

Mr. WIGGINS. Incidentally, have you found that the typical person you have interrogated and sometimes arrested is pretty knowledgeable about this general subject?

Mr. WILLIAMS. Many of them are, yes, especially those that have been involved with the Service before. Many of them may have been apprehended five or six times previously.

Mr. WIGGINS. Well, now, if the man says that, yes, I am a citizen of Mexico, an alien, what then do you ask him?

Mr. WILLIAMS. Well, how he came to the United States and what documentation he had, or—

Mr. WIGGINS. Do you feel at that time that you have probable cause for arrest?

Mr. WILLIAMS. At that time, yes.

Mr. WIGGINS. Is there any case backup on this matter?

Counsel, I will yield to you if there is.

Mr. GORDON. If I could answer—you are not talking about arrests, but still at the interrogation stage?

Mr. WIGGINS. Yes.

Mr. GORDON. In order to conduct interrogation, there must be a reasonable basis for believing the person is an alien. Then, after the

interrogation, if there is a reasonable basis for believing that he is an alien, that he is in the United States unlawfully, and that he is likely to flee—those three elements must be present—then there is a basis for arrest under the statute.

Mr. WIGGINS. Yes. That would be the literal language of the statute.

Mr. GORDON. And the cases support that.

Mr. SURECK. May I add just one thing, sir?

Mr. WIGGINS. Of course.

Mr. SURECK. You presented a situation where the person says he is born in Mexico. Now, under the law the burden is upon him to show how he entered the United States.

Mr. WIGGINS. What law is that?

Mr. SURECK. Section 291, the Immigration and Nationality Act.

Now, he has the burden. It may very well be under certain circumstances where he refuses to answer, we can rely upon that burden and really take him into custody. It depends upon the facts of the situation.

Mr. WIGGINS. Well, now, let's take the hypothetical case of your officers pulling up in front of a plant because the ownership, the managers thereof, have previously denied you entry. The situation, which has been called repeatedly to my attention, involves—traffic jams for blocks around and nobody able to get to work because workers, both citizens and noncitizens are milling about, some fleeing, and general chaos.

I might say the probable purpose of such a procedure is to put sufficient pressure on the employer to encourage a bit more cooperation in the future.

In making that observation I do not mean to be at all critical. I think that is fair. But, nevertheless, in the situation described you see an apparent Latin person fleeing the scene. What do you believe your legal rights are at that point?

Mr. WILLIAMS. Well, we believe that we have the legal right to attempt to stop him and find out who he is and whether he is an illegal alien.

Mr. WIGGINS. Does the fact of apparent ancestry plus reliable background information that aliens have been known in the past to have congregated at this location, and the fact that a person of that ancestry is fleeing the scene in the face of an apparent investigation create in your mind legal probable cause to arrest him at that time?

Mr. WILLIAMS. Not without interrogation, not without questioning; but legal probable cause at least to stop him to be able to talk to him.

Mr. WIGGINS. Well, all through this we are distinguished between a formalistic arrest and the temporary detention of a person for the purpose of interrogation?

Mr. WILLIAMS. Yes.

Mr. WIGGINS. And there is no question about the legality of the temporary detention?

Mr. GORDON. Cases support such brief, temporary detention.

Mr. WIGGINS. Now, let's suppose that you have determined that you have before you a person illegally in the United States and subject to arrest. What do you say or do to him at that time?

Mr. WILLIAMS. Well, he would be taken into custody at that time.

Mr. WIGGINS. Is he entitled to a *Miranda* warning at that time?

Mr. WILLIAMS. Not at that point.

Mr. WIGGINS. Do you take any statement from him?

Mr. WILLIAMS. If the statement was taken from him, then he would be entitled to *Miranda* warnings under our policies.

Mr. WIGGINS. What is the policy in that regard?

Mr. WILLIAMS. The policy is that we will furnish the complete *Miranda* warnings to any illegal alien or any violator of the immigration laws prior to taking any statement.

Mr. WIGGINS. Only if he is in custody, in a custodial situation?

Mr. WILLIAMS. Yes.

Now, actually I do not believe we have even had a court decision that requires us to do that.

Mr. GORDON. The court decisions are the other way so far. We do not guarantee that they will always be.

Mr. WIGGINS. I would like to know what happens to that person who you have in custody, hypothetically?

[Mr. Greene and Mr. Williams conferred.]

Mr. WIGGINS. I asked specifically if the person under arrest is entitled to a *Miranda* warning.

Mr. GORDON. We do not feel that he is legally entitled to it but we, as a matter of policy, have adopted the practice of giving a *Miranda* warning in every case where a person is in custody or otherwise meaningfully deprived of his liberty and a statement is to be taken. Before such a statement is taken he gets a *Miranda* warning.

Mr. WIGGINS. Is that the policy in Los Angeles?

Mr. WILLIAMS. Yes.

Mr. GREENE. Mr. Wiggins, there is another point, if you will allow me to interject myself.

When you arrest someone you are supposed to tell him under our rules why he is being arrested, which has nothing to do with the *Miranda* warning. He is being warned of his rights at that point. So, I thought that was what you were driving at.

Mr. WIGGINS. No, I am talking about a *Miranda* warning, because that involves some responsibilities, which I now want to inquire if you are able to discharge. If he asks for an attorney at this point, are you able to respond to that request?

Mr. GORDON. We cannot furnish an attorney.

Mr. WIGGINS. What do you do?

Mr. GORDON. We give him the opportunity to obtain an attorney. Assuming, of course, that we are proceeding only civilly in a deportation process, the statute provides that he is entitled to counsel at his own expense. And under the decisions so far the Government is not required to provide counsel for aliens in deportation proceedings. They have to get their own lawyers.

Mr. WIGGINS. You made reference to a law. Would you give the citations to us if you have it?

Mr. GORDON. There are two sections, section 242(b) of the Immigration and Nationality Act, and section 292.

Mr. WIGGINS. Are you limited under the act to proceed civilly, or may you proceed criminally?

Mr. GORDON. Of course, if there is a crime that would be referred to the U.S. attorney.

It does not have to be; the U.S. attorney tells us what to do. But, if it is a matter of deportation, that is our responsibility, and that is a civil process, as you know.

Mr. WIGGINS. All right. Now, let's proceed from that problem to my next area of inquiry, and that is, what do you do with a man who you now have determined that you are going to arrest and detain? What physically happens to him?

Mr. WILLIAMS. In Los Angeles he is brought to the Federal Building where we have a temporary detention center and then questioned at further length to determine—

Mr. WIGGINS. Is he booked in the traditional sense?

Mr. WILLIAMS. At this point he is not booked in that same sense. If, for example, we find that he is a minor violator of the immigration laws, he has not been a flagrant violator, and if he is from an adjacent country like Mexico, we would generally offer him voluntary departure and if he accepts voluntary departure he would be removed the same day. He would not go through the regular deportation proceedings.

Mr. WIGGINS. Is he entitled to a telephone call when he gets to the Federal detention, preliminary detention center?

Mr. WILLIAMS. Yes, he can make a phone call.

Mr. WIGGINS. And you then ascertain whether or not he is a serious or a minor violator of the act?

Mr. WILLIAMS. And whether we would offer voluntary departure.

Mr. WIGGINS. Now, let's suppose that it is the case of a voluntary departure. What does that mean?

Mr. WILLIAMS. That means that he is removed from the United States under safeguards without having to go through deportation proceedings and without having the stigma of deportation against him which would prevent his returning to the United States.

Mr. WIGGINS. How is that accomplished?

Mr. WILLIAMS. If he had been deported, he would require permission to reapply, or if he returned he would be committing a felony violation of the law.

Mr. WIGGINS. No, no, I would like to know how it is physically accomplished.

Mr. WILLIAMS. Well, he is furnished with a form which states these various things, the rights, whether or not he wants to accept voluntary departure.

Mr. WIGGINS. Yes. Let's suppose he does, he accepts it. What happens to him?

Mr. WILLIAMS. We have buses that move from Los Angeles to the border every day, and he would be bused to Chula Vista or to El Centro, depending on where he was going to go.

Mr. WIGGINS. Is there any compensation to the Service for providing that transportation?

Mr. WILLIAMS. Any compensation?

Mr. WIGGINS. Yes. Is the alien required to pay?

Mr. WILLIAMS. The alien is required to pay if he has the money and wants to pay.

Mr. WIGGINS. And if he doesn't have the money or doesn't want to pay?

Mr. WILLIAMS. He gets the ride anyway.

Mr. WIGGINS. He gets the ride anyway.

Mr. EILBERG. Could we stop right there, Chuck, so we could vote?

Mr. WIGGINS. All right. Yes. I have about 3 or 4 more minutes, and then I will be through.

[A brief recess was taken.]

Mr. EILBERG. Are you ready to continue?

Mr. WIGGINS. May I proceed?

Mr. EILBERG. Yes.

Mr. WIGGINS. Mr. Williams, we were talking about the procedures for removing from the Los Angeles Federal Building to the border those who have agreed to, or are eligible for voluntary removal from the United States.

In all cases, does this occur within one day?

Mr. WILLIAMS. Well, if the alien is going to be held for deportation proceedings, then—

Mr. WIGGINS. No, I am talking about voluntary departure.

Mr. WILLIAMS. Voluntary departure?

Mr. WIGGINS. Yes.

Mr. WILLIAMS. Yes. It would be the same day.

Mr. WIGGINS. Do you have provisions for feeding the detainees during that day?

Mr. WILLIAMS. Yes, we furnish them with lunches.

Mr. WIGGINS. Now, if you have handled more than 11,000 since May, we are talking about a major logistical problem, I would think.

How many in one day have you had detained down at that detention center since the sweep operation began?

Mr. WILLIAMS. Right at the Los Angeles Federal Building?

Mr. WIGGINS. Yes.

Mr. WILLIAMS. We, on one day, picked up around 600 at two different—they were brought into two different areas, and we had, probably at the most, 300 in Los Angeles. There would not have been 300 there at one time because we were moving them out as fast as we could, and so as soon as the buses would start moving, then we would cut down the number we actually had on hand.

Mr. WIGGINS. Well, you were processing at the height of this operation several hundred a day?

Mr. WILLIAMS. 600 a day all told.

Mr. WIGGINS. Now, you say they were bused to the border. Where at the border?

Mr. WILLIAMS. Depending on where they were going to go, and where they were from in Mexico. If they were from the border areas, they were taken to Tijuana or Calexico. If they were—

Mr. WIGGINS. They were taken actually into Mexico?

Mr. WILLIAMS. No, taken to the border. To the border.

Mr. WIGGINS. All right.

And at the border, to whom were they delivered?

Mr. WILLIAMS. They were delivered to the Mexican immigration authorities and pass through them.

Mr. WIGGINS. What arrangements do you have with the Mexican immigration authorities?

Mr. WILLIAMS. We have no special arrangements there for that. We just pass them through those authorities, and they do the same thing in reverse with us.

Mr. WIGGINS. You do not have a standard operating procedure with the Mexican authorities with respect to the handling of 600 people a day? I am sure you must.

Mr. WILLIAMS. Well, I do not quite see that it would be necessary.

Mr. WIGGINS. Well, how does it work? How does it in fact work, whether it is necessary or not?

Mr. WILLIAMS. Well, they are taken right to the border, and presented to the Mexican authorities.

Mr. WIGGINS. Who is the Mexican authority?

Mr. WILLIAMS. The Mexican immigration officers.

Mr. WIGGINS. Well, you have probably read, as I have, an article by Mr. Walsh of the New York Times. Are you familiar with the article?

Mr. WILLIAMS. I probably am. I have seen——

Mr. GREENE. I am.

Mr. WIGGINS. Are you aware of a "hole in the fence" and an airplane flight to Leon in the middle of Mexico? At least one was intended to go there.

Would either of you like to comment on that article in terms of what we have been talking about?

Mr. GREENE. I would like to comment on it, because I am very familiar with it.

The article is like so many other things the New York Times publishes about our Service quite wrong, in error. We have an arrangement with an airline in Mexico for the transportation of aliens to the interior town called Leon.

There is one question that was raised, that the tickets are sold to them in a camp that we have in Chula Vista, Calif., which is next to our border control headquarters. The aliens are then put in a bus and taken down to the place where they have put a temporary gate opposite the Tijuana airport, which building is now within 100 yards of the line, the fence. The aliens are turned over to the Mexican immigration authorities, they are boarded on the airplane and the airplane takes off and flies down to Leon.

Mr. EILBERG. Would the gentleman yield at this point?

By what authority do you ask the alien if he has the money to pay his own way?

Mr. GREENE. It is optional with him. He is brought before the ticket agent and he says, these are tickets or transportation to Leon, Mexico.

Only aliens from the interior of Mexico are taken before these ticket sellers.

Mr. GORDON. Can I add something? The law itself provides that voluntary departure shall be at the expense of the alien. There is also provision in law for voluntary departure at the expense of the Government, but the primary voluntary departure is at the alien's expense. So if he has the money, this is an accomplishment of the law.

Mr. EILBERG. Does the law say that it is a primary obligation of the alien to pay his own way?

Mr. GORDON. No. It says he shall be granted voluntary departure, at his own expense. This is the basic authorization. Then there is a special authorization, another provision of law, that the Government, when there is voluntary departure, if the alien does not have the money, can furnish the cost.

Mr. EILBERG. That is, regardless of the mode of travel, whether it is by bus or by airplane?

Mr. GORDON. Right. Just leaving the United States.

Mr. GREENE. I think for the record we ought to make something crystal clear.

Mr. Gordon said that the requirement for the travel he just spoke of is transporting within the United States. What we're talking about is a man buying a ticket to fly in an airplane in Mexico, or a man buying a ticket to ride a bus in Mexico. He buys it at his own expense. We have found time and again that they buy the ticket toward their home. And maybe this is the theory that was quoted in the paper, where these people are leaving without any resistance because they "thought they could come back tomorrow." They want to go home for a vacation and this is a cheap way to do it, because it is a cheap flight.

Mr. WIGGINS. Go ahead. I would like to hear your explanation of that.

Mr. GREENE. One point of the story was that these flights take off and after they are in the air there is an arrangement or an agreement reached with the crew that the plane will go back and land for those who wish to get off. That is utterly impossible.

There has been one flight that came back. It had a malfunction. The aliens on the plane came back, the field was relighted because the lights go off after this flight takes off. An emergency landing was made, and they gave them the money back, and that was the end of it.

In every other flight, there is a manifest of each alien given to the Mexicans. It is given to the Mexicans who meet them in Leon. They give them 30 pesos and write them a ticket to go onward to their homes. So, it is a procedure sanctioned by, approved by the Mexican Government. There has been no question about it except one narrow area and that is the selling of the tickets on U.S. soil to these people and they do not collect any excise tax. We are vulnerable in that respect.

But, other than that, this thing has been checked out and our attorneys have found it to be absolutely legal. It was not described properly in that New York Times article.

Mr. WIGGINS. Are some of the voluntary deportees included in this program? Is this still an ongoing program?

Mr. GREENE. Yes, sir. The program is. There are several other programs from other areas by busing. We have banned the bus from Tijuana to Mexicali and on down to Mazatlan because a large number of them were disembarking. We found that by moving our point of departure over to Mexicali, which is south of Calexico, the numbers that reached their destination were about 50 percent of the load. It was their money and they could get off the bus in their country whenever they felt like it.

We have a bus running out of El Paso; they have a train run by the Mexican Government, to which they attach cars and it runs out of the town of Ojinaga which is opposite Presidio, Tex. This has been

an ongoing program for many years. We have a bus operation out of Del Rio.

In some of these situations, if the bus is not full of volunteer ticket purchasers, we piece out the load by buying tickets with U.S. funds to get these people to the interior of Mexico. The theory is that the closer you are to home, the longer it will take to get back, and this may discourage them.

Mr. WIGGINS. I am satisfied with your information on that.

Now, what if we turn to a hypothetical case. You have a man in custody at the detention center and I understand you have given him the opportunity to make a telephone call. At that time you know something about him, you know his name, and have probably asked him where he is living or he is working, things of that sort. On the basis of what you then know, do you—what is your right, if any, to search his place of dwelling?

Mr. GREENE. His dwelling?

Mr. WIGGINS. Yes.

Mr. GREENE. The only search that we are authorized to do is the search in connection with the arrest. If it is a legal arrest, you may make a legal search at that time. We have no vested rights to go back and search.

Mr. WIGGINS. I think you might get a warrant for those circumstances.

Mr. GREENE. Yes.

Mr. WIGGINS. But, do you customarily follow up to the residence of the alien to determine if there are other aliens there, his wife, family, things of that sort?

Mr. WILLIAMS. Sometimes, on occasion we might take him back to the dwelling to get his property and to get any documents that he may have.

Mr. WIGGINS. Well, let's suppose that you go to that dwelling for whatever proper reason you think. Do you feel that you have a right on the basis of a man in custody admitting his illegal status in the United States, to enter his place of dwelling without warrant?

Mr. WILLIAMS. Not, not without his permission.

Mr. WIGGINS. Do you regularly make any provision for the alien to retrieve his property or whatever personal belongings he has?

Mr. WILLIAMS. Yes, we do.

Mr. WIGGINS. What is that procedure?

Mr. WILLIAMS. We give him every opportunity to pick up his property or to make arrangements with a friend or a relative to have it sent to him and to have—

Mr. WIGGINS. What is this every opportunity? What opportunity do you give him?

Mr. WILLIAMS. Well, if he wants to get in touch with a friend to get his property down to the building or down to where he is going to go in Mexico, he is given the opportunity to do that.

Mr. WIGGINS. But basically you give him a telephone call?

Mr. GREENE. We have to make this record clear.

We do a great deal more than that, and that fact hinders the number of aliens that we apprehend. This is the so-called cleanup. We find an alien and he says, "I live at such and such an address, I've got

clothes, I've got effects out there." We take the man back to his address, permit him to pick up his clothes, make arrangements with his employer to get his check—now, a lot of these plants are computerized and there is difficulty in getting his money. We make arrangements either through his counsel or through a friend so he is satisfied.

A lot of them do not want to take that money with them, because something sometimes happens to it on the way down. They would prefer to have it sent to them. There is a concerted effort made to have that alien cleaned up before he is returned to the border to be returned to Mexico.

Mr. WIGGINS. Well, I applaud you for that effort. I am trying to visualize it, however, in terms of the simple logistics of the problem.

You have got 600 people, at the peak season, involved in one day and I can imagine the cleanup is taking a great deal longer than the apprehension.

Mr. GREENE. Oh, quite frequently.

Mr. WILLIAMS. If it were not for that, we would be able to pick up 1,200 instead of that 600.

Some of the people we found during this last operation did not want anything picked up. They said they did not have anything. And then, after they were down to the border and turned over to the Mexican authorities it was found that they were not Mexican citizens but they were from Central or South America or someplace, and the Mexican authorities would not accept them. They had the idea that they might be able to get into Tijuana and then come right back again.

Mr. GREENE. Isn't it also true that they do not want you to go back to the house, because if we return to the house we may see another person there and we are liable to pick up their friends or their brothers. So they will often say, "No, I am ready to go."

Mr. WIGGINS. Well, this committee certainly is eager to make your job easier, if possible.

Can you make any recommendations to the committee on statutory changes or other changes which would make your job easier than it now is?

Mr. WILLIAMS. Well, the Service, or the administration generally, is in favor of the legislation that already has been introduced, commonly referred to as the Rodino bill, having to do with employer sanctions, and this, we feel, would be of some assistance.

Mr. WIGGINS. Would your counsel just describe in general terms the nature of the litigation, the class action that has been filed in the Los Angeles area?

Mr. SURECK. Yes, sir.

A class action involving several plaintiffs which generally has— and succinctly has put forward the complaints which I am sure have reached this committee; namely, that we have entered into houses without permission, that we are not complying with the law, specifically 287(a) (2) in that we have arrested people without warrants who are not likely to abscond, that we have not brought them before another official without unnecessary delay as required by the statute.

Of course, the element of discrimination has been put forward in this petition.

Mr. WIGGINS. What is the relief prayed for?

Mr. SURECK. Beg pardon?

Mr. WIGGINS. What is the relief prayed for?

Mr. SURECK. An injunction. In addition, in two instances, damages have been requested. One of the allegations is an abuse of a particular person, a U.S. citizen. She claims an officer abused her. Our investigation shows she attempted to interfere with the officer and he sought to put her aside and she then attacked him, tore his wrist-watch off, et cetera. So, in that instance, and also against Don Williams, the Acting District Director, there are claims for damages. But, generally speaking, this is the nature of the class action.

Mr. WIGGINS. Do you mean the injunction seeks to enjoin you in a mandatory way to comply with the law? Is that about the long and short of it?

Mr. SURECK. Yes, in their interpretation, as far as the plaintiffs are concerned.

Mr. GORDON. They seek to stop us from doing what they regard as illegal. I could give you the name of the case, and the citation. Perhaps you would want it for the record.

Mr. WIGGINS. All right.

Mr. GORDON. The name is Loya, L-o-y-a, against the Immigration Service. It is Civil Action No. 73-1435 in the Central District of California.

Mr. WIGGINS. Does it call upon the general equitable jurisdiction of the district court, or is it based upon some other statutes?

Mr. GORDON. Declaratory judgment and injunction, and damages, of course.

Mr. WIGGINS. It does not purport to be a 42 U.S.C. § 1983 claim?

Mr. GORDON. No, I think it is merely declaratory judgment, injunction and damages, damages being only incidental.

Mr. EILBERG. During recent meetings you inquired about the *Almeida-Sanchez* case, and it appears to me you do not have on your schedule that information and I want to ask what INS is doing about it.

Mr. WIGGINS. Well, I found that case fascinating, as you did.

I am somewhat comforted by a memorandum I just read, probably out of your office, that you would be able to live with the decision.

Mr. EILBERG. I wonder, for the record, if we might just have a brief description of the holding in that case and what INS is doing about it.

Mr. GORDON, would you go ahead?

Mr. GORDON. I would be delighted to, and I am glad that you asked me the question.

*Almeida-Sanchez* is a criminal case which involves a prosecution for traffic in narcotics. It arose as a result of an immigration check by border patrol officers on a road in California, and this check was made by a group of officers conducting what is known as, or as the Supreme Court characterized it, a roving search.

They were driving around in an automobile and intercepting automobiles which looked suspicious or which they thought warranted further inquiry. Stopping this automobile, inquiring whether illegal aliens were being transported in the automobile, they asked the persons who were operating the automobile to open up the back and particu-

larly behind the rear seat, where they had reason to believe aliens were being secreted as a regular practice. In doing that they noticed narcotics, and thereupon arrested these people for their participation in narcotics.

In the criminal trial, motions were made to suppress this evidence on the ground that the border patrol officers were acting beyond their authority and therefore the evidence was the fruit of the poisonous tree.

The officers acted on the basis of 287(a)(3) of the statute, which gives them the authority to board and search vehicles including automobiles within a reasonable distance from the border where they believe aliens are being illegally brought into the United States through such vehicles. This was what they did.

The Supreme Court, in finding that the officers lacked authority in that case, considered primarily the limitations of the fourth amendment. The Court did not declare the statute unconstitutional, but interpreted it and the regulations in light of the fourth amendment. The Court found that even though this search was apparently in compliance with the statute which authorized search within a reasonable distance of the border, defined in the regulations as the distance within 100 miles of the border, and even though the statute does not mention anything about probable cause or warrant, the search was illegal. A majority of the Court, consisting of four judges who joined in the plurality opinion and one judge who wrote a concurring opinion, found that the officers did not have authority under these circumstances in the absence of probable cause or consent or a warrant—a search warrant—to search the automobile on the basis of this roving search.

The concurring Justice, Justice Powell, felt that a warrant was necessary and he devised a new concept which was based on previous decisions relating to inspections for health purposes, the so-called *Camara* and *See* cases, where the officers, on the basis of probable cause, obtained a warrant which the Justice characterized as an area search warrant. Justice Powell suggested that a similar warrant could be obtained to search all automobiles within a certain area where there was probable cause to believe that aliens might be brought into the United States illegally.

Justice Powell spoke only for himself in that concurring opinion. However, all four dissenting judges agreed with him on the propriety of an area search warrant. So that makes five. A footnote in the opinion of the plurality said that some of the Justices in the plurality also agreed with him.

So there is at least a majority in the Supreme Court and obviously more than a majority, supporting this area search warrant.

Now, in our estimation, at least mine—and the Department of Justice apparently feels the same way; they are working on procedures—this decision probably will not seriously affect our enforcement capabilities. Of course we cannot anticipate what the courts will do in the future, but on the basis of this decision alone it is my judgment that it will not have a significant effect on the operations or the authority of the Service.

For one thing, I do not believe this decision has anything to do with the authority to interrogate, which is the most important authority we

have. Without this authority, we would be terribly hamstrung in our enforcement of the law.

Second, it does not deal with a situation where there is consent. If a person consents to the search of an automobile then the officers can search; the Court said that.

In the third place, it does not impair the authority to search automobiles at the border or at a functional equivalent of the border, in the language of the Supreme Court. Functional equivalent is, of course, an undefined term as yet, but the plurality opinion gave a couple of examples and one of them I think is highly significant. It mentioned search of an automobile at a fixed checkpoint on a road leading from the border.

There is also some question about whether this functional equipment could also be a temporary checkpoint. My reading of all the opinions is that at least a majority of the judges felt that even a temporary checkpoint would be enough as long as the officers were not roving around. The only thing decided—

Mr. EILBERG. So you intend to continue your temporary checkpoints?

Mr. GORDON. As of now, we do, and of course the Department of Justice is working on implementation of that decision.

Moreover, *Almeida-Sanchez* does not impair our authority to search an automobile when there is probable cause for a search, in my reading of the decision. I think this is very strongly indicated. Justice Powell would not endorse a search without warrant. But I believe a majority of the Justices would approve search of an automobile for illegal aliens if the officers have probable cause for a search, if the automobile or its occupants are acting suspiciously, or if the officers have information to indicate that this may be an automobile that has sneaked across the border and so forth. Where such probable cause exists, I think the officers can stop the automobile and search it for aliens without a warrant.

That conclusion is indicated, in my opinion, very strongly, in addition to the case itself, by the action of the Court the Monday after the decision in *Almeida-Sanchez* in denying certiorari in two cases where officers without a warrant had stopped an automobile on the basis of what was found to be probable cause and had uncovered evidence of another crime. The conviction was upheld by the courts of appeal. Certiorari was denied without any explanation by the Supreme Court.

So, in my opinion, the majority of the Court would uphold a search without a warrant based on probable cause, and moreover, even if it is necessary to get a warrant, the majority of the Court has endorsed this concept of an area search warrant in an area where there is strong suspicion that aliens are being smuggled in, like a back road near the border. That procedure is also being worked out by the Department of Justice.

We do not anticipate too much difficulty. As a matter of fact, we think it is quite possible that this decision might be helpful in the long run. It might conceivably lead to other types of search warrants in situations where we have felt we had no authority to obtain such warrants.

Mr. WIGGINS. I have a couple of questions about *Almeida-Sanchez*, in the context of southern California.

I think you have accurately stated the holding; no question about that.

My concern is about the propriety, now, of the temporary checkpoints which are frequently established in southern California either on I-95, or U.S. Highway 395 leading north from the border. My concern is that these arterial roads lead from a permanent fixed checkpoint.

Do you think that fact is significant?

Mr. GORDON. Well, in relation to interrogation or search, the decision has to be made.

Mr. WIGGINS. I think you can interrogate the man—

Mr. GORDON. Any place.

Mr. WIGGINS. In Portland, Oreg.

Mr. GORDON. Yes. If there is some reasonable basis.

Mr. WIGGINS. Yes, that is right.

Now, I am talking about a search.

Mr. GORDON. There wouldn't be too much question, in my opinion, if it is a road leading from the border, particularly if it is close to the border. The Court specifically said the officers can question at such a checkpoint at least if it is at a road junction.

Mr. WIGGINS. Well, the opinion described it as a functional checkpoint.

Mr. GORDON. And then they said a junction point of roads leading from the border. So, I think that is quite clear. Now, if we get a little further from the border, there may be more problems.

Mr. WIGGINS. Well, I do not regard the problem as one of distance from the border. The Court was stating a practical rule when they said there are many places in the interior which must be the functional equivalent of a port of entry, and they cited St. Louis, for example. But when you start talking about a road leading out of St. Louis, that is another matter. Now, down in San Ysidro you have a fixed point of entry where you have the right, without question, to search individual vehicles.

But, if the vehicle passes through that checkpoint, now, do you carry that functional concept to some interior point which is customary, at least in terms of your temporary checkpoints?

Mr. GORDON. I think it is quite clear from all the opinions, except Justice Powell's, that the Service has authority to search vehicles at interior points leading from the border. How far that goes I cannot say. We will have to spell it out.

Mr. WIGGINS. You say, without probable cause.

Mr. GORDON. Without probable cause, if they are the functional equivalent, and this might include roads leading from the border which are an access for illegal entry.

Mr. WIGGINS. All right. Now, that is a little vague in my mind.

Mr. GORDON. It is vague in the opinions, no doubt about that.

Mr. WIGGINS. Now, I am not so sure I understand the mechanics of an area warrant, such as Justice Powell—

Mr. GORDON. I was just going to discuss that.

Mr. WIGGINS. What does the warrant prescribe?

Mr. GORDON. I think—

Mr. WIGGINS. You do not search an area. You search vehicles, don't you?

Mr. GORDON. Anything in the area. Justice Powell has stated in his opinion, I believe you will recall, that if the officers went to the magistrate with the information that they urged to justify their search of this automobile in *Almeida-Sanchez*, and told them their suspicions because this was an interior road where it was a common route for illegal entry, that would be probable cause for the issuance of a warrant to search automobiles coming along that road for a limited period. Justice Powell suggested trying it out for a limited period to see what the experience is. If, on the basis of the experience the officers think it should be continued, they could go back to the magistrate.

Mr. WIGGINS. Do you think the magistrate would sign a warrant which described the limited area and authorized the search of all the motor vehicles within that area for a period of 5 days if occupied by, apparently, a Mexican?

Mr. GORDON. We are going to have to find that out. We are working out the procedures.

Mr. EILBERG. Mr. Marks, I believe, has something to say on the New York situation.

I am anxious to give our colleagues an opportunity to go into this.

Mr. WIGGINS. Thank you for your courtesy.

Mr. EILBERG. And it occurs to me that if you wish, you certainly can continue after I leave. There were other questions that I did want to ask but I would like to take this opportunity to hear from Mr. Marks for a while and give Ms. Holtzman an opportunity to ask some questions.

Ms. HOLTZMAN. Mr. Chairman, I would be very happy to ask questions afterward.

Mr. EILBERG. I am suggesting that if the need arises you can continue the meeting certainly, and we have a little more material here that we are not using to keep it short.

Mr. Marks, I believe that you had something to add.

Mr. MARKS. Yes, thank you.

As the subcommittee knows, the problem of illegal aliens in the New York City area is a particularly serious one. How serious, I think, can be gleaned from some of the following: A Staten Island newspaper, for example, said there were 350,000 illegal aliens in New York City, and when they talk about the metropolitan area they escalated that figure to 1 million.

A Congressman recently wrote that there are at least 200,000 illegal Dominican Republic nationals living in the city of New York. A lawyer at one of our monthly meetings who represents the Haitian community indicated that he was told by his clients that there are at least 100,000 Haitians illegally in the city of New York.

A New York City councilman is quoted in the same Staten Island newspaper as saying that there are 50,000 illegal students in the New York City school system and that each of those students costs the city taxpayers \$1,200 a year, representing a tax burden of \$60 million. One of the hard facts that we have, during the January 1973 alien address reporting period, 702,935 aliens were registered. Of this num-

ber, 631,563 indicated they were permanent residents. The balance of 71,372 indicated that they were other than permanent residents.

When we look at our apprehension figures for the period January to July 1962, we located only 575 aliens. Ten years later, during January to July 1972, we located 3,369 aliens or a percentage increase of 486. During the calendar year 1972 we located 15,521 aliens and this past 6-month period, from January to June of 1973, we located 10,852 aliens, or a projected increase in the year of 70 percent.

When I testified before this subcommittee in February of 1972, I told the committee that we were in daily receipt of 175 leads and complaints as to aliens illegally in the country. That figure is now up to 300 daily. We have begun to card the complaints that illegal aliens are employed in factories, and this year we have established over 900 such cards or leads—900 factories employing illegal aliens.

Our manpower shortages are severe. For example, when I testified last March we said we had 73 men engaged in this area control operation. That number, unfortunately, has dwindled to 44 by reasons of retirements, transfers, promotions, and things of that sort.

Mr. EILBERG. Area control operations?

Mr. MARKS. Area control, the men who were assigned especially to apprehend and locate illegal aliens.

Mr. EILBERG. You are not referring specifically to the sweep-type operations?

Mr. MARKS. No, I am not. But these would be the same men engaged in the sweep-type operations.

Manpower shortages compel us to work the most productive leads and to utilize the techniques which we believe would yield the greatest productivity. The technique we devised was to use not only the factory operations which we have performed for a number of years, but we embarked on the streets or subway operation which I think has caused all the fuss and controversy.

Let me go into how the factory checks are accomplished. We have a specific complaint, and generally it is a union that complains, or the citizen who is being stripped of his job by reason of illegal alien employment. Having received this complaint our supervisory personnel will then reconnoiter the area. They will determine what the factory looks like. They will arrange a meeting with the employer.

We find that in the New York area, unlike in Los Angeles, the employers are generally cooperative. However, they raise certain tangible objections to the kinds of operation that we perform. For example, they say it results in serious disruption of their production, and in certain types of industry, like plastics, for example, if you interrupt their schedule for a half hour, you might set them back with a serious financial loss.

They do not want to be cast in the role of informants. It is a bad situation for them in their relations with their employees. There is a question of personal injury. And in some of these factories, when the word is out that immigration people are on the scene, the employees begin to run. There is machinery in the plant, and there is real and serious danger of injury. The employers claim that their insurance contracts preclude allowing strangers in the plant.

So, these are the things that we have to take into consideration, as to how we are going to mount this drive.

We are also selective. With the employer's consent it is possible to peruse his employment records and determine from the social security numbers that certain aliens are likely to be illegal here by reason of the recentness of its issue, and the age of the individual. The employer is asked, when it is deemed appropriate, to present these people for interrogation. They get out in the plant and call all these people to appear in the front office, and our men will examine them and determine whether or not they are illegally here.

We have found this is getting to be less and less productive because the alien is becoming more and more aware of this practice, and so when the word goes out that three or four people are wanted in the front office, generally most of the people in the factory are aware that these are the three or four people who are unlawfully here, and so they begin to run. They might secrete themselves in various places, run to other floors and so on.

From this we gradually evolved the idea of having these people intercepted before entering the plant. We have the complaint that certain persons are illegally here. The complaint generally indicates the nationality of the aliens, and so our men arrive early in the morning and station themselves in front of the plant. The employer is aware of this; he raises no objection generally—and the people are approached as they enter.

Mr. EILBERG. Now, would you say that your methods of inquiry or interrogation and apprehension are similar to those which have been described for the Los Angeles area? Are there any differences?

Mr. MARKS. I think there is some difference. First, I do not think we have people of the same ethnic background as they have in Los Angeles. I suspect there it is predominantly Mexican aliens. We have a sampling of almost every foreign nationality, both Western Hemisphere and Eastern Hemisphere.

Mr. EILBERG. What are your criteria for stopping an individual?

Mr. MARKS. I have not performed this role myself, but having observed it on occasion and talking very carefully with a selected group of men engaged in this project, I have been given a kind of profile of these people. For example, some of our men will observe the shoes these people are wearing, and these shoes are peculiar and unique in that they are generally cheap shoes that have been fabricated in institutions, like prisons. The cut of their clothing, oftentimes it is skimpily fitted; the lapels are quite different from the general run of our American styles, or people that we would ordinarily encounter. Oddly enough, there is one group that carries a brown paper bag in going to work, and that sometimes, together with other factors, leads to stopping and interrogation. Many of them might be wearing ponchos draped over their shoulders.

Mr. EILBERG. They stand out from the normal.

Mr. MARKS. They stand out from the normal pattern. And, of course, there is the language which is different. And then, as is indicated here, some individuals observing this operation would break and run, which is a ground of suspicion.

So, taking all of these factors together and then intuitively, score a rather high average in the persons that they intercept and talk to. It is their considered opinion that they are correct in virtually 90 percent of the people encountered.

Now, I stood and observed this operation and there might be hundreds of people passing along the street entering the subway who are never even touched or approached, but perhaps 1 in 10 might be singled out for inquiry.

Mr. EILBERG. Well, now, why is there such a fuss raised?

Mr. MARKS. I am not sure that the aliens, or the persons encountered, are raising the fuss, Mr. Chairman. I think the fuss is being raised essentially by the organized groups who see this as an invasion of civil liberties. They are well intentioned people; I think they are honest about it.

Mr. EILBERG. Such an organized group as what?

Mr. MARKS. Beg pardon?

Mr. EILBERG. What organized groups?

Mr. MARKS. The immigration and nationality lawyers, for example, they are responsible people. The American Civil Liberties Union. But there are some of the other groups whose motives I suspect.

There is one group in particular that is in the forefront of this, and is on the Attorney General's proscribed list.

Mr. EILBERG. Now, after any one of these sweeps, do you personally review the results of the sweeps? Do you have occasion to talk to people that have been out on the sweeps? What is your role in these operations?

Mr. MARKS. I do want to assure you that before any of these sweeps are undertaken, it must receive my personal approval; and I inquire into the manner in which it is to be conducted, the basis for the sweep, and unless I am satisfied the sweep does not take place.

Ms. HOLTZMAN. I just wanted to ask one question.

It is my information, and perhaps I am not correct in this, that the immigration committee of the bar association of the city of New York is also not in agreement with those procedures.

Mr. MARKS. Yes. I addressed that group, and I think if you read the minutes of that meeting you will find that they said that Mr. Marks gave a frank discussion of the proceedings, and they wound up researching the entire operation and they indicated that while the law was on our side, they would hope that we would conform with our usual humanitarian precepts and desist from this operation.

[A brief recess was taken.]

Mr. GORDON. Can I interject one point?

Mr. EILBERG. Certainly.

Mr. GORDON. You probably are aware, but if you are not, there is also a lawsuit in New York which challenges our practice, similar to the one in Los Angeles, sponsored primarily by the American Civil Liberties Union and other groups. The name of that, and I will give that for the record, is Marquez against Marks, and the number, in the Southern District of New York, is 73 Civil 1078, also pending. Both suits are pending at the same time.

Mr. EILBERG. What is the basis of the claims?

Mr. GORDON. Claims of illegality on the part of our Service and its officers in conducting these operations.

Mr. EILBERG. By what individuals?

Mr. GORDON. The American Civil Liberties Union and other groups, and some specific individuals.

Mr. EILBERG. And what issues do they raise in these two cases?

Mr. GORDON. The question of whether we are exercising legal authority, violating constitutional rights, and individual violations of different kinds.

Mr. EILBERG. Mr. Marks, would you like to continue?

Mr. MARKS. Yes, thank you.

I might say that we have found the subway stops the most advantageous and were least disruptive of normal living patterns. For example, where we have complaints that, in this multiple dwelling or apartment house, a great number of Ecuadorians or Colombians are residing, and we attempt to elicit information from the tenants by knocking on doors, and not gaining access—these people have a perfect right to bar us from admission—and then identifying yourself as an immigration officer, this immediately bars the door to us and sounds the alert to all the persons living in that apartment.

So it was our feeling, then, by making the subway stops and having our people dressed in soft clothing so that they mix with the general population, and they do it bright and early in the morning, about 7 a.m. to about 8:30 a.m., for simply an hour and a half, and in a very low key way so that most of the citizenry in the neighborhood is hardly aware that this operation is taking place. Should there be an individual who feels he is being hassled and simply refuses to submit to interrogation, the instructions to our investigators are simply to let him go because there are so many others coming along there is no sense hassling with this individual.

Mr. EILBERG. So you are saying that you do not argue or your inspector does not argue with such individuals?

Mr. MARKS. That is exactly right. The only time there will be a protracted interrogation is after some admissions have been made, and our people then are certain that they are on the right track. There would be what we call a "wetting down process." Now, most of these encounters are of 30 seconds, 1 minute, 2 minutes at most, where the individual is shown an identification badge and asked, of what country is he a citizen. If he says "Colombia," they say, "May I see your identification card?" He then exhibits an I-151 which is evidence of lawful admission or he shows an I-94 which is evidence of his having been temporarily admitted, and then he readily concedes that he is here unlawfully and he is then taken into custody at that point.

Now, generally, in most of these cases they are given hearings unlike in the Los Angeles situation. They are brought to 20 West Broadway where they are processed, and released generally under minimum bond. If they are detained, we have six telephones on our walls in the detention section where they have access to their friends and relatives and employers, or lawyers if they like.

We are under a mandate to notify the consuls of their countries that they have been arrested. We allow them to receive incoming calls; there are certain telephones that have been set aside for them to receive calls. And, if they feel they must have a lawyer, they are referred to the Legal Aid Society if they are indigent and unable to afford one.

Now, during the year 1972 we conducted 24 subway and factory checks. Fourteen were at the subway; four were located in Manhattan, eight in Queens and two in Brooklyn. Ten were conducted at factories

and some restaurants, and these were in various locations like Stony Point, Long Island, Hempstead, Tarrytown, and Westchester, Fifth Avenue, New York City, Central Valley and Chinatown restaurants on three occasions.

The last three subway stop operations yielded a total of 196 aliens. On October 25, 1972, 34 were located. On December 4, 1972, 102 were located, and on December 12, 1972, 60 were located.

Mr. EILBERG. How many mistakes do you make in terms of picking up citizens or permanent resident aliens?

Mr. MARKS. I would like to say we never make a mistake with respect to picking up citizens of the United States, and in my memory I do not recall a single one.

I do know that there are some people who have tried to con us into believing that they are aliens when they are in fact citizens. I remember very vividly a little girl, at the height of the Beatle craze, who pretended that she was a native of England and sought to be deported to England. [Laughter.]

Of course, it is not so simple for us to deport people, because we must obtain documentation showing that they are citizens of a foreign country that is willing to accept them, and in this case it was impossible to do so, so she was turned loose. And generally, our people are wary of that. They understand that this subterfuge is possible, and they have enough expertise and experience to discern the true facts.

As far as detaining lawful permanent resident aliens, there have been some. But this is because the alien does not have in his possession an alien registration receipt card. He alleges that he is a lawful permanent resident, and our men get on the radio, check it, have a file check made, and if the alien is legally here he is immediately released. Sometimes he presents a document that looks counterfeit, it is multilated, it looks like a photograph has been substituted, or the typing seems to be tampered with. In that event, they will also check on the radio or because they cannot raise anyone, they will bring him into the office, check the file, and then release him.

Mr. EILBERG. I ask again, how do you account for the enormous publicity this kind of operation has been receiving when all that you are saying would indicate this is a perfectly legal and regular activity?

Mr. MARKS. Sir, I am sure the record will show that we have not received complaints from individuals who feel that this is a harassing tactic. I personally would receive every single complaint directed to the New York office. I have not seen those.

The only complaints I have seen are with respect to the organizational kinds of things, and I have mentioned those.

Mr. GREENE. I might interject there, Mr. Chairman, we had a meeting with—Mr. Marks was there, and most of the organizations in New York including the ACLU came to the office and presented their objections to us, at least 9 months ago, and pointblank asked me directly to stop them, and I refused to do it.

I thought what we were doing was legal and proper and until it is decided by the courts that it is not, I intend to continue to do so.

Mr. Marks was there and gave the description he has given now, and I think he satisfied those present that what he was doing was well within the scope of the law.

Mr. EILBERG. What is the status of these cases in New York?

Mr. GORDON. They are still pending. There have been depositions, but no decisions by the courts.

Mr. EILBERG. Have any briefs been filed?

Mr. GORDON. Oh, yes, it is well along. It has been quite a few months that these cases have been pending.

Mr. EILBERG. Are they completing the briefs?

Mr. GORDON. Yes, I think there may be a decision coming soon, but I cannot tell you exactly how far the court has gone. It has been going on for some time.

Mr. EILBERG. Would you assist us, Mr. Gordon, in getting copies?

Mr. GORDON. The exact status?

Mr. EILBERG. The pleadings and the briefs in those cases.

Mr. GORDON. Of course.

Mr. EILBERG. There are continuing efforts on the part of some of the New York Members to halt these operations. I wish they could all be in the room here asking questions.

Mr. GORDON. Would you like the pleadings and the brief in the California case? I would be glad to furnish those, too.

Mr. EILBERG. Yes, we would like to receive them also. As a matter of fact, after I leave and Ms. Holtzman asks some questions, we may review the situation further and write you, Mr. Greene.

Mr. GREENE. Please, make any inquiries.

Mr. EILBERG. And try to clarify this further. It is very difficult when pressures are put upon our colleagues by their constituents for them to answer if the facts are not fully disclosed.

Mr. GREENE. I think it is a procedure that should be well developed and well thought out and explored, to make sure we are doing what is provided in the statute and doing it properly.

Mr. EILBERG. Mr. Marks, do you wish to continue?

Mr. MARKS. Yes. If the committee prefers, I can make part of the record the letter of the Attorney General.

Mr. EILBERG. I did not hear the question. I am sorry.

Mr. MARKS. If the committee would like, I could make part of the record a letter from the Attorney General addressed to Mr. Rosen, who is the president of the Association of Immigration and Nationality Lawyers, bearing on this specific subject.

Mr. EILBERG. Justifying or explaining the process that you have been using?

Mr. MARKS. Yes, in which he sanctions and approves the process.

Mr. EILBERG. We would like to have that.

When you said you were 90 percent successful before, do you mean that of every 10 people you interrogate, that 9 turn out to be illegal aliens?

Mr. MARKS. That is correct.

Mr. EILBERG. And then you do nothing with the tenth one.

Mr. MARKS. That is correct.

Mr. EILBERG. We would like to have a copy of that letter.

Do you have anything else, Mr. Marks, that might be of special concern?

Mr. MARKS. Well, I think that concludes my observations, and I would be glad to respond to any questions.

[The correspondence between the Attorney General and Mr. Rosen and a memorandum submitted to Central Office of INS from the New York District Office follows:]

ASSOCIATION OF IMMIGRATION AND NATIONALITY LAWYERS,  
New York, N.Y., January 9, 1973.

HON. RICHARD G. KLEINDIENST,  
Attorney General of the United States,  
Department of Justice, Washington, D.C.

DEAR SIR: Inscribed at the base of the Statue of Liberty, the words of Emma Lazarus proclaim to the world—"Give me your tired, your poor, your huddled masses yearning to breathe free. Send these the tempest tossed to me. I lift my torch beyond the sea."

This Association, dedicated to the fair administration of our immigration laws, firmly believes that these stirring words best describe the immigration philosophy of the United States as a "Nation of Immigrants."

We regret that recent practices of the Immigration and Naturalization Service have given us serious cause to doubt that our Government also subscribes to the philosophy set forth by Miss Lazarus.

In its zeal to enforce the immigration laws, the Service has authorized investigative procedures which substantially invade the civil rights of many persons, citizens and aliens alike.

In recent weeks, in the city of New York and elsewhere, teams of Immigration and Naturalization Service investigators have stationed themselves on public streets, and have stopped, searched, questioned, and sometimes arrested persons indiscriminately and at random. Those stopped have usually been black persons or persons who by dress or speech have appeared to have foreign ethnic characteristics.

Many United States citizens and lawful resident aliens have been subjected to these indignities.

We recognize that 8 USC 1357 authorizes an officer or employee of the Service to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States, but we seriously question that Congress ever intended wanton and indiscriminate investigations reminiscent of the infamous Palmer raids or of the tactics employed by the "police" of other nations less dedicated to respect of human dignity. Furthermore we have reason to believe that no reasonable basis exists for the interrogations.

On December 18th, 1972, representatives of this Association, accompanied by representatives of the American Civil Liberties Union, the Association of the Bar of the City of New York and the New York County Lawyers Association, met with ranking officials of the Immigration and Naturalization Service in Washington, D.C. We were informed that the investigative practices of which we complained will continue, unless and until a court order otherwise directs. We are deeply concerned with the public image that such practices create. Thirty years ago, on the streets of Germany, people were questioned indiscriminately about their religion, and six million died in the gas chambers. Fifty two years ago, thousands of American citizens and lawful resident aliens, were arrested and deported in the infamous Palmer raids. Thomas Jefferson once warned—"The alien has been selected as the safest subject for a first experiment, the citizen will soon follow."

Has history not taught us more?

We vigorously protest the actions of the Immigration and Naturalization Service, and urge you to intervene.

LEON ROSEN, *President.*

OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., February 5, 1973.

LEON ROSEN,  
*President, Association of Immigration and Nationality Lawyers,*  
New York, N.Y.

DEAR MR. ROSEN: I have received and considered your letter of January 9, 1973 protesting certain practices of the Immigration and Naturalization Service.

Since I too am concerned about the civil rights of individuals, I appreciate your bringing this matter to my attention. Upon receipt of your letter, I reviewed the questioned activities of the Service.

My review has convinced me, however, that the Service is scrupulous in protecting the rights of the persons with whom it deals. In performing their duties Service investigators are merely exercising their statutory authority to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States. Such interrogations are not conducted indiscriminately or at random. They have been initiated only in response to specific complaints.

I have paid particular attention to the actions of the employees in the New York district office of the Service inasmuch as you and several other members of the Association of Immigration and Nationality Lawyers practice there. Mr. Solomon Marks, District Director in New York, has been keenly aware of the sensitive nature of the activities of his office and has personally supervised some of those with which you found fault. Mr. Marks has constantly emphasized to his subordinates the urgent need to avoid any arbitrary, unreasonable or discriminatory actions. Under no circumstances has physical force or harassment been used.

I have been assured that Mr. Marks fully understands your concern and that he will personally continue to exert every effort to assure a fair, reasonable and nondiscriminatory performance by his investigators.

Sincerely,

RICHARD G. KLEINDIENST,  
*Attorney General.*

MEMORANDUM—NYC 50/11, JANUARY 16, 1973

This memorandum will concern itself with two types of mass apprehensions:

1. Subway Apprehension Program.
2. Street Apprehension Program in Industrial Areas.

Origin of Complaints:

1. New York City Police Department.
2. Complaints by civic association.
3. Complaints by United States citizens or lawful permanent residents by letter or telephonically.
4. Complaints by labor unions.

The Subway Apprehension Program commenced in September 1972. It was initiated upon a complaint by the Newtown Civic Association Inc. which covers an area in Queens encompassing Elmhurst, Woodside, Jackson Heights, etc. This Association alleged that their neighborhoods were inundated with aliens who were directly responsible for muggings, house and apartment burglaries, purse snatchings, shoplifting, violating housing regulations and generally deteriorating the area. Similar complaints also reached us via the New York City Police Precinct responsible for policing the area. A survey of the area disclosed that the neighborhoods consisted primarily of multiple dwelling apartments and one and two family homes. We had received a number of individual complaints concerning similar matters in the past and Area Control operations had checked out specific addresses and made a minimum number of apprehensions in these neighborhoods. In checking the complaints they found that aliens residing in the large residential buildings refused to open doors or to submit to interviews with investigators. In addition to failing to gain admittance to particular apartments, which were the subject of complaints, we also found that there would be a telephonic alert from alien to alien advising that there were immigration officers in the building. This caused an immediate dispersal of the building's population. These buildings were found to have 80 to 200 apartments and it was difficult to conduct ACIS operations because of the confined areas and the disturbances which would ensue when the word was passed.

As complaints continued to pour in, it was decided to encounter suspected illegal aliens on their way to work, preferably at subway and elevated station locations. These subway areas are in the immediate vicinity of the apartment houses being complained about.

PLANNING AND PREPARATION

*Subway areas:*

1. The site for a subway apprehension was determined by our intelligence leads received from local residents and the civic association.
2. Local reconnaissance was engaged in by group supervisors from the ACIS Unit to determine the best time and locale for the subway operation.

3. Contact was had with the 110th Precinct, NYC Police Department, to advise them of our proposed operation and to obtain their cooperation as a temporary holding area for any illegal aliens encountered on the site.
4. Additional meetings were held with officers of the civic association which furnished detailed maps of the area.

*Street apprehensions preparation in industrial areas:*

1. Leads reached us from citizens and legal residents who complained about being displaced from their jobs.
2. Information received from labor unions complaining that employers were using illegal alien labor and were engaging in "union busting" tactics.
3. Personal surveys conducted by ACIS supervisors who attempted to elicit cooperation from the employers.
4. Reconnaissance by ACIS supervisors as to the size and nature of the industrial establishment, the feasibility and opportunity to speak to aliens suspected of being illegally in the United States.
5. Reconnaissance by the ACIS supervisors of the street areas bordering the industrial establishment permitting access and egress from the industrial establishment.

METHOD OF OPERATION

*Subways*

Because of the large number of persons encountered at the subway locations, the method of encounter was found to vary from one investigator to another. In most instances, because of the necessity to act quickly, (where the person was suspected of being an illegal alien), the officer would present his credentials and ask the person for documents evidencing his right to be in the United States. If time was not the immediate factor, the officer would make an attempt to overhear or engage the subject in conversation to determine speech patterns in order to make a judgment concerning alienage. In every instance, identification of the officer by use of his credentials would be made.

MANNER OF DRESS

The dress of an individual plays an important part in choosing to approach an individual and interrogate him. Experience has shown that persons from Latin and South American countries generally will retain their habit of wearing their clothing in a style that they were accustomed to in their native countries. Some may be wearing serapes. Others will be dressed in foreign-cut clothing, which is immediately distinguishable. Generally, their garb will be the type that is not associated with persons who have been residents in the New York area for sufficiently long periods of time. Another sign will be the fact that these persons, in addition to their dress, will also be carrying their lunch in brown paper bags. The combination thereof generally creates a suspicion in the officer's mind that this is a person who should be interrogated concerning his immigration status.

DEMEANOR

Experience has also shown that some individuals upon observing a Service officer (easily distinguishable at these locations) will generally break and run. A short pursuit and apprehension of this individual will immediately disclose that he was running to avoid confrontation by a Service officer.

No ACIS operation at a subway location exceeds one to one and one-half hours. It is conducted at the busiest hour when people are heading for work, which is generally between 7:00 A.M. and 8:30 A.M.

As stated, the aliens are selected from the groups as a result of the officer's experience and intuitiveness. A minimum of disturbance or interference with the public is had. Questionable encounters are almost always resolved in favor of the individual rather than to create a scene. Where the officer is thoroughly convinced by questioning that the individual is illegally in the United States and is seeking to avoid being found out, the officer will request the individual to step to one side, away from the subway area, so that further interrogation may ensue.

As a result of a census of ACIS supervisors who have years of experience in this field, it is estimated that out of every ten persons spoken to, nine were found to be illegally in the United States and the tenth person was either a legal resident or a citizen who was quickly released to continue his journey.

On December 5, 1972, when one hundred and two persons were apprehended at various subway locations in Queens (Jackson Heights), the operation was personally observed by the District Director, Assistant District Director for Investigations and the GS-13 immediately responsible for the operation.

On this occasion, and considering the large number of persons encountered, there were no scenes, disturbances, or any unusual incidents. It was agreed that the efficiency of the operation resulted not only from the Service officer's experience but from the professional demeanor employed in handling the public.

Between September 1972 and December 31, 1972, ACIS conducted at least fourteen subway operations in the various boroughs of New York City. Four were conducted in Manhattan; eight were conducted in Queens (Elmhurst, Jackson Heights and Astoria) and two in Brooklyn.

#### METHODS OF OPERATION

##### *Street or factory ACIS programs in industrial areas*

Intelligence leads and reconnaissance affecting industrial establishments have been described above.

Where feasible, an ACIS group supervisor will first endeavor to obtain cooperation from an employer or personnel manager for an on-the-site interrogation of suspected illegal aliens. Where such cooperation is denied for a number of reasons shown below, we have been compelled to conduct ACIS operations on the streets bordering the industrial establishments.

Cooperation has been denied on many occasions where the employer refuses to disturb his assembly-line operations because of a loss of income or for fear that if some of his employees are removed for being illegally in the United States, his plant must shut down for a day or two. In some instances they have offered the excuse that fire laws or insurance regulations prohibit any direct encounter with employees on the factory floor. In other instances, the employers refuse to become a party to having immigration agents on their premises, thereby giving employees the impression that they are cooperating. In other instances, employers deny permission because they are fearful of union reprisals. In some cases, and particularly because of the size of the plant, direct encounters within the establishment has resulted in a dispersal throughout the plant, making it difficult for the employer to assemble persons for an examination and interrogation. Word spreads quickly through a large plant when immigration officers are present and there are many avenues employed for eluding the Service officer, such as storerooms, freight elevators, concealed recesses, etc.

In the initial reconnaissance stages, the ACIS group supervisor must make an assessment whether it is feasible to operate in a plant or it may be more productive to operate on the streets surrounding the plant.

The New York District Office has conducted many of these street apprehension programs in industrial areas and they have been found to be very productive. We have conducted this type of operation in this area for many years because of the successful results achieved therefrom. As indicated above, our leads come from union officials, citizens or lawful resident aliens who complain about being displaced from their jobs by illegal aliens who are content to accept lower wages as well as menial tasks.

In both types of operations, subway and street encounters, no physical abuse is employed or exercised at any time, nor have any complaints to this effect been received by this office.

In both of these types of operations, we have no knowledge of complaints from citizens or legal resident aliens that they were falsely arrested or restrained from their liberty. There have been occasions where, in the absence of an I-151, a legal resident alien has been brought to this office and immediately released after it is ascertained that he is in lawful status. In most cases where a card may have the appearance of being counterfeit, altered or mutilated, a radio or telephonic check is made with the office in order to ascertain the individual's immigration status. As soon as his lawful status is established, the individual is released to continue his way.

[Discussion of individual cases contained in remainder of memorandum is deleted.]

BEN LAMBERT,  
Assistant District Director for Investigations,  
New York District.

Mr. EILBERG. I think Ms. Holtzman has a few questions.

If it is agreeable, you go ahead and I will be leaving in a few moments.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

I do thank Mr. Marks for his testimony here today and also for his cooperativeness and frankness with me on prior occasions in discussing this matter. He has been extremely helpful in explaining the situation in New York.

The question I have has to go to the facts surrounding the interrogation itself. Is it your practice in New York that before people are interrogated at a subway stop, or someplace on the street in connection with one of these sweep operations, that the immigration officer in all circumstances shows his badge or identification prior to the inquiry?

Mr. MARKS. Ms. Holtzman, there are two methods employed and it varies with the individual and it varies with the circumstances. In the operation that I observed, which was in October of 1972 in which we picked up 102 people, there was scarcely time for our men to do other than to identify themselves by showing their badge and saying, of what country are you a citizen. Having determined from the alien's own mouth that he is a foreign national, they then develop it.

The other type of approach is to walk up to an individual who you have some reasonable suspicion might be an alien, then ask him for the direction to the subway or the time in an effort to get him to commit himself by speaking, thereby determining that he uses a foreign language or broken English. That would be a basis for continuing the interrogation a little bit further.

Ms. HOLTZMAN. So, in those circumstances, in the latter instance, the immigration officer would not identify himself?

Mr. MARKS. He would, as soon as he has determined that the person is an alien, and he is subjecting him to further inquiry. He would then identify himself and show his badge.

Ms. HOLTZMAN. Did you receive a copy of the guidelines that the Acting Commissioner sent pertaining to these sweep operations?

Mr. MARKS. I am not sure I understand exactly that. I know we have had any number of handouts or material of that sort, search and frisk—we have an investigators' handbook which sets out the criteria and the general procedure.

Ms. HOLTZMAN. Have you received any specific written guidelines saying that the policy of the Service in respect to sweep operations varies with the individual and it varies with the circumstances. In so forth; have you received any such document?

Mr. MARKS. I am not sure that we have received anything specifically, but I think there are reams and reams of material on the subject, in addition to having this subject taught at every one of the training schools.

Mr. GREENE. May I come back? I do not want my colleague here to sell me short.

What I had reference to is: We have investigator handbooks, we have border patrol handbooks, we have an officers' handbook. We do

not use the term "sweep." That is something that has developed, that has sort of grown here and was referred to in the hearings before Congressman Randall. I prefer to call it an area control operation. We used to use the term "search" and we just dropped that because it refers to searching bodies rather than searching for people. The term now for the search is "area control."

But what we will give you is the basic handbook directives to investigators on how to conduct themselves in conducting an area control operation.

Ms. HOLTZMAN. OK. Whether we call it area control operation or sweep operation, the basic point is whether the Service has developed guidelines—

Mr. MARKS. Policies, right.

Ms. HOLTZMAN. Well, not really policies, but guidelines for the conduct of such operations.

Mr. GREENE. Well, the conduct in questioning people, we do not restrict it. But what Mr. Marks is doing is an accelerated part of it at the subway stops.

The rules are basic: You will only take a person into custody when you determine he is an alien, he is illegally in the country, and he will abscond. Those are basics, whether you are talking to someone on the street of Washington, California, New York, or wherever.

What is this, the officers' handbook?

Mr. MARKS. Yes.

Mr. GREENE. I would rather give you the whole package, but what I am trying to develop—this is related to two operations that you explored, but the basic rule governs all interrogations, whether it is anywhere in the country.

Ms. HOLTZMAN. But my question is directed at a very specific thing. I am sure, and I am confident—and I would be astounded to find that in fact it were not the case—that you have basic materials that you give to all immigration officers.

Mr. GREENE. We do, yes.

Ms. HOLTZMAN. Well, I was focusing on a very specific question. I asked you if the Service had developed guidelines for use by the various regional offices in conducting sweep operations, and that was my question.

Perhaps I did not state it very clearly, but—

Mr. GREENE. Perhaps I did not respond to it properly, but what I am again saying is: We have basic instructions on how they conduct themselves in on-the-street interrogations, or the interrogation of aliens anywhere.

Now, the sweep, if you wish to use the term, or area control, or accelerated area control, is basically the same. They will develop a program, which Mr. Williams alluded to here a moment ago, where the officer is brought in, and they reemphasize the type of people that you are going to run into, what you are going to do with the alien when you pick him up, et cetera. They then give them handouts on the rules that the District Director has for the city of Los Angeles with reference to people from outside, how he wants the aliens handled. But I do not have any instructions to the regions to conduct a sweep operation thusly. It stems from—

Mr. EILBERG. I was misled too—I thought you had something which had to do with temporary detention or the control of a large group of people, for instance, at a subway stop.

Mr. GREENE. No, that is developed locally. In other words, Mr. Marks has a detention facility on top of his building. It has such and such a capacity.

Mr. EILBERG. I mean if you have a technique in handling the crowd at this particular moment at your subway stops or in the hour of greatest travel.

Mr. GREENE. He has developed that to a rather refined degree. He spots the cars, and in his case he has gone to the scene and observed it and laid it out. He has worked out a rather elaborate plan of how he is going to handle the aliens that are picked up at this point. And this is a local arrangement. I am told about it, and we go over it, sometimes in more detail than the others.

With regard to the Southwest regions, the Los Angeles operation, I directed the regional commissioner to put this thing together. He asked me for permission to do it. I authorized him to do it. I said, you put it together, keeping in mind that we have had problems elsewhere and I want it done absolutely correct.

Mr. EILBERG. Ms. Holtzman, I have to leave, so would you take the Chair please and you may continue the hearing as long as you have questions for these gentlemen.

I appreciate your cooperation very much.

Ms. HOLTZMAN [presiding]. I would just like to follow up that question.

Do you review the procedures used by various regional offices in conducting these operations, sweeps or area control operations? Do you demand, for example, copies of any written regulations that are used, or written procedures that are used?

Mr. GREENE. No, ma'am. It is not to that point. Generally I know how they are going to lay it out, how they are going to do it, or how they are going to handle the help, because I have relied on the region to do it, and that is supposedly a central office policy, to implement this.

Ms. HOLTZMAN. Have you asked the regional offices that have undertaken such operations to develop written procedures or written guidelines for this kind of search operation?

Mr. GREENE. No, I have not. I have not done so for one reason, that we have not run as large an operation as we had in Los Angeles in a matter of about 3 years. Prior to that they were run about every year, and they went from one year to the next on the same basic arrangement, or plan.

Ms. HOLTZMAN. Thank you.

Mr. Marks, getting back to this matter of interrogation and stopping of people at subway stops, you say that it is conducted in two manners with respect to whether or not the officer shows his identification card. In some circumstances he would identify himself before asking any questions and in other circumstances he would not. Is that correct?

Mr. MARKS. Yes.

Ms. HOLTZMAN. And do you have any guidelines for when the officer identifies himself as opposed to when he does not?

Mr. MARKS. Well, I think generally it is a question of time. In these subway stops, when you have hordes of people approaching the subway and you want to get to as many as you possibly can, it's a flashing of a badge and asking a question.

If the men are aware they are in a neighborhood where they have a complaint that a lot of illegals reside, and they are cruising around in their car, they might get out and see some suspicious looking people, they might then approach them and use the soft approach, the indirect approach.

Ms. HOLTZMAN. So that when you are doing it more on an individual by individual basis, the immigration officer would not identify himself, but when you are doing an operation sweep with large numbers of people, you are saying in all those circumstances there is identification by the immigration officer?

Mr. MARKS. Yes.

Ms. HOLTZMAN. Have you developed—and I am not sure if I asked you this question—have you developed written guidelines or procedures for the conduct of these operations?

Mr. MARKS. I have not issued them from my office, but the branch chief in charge of investigation will set out a method of operation in virtually every aspect of his work, and then has his staff meetings; it gets down to the group supervisors and the men on the line that way.

Some of the rules that I have set out, for example that they must have a high grade supervisor accompanying these people in the field, and each group of men have an experienced supervisor in charge of them, that there will be no disruption of a business. For example, you time your searches at a time when the business would not be most disrupted.

Ms. HOLTZMAN. Let's take it at the subway stop type of operation. The immigration officer will stop what people to interrogate them? Who is he looking for?

Mr. MARKS. Well, we have a complaint, for example, that says that in the Elmhurst area there are lots of Ecuadorians and Colombians residing, or that in Brooklyn at a certain specific area there are a lot of Italians illegally here, or out in Astoria, Queens there are a lot of Greeks who generally congregate in one particular area because they are painters and the contractors come and pick them up—so, we are looking for people with specific ethnic backgrounds in many instances.

Ms. HOLTZMAN. And the immigration officer, before he goes out to one of these subway operations, is told beforehand to look for somebody who is of a specific ethnic background. What else is he told to look for, I mean, any dress characteristics?

Mr. MARKS. Well, this they pick up by virtue of their own experience and from other men who have been at this game for a long time, but we have not put out any literature, for example, saying these are the telltale marks.

Ms. HOLTZMAN. Do you brief all your officers before they go out?

Mr. MARKS. I do not personally brief them but they are briefed, absolutely.

Ms. HOLTZMAN. And they are told to look for—let's say you go out to your subway stop near Elmhurst—they would be told to look for, or to stop and interrogate people who were of Ecuadorian and Co-

lombian background or appeared to be Ecuadorian and Colombian?

Mr. MARKS. That is correct.

Ms. HOLTZMAN. And would they be briefed to look for any other characteristics of that person to stop him?

Mr. MARKS. Well, I think I indicated before that they would look for clothing, items of dress, the shoes, the cut of the clothing, language, in some instances their little paper bags. Those are the things that the more experienced people contributed to the rest of them.

Ms. HOLTZMAN. And let me ask you what your interpretation is of your authority to interrogate a person.

Let us say an immigration officer is assigned to a subway stop in Elmhurst, for example, and he sees somebody of Ecuadorian descent carrying, let's say, a brown paper bag, or a woman carrying a brown paper bag, do you think that the law permits you to detain that person, or permits the immigration officer to detain that person for interrogation on those facts?

Mr. MARKS. Not on those facts alone. I think we have to have a complaint to begin with. We have to know that there is an allegation that persons are residing illegally in that area, and then all of the other criteria that I have mentioned come into focus, the language, the dress, the fact that the neighborhood is inundated with illegal aliens, the appearance of the individual.

Ms. HOLTZMAN. Well, I gather at the subway stops your language criterion really doesn't come into play because the officer has already stopped somebody and says, I am an immigration officer, would you tell me what your citizenship is.

Mr. MARKS. Well, it does after the initial contact. That is correct.

Ms. HOLTZMAN. Right, but the initial right to stop somebody and ask that question, that is what I am getting to.

Your view is that under the law as it presently exists, the Immigration Service has a right to stop and detain someone for the purpose of interrogation if there is a complaint that there are a lot of illegal aliens in that neighborhood, and this person appears to have physical characteristics of a person from that country about which there have been complaints, and some characteristics of dress that might indicate that that person is an alien.

Is that my understanding of your view of the legal authority?

Mr. MARKS. Yes. I think Mr. Gordon has—

Mr. GORDON. May I throw something in?

Ms. HOLTZMAN. All right.

Mr. GORDON. Let's cite the statute. The statute says, the immigration officer has authority under 287(a)(1) without warrant to interrogate any person he believes to be an alien, as to his right to be in the United States.

So, there must be belief that he is an alien. There must be reasonable belief, obviously. That is the criterion. Reasonable belief that the person is an alien. And then he has the right to interrogate him as to his right to remain in the United States.

Ms. HOLTZMAN. All right. Now, Mr. Gordon, I would like to ask you how you reconcile this statement with a case called *Chung Tin Wong*.

Mr. GORDON. That is the District of Columbia case?

Ms. HOLTZMAN. As I understand it, the court said, in a summary I have before me, that the physical appearance and dress of an individual, or his speech, would not in themselves justify an interrogation.

Mr. GORDON. I don't believe the court said that. I disagree with the summary.

The court said that if the immigration officers—this is the District of Columbia, the Court of Appeals of the District of Columbia—there the person interrogated was Chinese, and the court said that if the interrogation were merely on the basis of race, that would be improper, but if it were race and other suspicious circumstances which led the officer to believe the person was an alien, that would be enough.

In that case the officers observed, from a distance, a Chinese person getting into a taxicab and having difficulty communicating with the taxicab driver. That was enough to give them a reasonable suspicion that he was an alien, and to interrogate him.

Ms. HOLTZMAN. Mr. Wiggins, shall we adjourn now?

Mr. WIGGINS. I'm curious about one question, but really that concludes my part unless you raise some more interesting questions.

Ms. HOLTZMAN. I have just a few more and perhaps you wish to ask your questions now?

Why don't you ask your questions, and then—

Mr. WIGGINS. Just one question.

If reasonable belief exists for conducting an interrogation, do you have the right to exercise or use reasonable force to detain a person for the purpose of interrogation?

Mr. GORDON. Yes. This concept is developed in *Terry v. Ohio* and a line of cases after that. The courts have developed the principle that if there is basis for interrogation there is also a basis for a brief restraint to complete or conduct the interrogation. The courts emphasize that such restraint must be brief and that it cannot be extended, so that if the officer starts interrogating somebody who starts to flee he might go after him and detain him to continue the interrogation.

The *Wong* case is one authority for that proposition, and there is another case in the District of Columbia called *Lau, L-a-u*, against the Immigration Service which was one of the first of those cases in which the court upheld the authority to restrain, exercising reasonable brief restraint to conduct the interrogation.

Mr. WIGGINS. And as a necessary adjunct to that you can exercise reasonable force to affect the restraint?

Mr. GORDON. I think it follows, because if he starts to run away and they chase him and stop him there is some force.

Ms. HOLTZMAN. Mr. Gordon, getting back to the question of how you reconcile the facts with respect to the New York situation and the *Chung Tin Wong* case. In that case you had a suspicion based on an inability to speak English.

Mr. GORDON. Right.

Ms. HOLTZMAN. In the case we have been talking about here we have simply physical appearance, dress, and the fact of a complaint that people in some areas from a certain national background are illegal aliens.

Now, it is your opinion that absent any other sign, any speech, or statement that an immigration officer has the right under these circumstances to detain for the purpose of interrogation?

Mr. GORDON. There is no detention. The first thing that happens is a question. There is no detention. If the man refuses to answer the question there is no detention. If he proceeds, as Mr. Marks said, no effort is made to stop him.

So, all that is being done is that a man addressed another one, and asks him what his name is, or other simple questions regarding his nationality and status. Now, we go further. The man responds. He cannot speak English. We have an additional factor. And then there is a reasonable basis for further inquiring and detention.

I think we have to look at the facts. We cannot say that here is a man at a subway stop, talking to another and therefore he has power or has no power. He has power if the circumstances are reasonable and give him a reasonable basis for believing him to be an alien.

Ms. HOLTZMAN. I understand.

Mr. MARKS. I think this is responsive to the Congresswoman's question, this citation from *Lau Ying* and *Lau*.

Mr. GORDON. That was the case that went to court.

Mr. WIGGINS. Yes.

Mr. GORDON. And the court upheld us on that.

Mr. MARKS. May I read this, please?

Under this statute, it would appear—that is 287(a)(1)—it would appear no independent evidence of alienage is needed to approach a person. If independent evidence is needed, it can be found in the reasonable suspicion that a person is an alien. A suspicion can be a reasonable one if no more appears than that the person approached is in an area in which illegal aliens are found.

Mr. WIGGINS. What court was that?

Mr. GORDON. He is quoting from the eminent Board of Immigration Appeals. [Laughter.]

Mr. MARKS. Which was upheld.

Mr. GORDON. And that went to court. That was the first of the cases. I happen to have argued the case, and it was upheld. And the court said specifically there that we have the right to interrogate reasonably and to detain briefly for the purpose of interrogation.

Ms. HOLTZMAN. I just had one other question.

Would you gentlemen mind remaining? I will be back in about 6 minutes.

[A brief recess was taken.]

Ms. HOLTZMAN. I would like to recommence the hearing, and I just wanted to ask Mr. Gordon again whether that last quotation that was read was from the opinion of the circuit court, or was that the opinion of the Board of Appeals?

Mr. GORDON. The one that he read, that is from the Board of Immigration Appeals.

Ms. HOLTZMAN. Well, is the court holding the same as that quote, or is the court holding a little bit narrower?

Mr. GORDON. The court holding upheld us on the authority to conduct interrogation and to have detention in connection with it, and it is substantially the same as this. I would have to compare the language.

Ms. HOLTZMAN. Would you say, Mr. Gordon, that there is any case that supports the proposition that a person can be detained for purposes of interrogation by an immigration officer simply on the fact that his or her racial or ethnic appearance appears to be that of some

group about which there have been some complaints in a given area?

Mr. GORDON. My answer to that is that the determination must be based on the circumstances. If, under the circumstances, it is reasonable to interrogate, the officer has authority. You cannot isolate specific facts; you would have to look at the entire picture.

Ms. HOLTZMAN. Well, I want to ask you a very specific point of law, and you are by far a great expert in the area of immigration law and I am still a novice in this field, so I am deferring to your expertise.

Mr. GORDON. I am still a novice too, it seems—

[Laughter.]

Mr. GORDON [continuing]. Because everything is changing all the time.

Ms. HOLTZMAN. But, I am asking you if there is any case that upholds the proposition that if you have no indication that a person speaks a foreign language or cannot speak English, but just the fact that a person's dress or appearance appears to be that of an alien or someone, let's say, from a Latin American country, and there have been complaints that some people are in an area or a subway stop from that Latin American country, is there any case that would uphold the right to stop the person and interrogate him or her under those circumstances?

Mr. GORDON. No court has said that specifically.

Ms. HOLTZMAN. Is there any court whose holding would find that to be a legal detention for the purposes of interrogation?

Mr. GORDON. Well, my answer to that is that the statute itself, supports the authority to interrogate coupled with the fact that the courts have upheld the officers under the statute. The courts have said that we have to determine whether there is a reasonable basis to make the inquiry. If there is a reasonable basis, looking at the facts, the interrogation is legal and a detention is legal.

Mr. GREENE. May I comment?

Would you not say it is probably layered; in other words, you can go to step 1—

Mr. GORDON. That is right, yes.

Mr. GREENE [continuing]. Where you can just ask a question, and then if you get a certain response then you can go on to layer 2, and that is where you start detaining, at that point, but at point 1 you could not detain.

Ms. HOLTZMAN. But, I am starting at step 1 in this; I gather—

Mr. GREENE. I would say then, you could not detain at step 1.

Mr. GORDON. No, step 1 is just asking a question, talking; and that you do not need too much for. You have to have some reasonable basis. The officer cannot stop—me and you.

Ms. HOLTZMAN. Is dress and appearance sufficient to stop somebody?

Mr. GORDON. It seems to me that is part of the picture.

Ms. HOLTZMAN. If you just had dress and appearance, is that sufficient?

Mr. GORDON. I cannot say—if, in the context of an area where there are illegal aliens, you have people with that dress and appearance, I think that would be sufficient.

Ms. HOLTZMAN. Okay, but if you did not have that latter circumstance, just dress and appearance, would that be sufficient?

Mr. GORDON. Under ordinary circumstances, I would say our officers should not stop people on the street merely because they have certain

dress or appearance. It would have to be in a context of a belief that there are illegal aliens and that this may be one of them.

Ms. HOLTZMAN. I do not want to press you on some of these questions since I guess they are being litigated in the courts, but—

Mr. GORDON. Well, all this is developing. You know, this is a relatively new area. The authority of our officers was never challenged until quite recently, and the lawyers now are jumping all over the place trying to probe for some weakness. So far they have not been successful except, maybe, in *Almeida-Sanchez*, which I do not regard as a great defeat for the authority of the officers, but they are probing all these issues.

They claim that there is racial discrimination, for example, and that was raised in the *Wong* case. It is raised in all these cases. The people on the east coast claim we are discriminating against blacks, or against Chinese. On the west coast they claim we are discriminating against the Mexicans or Latin Americans.

Our authority is constantly being challenged. So far we have been able to uphold our authority. The courts, I think, are very sympathetic, as this committee is; and they are impressed with the difficulty of the problem and the need for giving the officers some scope in performing their responsibility. Otherwise enforcement would break down; people would run rampant throughout the country if the offices did not have authority to interrogate.

Ms. HOLTZMAN. They seem to be running rampant anyway.

Mr. GORDON. Well, perhaps the people are, yes, but the officers have to try to keep up with them.

Mr. SURECK. Ms. Holtzman, I would like to make reference to at least two cases in California. One was rather unusual because the alien, a very eminent attorney of the ACLU, was stopped at a time when he wore a beard (at that time beards were very uncommon). He was stopped on that basis alone because there was a colony of White Russians living in Baja, Calif., who wore beards. That was a lengthy trial, and the district court apparently was satisfied that that was sufficient to stop him. Of course, it was at a checkpoint, which is an additional factor.

Ms. HOLTZMAN. At a border checkpoint?

Mr. SURECK. No, about 80 miles from the border.

Mr. GREENE. A border patrol checkpoint about 75 miles away.

Mr. SURECK. That was the basis of stopping him, and that satisfied the court.

We have a district court opinion in California where we stopped a vehicle on a highway because of the Mexican appearance, but also on a highway where a number of illegal entrant aliens are stopped.

Now, there is the *Saldana* case, a Tenth Circuit case, where we checked vehicles on a toll road, where the Tenth Circuit indicated that the Mexican appearance was sufficient—

Mr. GORDON. This was 800 miles from the border, incidentally.

Mr. SURECK. To stop and interrogate.

Ms. HOLTZMAN. Mr. Marks, just in connection with the authority that we are probing here for the initial stop, not for the further interrogation but for the initial stop so they can interrogate them, are you relying also in that on the proximity of New York to—

Mr. MARKS. No.

Ms. HOLTZMAN. The fact that New York is a port of entry?

Mr. MARKS. No, we are not.

Ms. HOLTZMAN. And to follow further, if somebody refuses to answer an immigration officer who flashes his badge and says, what country are you a citizen of, what happens then?

Mr. MARKS. That ends it.

Ms. HOLTZMAN. That ends it. And that person is permitted just to go ahead?

Mr. MARKS. That is correct.

Ms. HOLTZMAN. And if the person refuses to answer or in any way obstructs—I don't mean obstruct, but refuses to answer or says, I don't want to answer you, do you permit that person to go?

Mr. MARKS. That is right. Unless he breaks and runs, which is a further suspicion that perhaps he is illegally here.

Ms. HOLTZMAN. I understand. I am just saying, just that circumstance aside from any other thing giving rise to suspicious behavior?

Mr. MARKS. That is correct.

Ms. HOLTZMAN. The other question I have for Mr. Williams was, of the 11,000 persons, illegal aliens that you apprehended from May to June—

Mr. GREENE. Twenty working days.

Ms. HOLTZMAN. Were all these people apprehended as a result of these sweep operations?

Mr. WILLIAMS. Well, it was a result of the amplified area control operation that we had.

Ms. HOLTZMAN. How many illegal aliens are normally apprehended in that period of time?

Mr. WILLIAMS. Around 1,500, as a regular rule.

Ms. HOLTZMAN. I am not sure this question was asked of you. What would precisely happen when you would send your officers to a parking lot? Would they go into this parking lot and see people as they drove in, and go up to the car and either stop a person as he or she was getting out of the car, or while he or she was still in the car, or what would the person do, would your officers show any identification?

Mr. WILLIAMS. Yes, they would be required to, yes.

Ms. HOLTZMAN. Prior to the questioning?

Mr. WILLIAMS. Yes.

Ms. HOLTZMAN. And then they would say, are you a citizen, or what is your name?

Mr. WILLIAMS. Right.

Ms. HOLTZMAN. And would they order this person to get out of the car prior to questioning?

Mr. WILLIAMS. Not necessarily. They would question them in the car.

Ms. HOLTZMAN. In some circumstances would the officer say, I would like you to get out of the car so I can question you?

Mr. WILLIAMS. They might.

Ms. HOLTZMAN. Again, what characteristics were your officers looking for before they stopped somebody?

Mr. WILLIAMS. Well, in the first place, we were going to specific places where we had reports, frequent reports in fact, of the employment of illegal aliens.

Ms. HOLTZMAN. Were these mostly Mexicans?

Mr. WILLIAMS. The majority. Of course, appearance, and then again the situation of the dress and these other factors.

Ms. HOLTZMAN. Let me ask you, as a practical matter, would they stop everyone who looked to be of Mexican ancestry in that certain parking lot?

Mr. WILLIAMS. For the most part, they would have questioned practically everybody who came into that parking lot, if they had the opportunity to question. Of course, a lot of them did break and run and disappear.

Ms. HOLTZMAN. But with respect to those that drove in, did the immigration officers stop only Mexicans or did they stop everyone?

Mr. WILLIAMS. Generally they would question everybody that drove in that lot. Only, sometimes appearance is not too good a factor even in the case of a Mexican.

Ms. HOLTZMAN. I guess the only other problem that I would have is that it seems to me, since this area of law is somewhat—at least—vague, and you seem, Mr. Gordon, to concede that dress alone, appearance alone, does not in itself constitute grounds for interrogation of somebody, I would say my only comment would be some surprise that there are no written guidelines for the conduct of these sweep operations to insure that, at least under your interpretation of the law, that we are not invading the privacy of American citizens or violating constitutional procedures.

Mr. GREENE. Could I make a point, Ms. Holtzman?

When I was before Congressman Randall's Government Operations Committee he raised the question of why we had not run more of these sweep operations, the inference being they were rather successful. The reason we had not was that we didn't have the money.

But, at the time I testified, and I still stand on it, if I had had my preference I would have a sufficient force of these officers to do this on a year round basis, so there wouldn't be this peaking and disrupting the community. These officers would have the basic instructions plus the local instructions, and I think it would be a much more orderly way to do the job.

Unfortunately, we have been told time and time again about the city of Los Angeles being overrun with illegal aliens. We had a chance to do something about it. I have grave reservations whether I would ever do it again, because I think it stirs up more trouble in the community than the good of the 11,000 aliens being removed.

It would be better to set up an orderly day-in and day-out control of this thing. Mr. Williams referred to the Rodino bill, not only do I support it; I urge that we get that bill. I see no other way of controlling the illegal aliens in this country until we get a lock on the employment. If we stop these aliens from getting jobs then we can be a lot more relaxed in all situations.

Ms. HOLTZMAN. Well, at this point it is the Senate that seems to be dragging its feet.

Mr. GREENE. We have had wonderful support in the House. I have asked Mr. Rodino if he could suggest any way I could help him get this bill moving.

I hope the Labor Department would take a more realistic view of the use of temporary workers. I think the Senate is going to take a look at this—if they find that their constituents cannot get legal workers

after we have barred them from illegal work, because no domestic workers are available. Then I think they are going to be very reluctant to see this bill go through. I think we definitely need it for the good of the country.

Ms. HOLTZMAN. Well, thank you very much for your comments, and I appreciate your coming down here and your very useful testimony.

Mr. GREENE. We appreciate the opportunity.

[Whereupon, at 4:15 p.m. the hearing was recessed, subject to the call of the Chair.]

## REVIEW OF THE ADMINISTRATION OF THE IMMIGRATION AND NATIONALITY ACT

THURSDAY, SEPTEMBER 13, 1973

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION,  
CITIZENSHIP, AND INTERNATIONAL LAW  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 10:10 a.m., pursuant to notice, in room 2237, Rayburn House Office Building, Representative Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Waldie, Seiberling, and Keating.

Also present: Garner J. Cline, counsel; Arthur P. Endres, Jr., assistant counsel and Donald G. Benn, associate counsel.

Mr. EILBERG. Before we begin, I would like to recognize the Honorable Curtis W. Tarr, Dr. Tarr, Acting Deputy Undersecretary for Management of the Department of State.

Dr. Tarr, would you identify the gentlemen who are seated to your right and left?

Dr. TARR. Mr. Chairman, on my left—your right—is Mr. Recknagel, who is the Deputy Administrator of the Bureau of Security and Consular Affairs, and on my right is Mr. Diggins, who is the Director of the Visa Office.

Mr. EILBERG. Thank you, sir.

This is the second in a series of oversight hearings which will be conducted by this subcommittee to review the administration of the Immigration and Nationality Act by the Bureau of Security and Consular Affairs of the Department of State and the Immigration and Naturalization Service of the Department of Justice.

As I stated at our last hearing section 118 of the Legislative Reorganization Act of 1970 requires each standing committee of the House to review and study on a continuing basis the application and administration of those laws which fall within the subject matter jurisdiction of that committee. The Judiciary Committee, and particularly the Subcommittee on Immigration, Citizenship, and International Law, has exclusive legislative jurisdiction over all immigration and nationality matters. Consequently, today's hearings have been called in order to properly exercise the legislative oversight duties of this committee; and, in particular, we intend to ascertain the manner in which the provisions of the Immigration and Nationality Act are being administered by the Bureau of Security and Consular Affairs.

Members of this committee have visited numerous consular posts abroad and find that many offices are understaffed and most definitely overworked. As a result, consular officers are unable to properly dis-

charge their obligations under law in processing and screening applications for temporary visas to the United States. Each year the problem becomes more severe with the ever increasing number of persons who seek to visit the United States.

Some of my colleagues and myself were members of a special immigration study group which recently visited a number of consular posts in the Far East. During this trip we had extensive discussions with several consular officers with respect to the visa issuance function which they perform at their respective posts.

Based upon this and other trips abroad and also upon my 5 years of experience with this subcommittee, I believe that this function is certainly one of the most important which is performed by the Foreign Service of the United States. It sometimes appears that the State Department feels it is one of the least important within its jurisdiction. For many aliens their visa interview at an American consulate is their first actual contact with the United States—and a contact which, in many cases, leaves lasting impressions. It is, therefore, most important that this interview and consideration of their visa applications be performed in a manner which fosters goodwill and promotes friendly relations. Moreover, it is noted that the consular officer has the absolute unreviewable authority for the issuance or refusal of a visa in a particular case.

As a result of this important role played by consular officers this committee would be extremely interested in learning the grade level of, and the promotional opportunities available to, career consular officers. In this regard, we are concerned about the apparent low morale of many consular officers and, in my opinion, this stems primarily from the low priority which is placed upon visa work and consular services, in general.

Although most consular officers are hard-working and dedicated individuals, many have expressed to me their disenchantment with their duties as visa officers. One of the main reasons for this disenchantment is the fact that a large number of consular posts appear to be severely understaffed and concomitantly most consular and visa officers are greatly overworked. It appeared to me that some almost give up. Consequently, this committee is very concerned that the resources allocated for the performance of consular services are inadequate and this has seriously hindered the ability of the Bureau of Security and Consular Affairs to properly and efficiently administer the Immigration and Nationality Act.

In fact, in the vast majority of cases, because of personnel and budgetary limitations, the consular officer is only able to make a cursory and superficial examination of an application for admission to the United States. As a result, large numbers of visas are issued without the proper investigation required by our immigration law. Many consular officers indicated to me that because of the overwhelming number of visa applications, they are able to spend only 3 to 5 minutes with a particular applicant. Certainly, this is an insufficient amount of time in which to determine the subjective intent and the bona fides of an applicant. Certainly, an increase in the time allotted for interviews as well as an increase in investigatory personnel would drastically reduce the incidence of fraud.

In addition, I should emphasize that this subcommittee, as a result of a 2-year investigation, is extremely disturbed by the illegal alien problem which has engulfed this country. In order to correct this serious problem, this committee and the House of Representatives have approved H.R. 982 which would impose civil and criminal penalties on those who knowingly employ illegal aliens. In my mind, this legislation represents only a partial solution to the problem and we must attempt to go to one of the sources of the problem which is the large number of mala fide nonimmigrants who will go to almost any extent to gain admission to the United States.

This committee recognizes the need to promote and facilitate travel to the United States; but at the same time we are desirous of insuring that proper visa-screening procedures are utilized by the Department of State. We cannot ignore the fact that large numbers of nonimmigrants enter the United States with the preconceived intent of remaining here permanently by either overstaying their visas and blending in with the population or by legally attempting to adjust their status.

It is apparent that this problem could be greatly alleviated by more thorough investigations by consular officers or INS personnel who may be stationed abroad. Indeed, we cannot allow the objective of promoting international travel to take precedence over the serious illegal alien problem which presently exists in the United States.

I should now like to welcome the Honorable Curtis W. Tarr, Acting Deputy Undersecretary for Management of the Department of State.

However, before I recognize the Acting Deputy Undersecretary for Management of the Department of State perhaps Congressman Keating or any member of the subcommittee may wish to say a few words.

Mr. KEATING. Thank you, Mr. Chairman. I thank you for this opportunity.

I certainly want to welcome Dr. Tarr and recognize his distinguished service in the years past in other capacities and in his present position. I think he has been a tremendous public servant, and he is to be complimented in this regard. I certainly appreciate the fact that you brought these other gentleman with you today, and I am confident that all of us will benefit significantly from the information and insight that you will bring us concerning the operations of the Bureau of Security and Consular Affairs.

In my limited travels for the subcommittee I have gained the impression that consular officers are overworked in some posts. It has occurred to me that possibly consular work doesn't always get the attention and personnel required to do an adequate job. Perhaps the political and economic areas receive the most attention and get the best qualified officers while consular work gets the short end of the deal. I am anxious to get the facts from Dr. Tarr. Also to get his suggestions as to how we can tighten up on the visa issuance function, cut down on the incidence of fraud, and sharply reduce the high percentage of visitors and students who really intend to stay permanently when they apply for nonimmigration visas.

Mr. Chairman, I want to congratulate you as we commence these oversight hearings. This has been a responsibility too long overlooked. I believe members of this subcommittee and staff should be inspecting and investigating visa issuance at foreign posts on a regular basis. Close attention by this subcommittee will not only provide a basis for

needed changes in the law—it will also keep the Department on its toes and encourage it to do a better job. So, Mr. Chairman, I congratulate you as we begin these oversight hearings of the Department of State and the Immigration and Naturalization Service. This, from my viewpoint, represents the proper exercise of our constitutional responsibility.

Mr. EILBERG. Thank you, Mr. Keating.

Mr. Seiberling?

Mr. SEIBERLING. Well, thank you.

I would just like to welcome Dr. Tarr and his associates here. It is a real pleasure to meet you, sir, and I am looking forward to getting some insight into your problems. I might say that as a Member of the Congress—and I am sure all of the Members have had this same experience—one of the things that I get a lot of favorable comments on is when there are situations where a constituent has a problem with getting a passport in a hurry or some other similar situation with the Department of State or the Immigration Service, and he gets prompt action. We have also gotten very excellent cooperation from the security branch. People are very favorably impressed, and I think from the standpoint of the image of this country abroad with its own citizens as well as with foreigners, the efficient, properly staffed consular service must be a tremendous national asset. I think that if somehow we in the Congress can help get that idea across to the people working in the field, we can perform a service, and I would like to offer my personal cooperation, and I am sure that you will have it from the other members of this subcommittee to that end.

Thank you.

Mr. EILBERG. Dr. Tarr, before I call upon you to read your statement, I would like to say that there will be a great many questions that we would like to explore with you. I do not expect that we will be able to finish today, so would you please read your statement and then we have some prepared questions. We want to study your statement further and continue with it, hopefully, next Tuesday afternoon.

Dr. Tarr?

**TESTIMONY OF THE HONORABLE CURTIS W. TARR, ACTING DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF STATE, ACCOMPANIED BY THOMAS M. RECKNAGEL, DEPUTY ADMINISTRATOR, BUREAU OF SECURITY AND CONSULAR AFFAIRS AND JOHN R. DIGGINS, JR., DIRECTOR, VISA OFFICE**

Dr. TARR. Mr. Chairman, I welcome this opportunity to meet with you and the other members of the committee to discuss the visa operations of the Department of State and its Foreign Service posts abroad, a subject that we in the Department of State consider of the utmost importance. I might add that the Deputy Secretary is aware of this problem because I have talked with him about it numerous times in the past and he shares my concern. My colleagues and I will be happy to try to answer any questions the committee may have about our visa operations. I believe, however, that it would be useful initially to describe some aspects of these operations, particularly as they relate

to the illegal alien problem. I believe such a description may provide a better understanding of our role and our responsibilities in this matter as we see them.

Under the Immigration and Nationality Act, U.S. consular officers abroad are responsible for, among other things, the granting or refusing of both immigrant and nonimmigrant visas to aliens seeking to come to the United States. The issuance of visas is a major consular function both in terms of importance to various U.S. interests and in terms of the allocation of resources for consular functions. I might add here that I attach great importance, as the members of the committee do, to the image of the United States as presented by visa officers; when I was the Director of the Selective Service I felt the same way about our selective service local boards, who in their contact with young, 18-year-old Americans, made the first real relationship between the U.S. Government and the young Americans.

I think it is critically important that we try to impress people with the kind of Nation we are in the immediate contact that we have, both with our own citizenry and those abroad who may become citizens or hopefully friends of the United States for some time to come.

Under the law, certain quantitative and qualitative restrictions are placed upon aliens seeking to become permanent residents of the United States. There is an annual numerical limitation of 120,000 on immigration to the United States by natives of all other countries and areas of the world. The only aliens not subject to such numerical limitations are those who come within the definition of "immediate relatives" in the law—for example, the spouse or child of a U.S. citizen—and certain other narrowly defined and numerically insignificant classes of aliens—for example, returning resident aliens, ministers of religion.

An alien who does not qualify as an immediate relative nor, in the case of Eastern Hemisphere natives, come within a preference category for close relatives of U.S. citizens or permanent residents, must obtain a certification from the Department of Labor that there is a shortage of qualified workers in the United States with the skills possessed by him that his employment will not adversely affect the wages and working conditions of workers in the United States similarly employed. Therefore, the first step for a would-be immigrant is to establish his status in relation to these requirements.

Some of these determinations are made by agencies other than the Department of State. For example, the Immigration and Naturalization Service is normally responsible for determining the relationship of the applicant to a U.S. citizen or permanent resident that would entitle him to immediate relative or some preference status. The Department of Labor is responsible for determining whether there is a shortage of the applicant's skills in the United States. But, ultimately, all the documentation is submitted to a consular officer at one of our 178 foreign service posts that issue immigrant visas. It is the consular officer who must pass on the validity of most of the documentation submitted and who must determine the numerical limitation to which the alien is subject as well as whether he comes within any of the 30-odd categories of ineligibility. These cover, for example, aliens who are insane, have been convicted of crimes involving moral

turpitude, are or were members of a Communist organization, or are likely to become a public charge.

Because of the numerical limitations on both Eastern and Western Hemisphere immigration, the immigrant visa workload, in terms of numbers of immigrant visas issued, does not show wide annual variations. In recent years an average of some 300,000 immigrant visas have been issued annually. However, this figure does not accurately reflect the immigrant visa workload of our consular officers. In addition to cases in which the applicant is determined to be ineligible for an immigrant visa, many more qualified immigrants apply than there are visa numbers immediately available. For example, a Western Hemisphere applicant now faces a waiting period of almost 2 years from the date he qualifies. Although immigrant visas constitute about 10 percent of all visa issuances, because of extensive documentary and other requirements, the immigrant visa function consumes more than half of the manpower resources allocated to the visa function.

In contrast to the relatively stable immigrant visa workload, the nonimmigrant visa workload has been increasing dramatically, particularly in the last decade. In fiscal year 1963 some 800,000 nonimmigrant visas were issued to aliens to come to the United States temporarily for purposes such as business, pleasure, study, or temporary employment. In fiscal year 1973, 10 years later, this number approached 3 million, an increase of some 275 percent. As with immigrant visas, the number of nonimmigrant visas issued does not necessarily give a true picture of nonimmigrant visa workload. While nonimmigrant visa issuance was increasing 275 percent over this period, refusals of nonimmigrant visas rose some 400 percent. Indeed, more time normally is required to decide the case of the applicant ultimately determined to be ineligible for a nonimmigrant visa than that of the eligible applicant.

The nonimmigrant visa application process itself is relatively simple. The alien completes an application form and submits it, together with his valid passport and any appropriate supporting documents, to one of our 242 posts that issue nonimmigrant visas. After a name check is run, the application is submitted to the consular office for a decision. In some cases, primarily those involving applicants for visitor visas, the personal appearance requirement may be waived. But in such instances, the applicant must complete the application form which contains most of the questions that the consular officer would ask in an interview. The consular officer, after examining the application form and supporting papers, decides whether he should interview the applicant personally.

Our visa procedures are intended to insure, so far as is possible, that only those aliens who intend to come to this country temporarily, will receive a nonimmigrant visa. The problem faced by the consular officer is to determine that these are indeed the intentions of the visa applicant. This is, of course, an extremely difficult task. In considering an application for a nonimmigrant visa, the consular officer must be satisfied by the evidence presented, including the applicant's own statements, that the applicant is not someone who will need or is likely to seek employment while in this country and that he has a residence abroad to which he intends to return after completing his visit, his

studies, or whatever other purpose of his trip. The consular officer normally has only a short time to try to ascertain what is in the mind of a person he usually has never seen before. Moreover, even if the consular officer has judged correctly, the alien who applied in good faith as a visitor may later, at the urging of his relatives or friends, change his mind and decide to remain here.

The kinds of misrepresentation encountered by consular officers in visa work vary greatly. However, they usually consist of different types of verbal misrepresentation and, as is also the case in connection with immigrant visa applications, various kinds of fraudulent documentation. Some applicants may simply misrepresent or omit facts which would result in the refusal of the visa. Others present false letters from employers, false bank statements, false birth or marriage certificates, or other false documents indicating ties that would normally compel them to return to their home country.

The instances of would-be immigrants seeking to enter the United States as temporary visitors or in some other nonimmigrant status varies markedly from one foreign area to another as do the instances of visa refusals. Many circumstances enter into this picture: local economic conditions, the length of waiting period for an immigrant visa, the cost of travel to the United States, the presence or absence in the United States of sizable numbers of fellow countrymen. Consequently, the volume of visa refusals varies from country to country.

For example, in fiscal year 1973 some 44 percent of all nonimmigrant visa applications at Guadalajara were refused as were 35 percent at Santo Domingo. However, the refusal rate was only 1.5 percent at Brussels and 0.1 percent at Tokyo. These variances point up the fact that because of different economic, cultural and other conditions in different countries it is not possible to judge the efficiency of different Foreign Service posts merely by looking at the number of visas issued per officer assigned.

Each time a visa is refused, a record of that refusal is made at the post where the alien applied. This information may also be disseminated immediately to other nearby posts in case the alien who has been refused seeks to apply for a visa elsewhere. To assist high-volume posts, the Department, in 1966, established an electronic name check file in which refusal data is stored on a current basis in a computer and can be immediately retrieved by posts connected to the system. Thus far 12 posts in Europe, two in Canada, seven in Latin America and three in East Asia are connected to the computer.

We also work closely with the Immigration and Naturalization Service both in Washington and in the field to insure that our respective efforts to deal with the illegal alien problem in its various aspects are mutually reinforcing. In the final analysis, however, it is undeniable, as stressed by one consular post after another, that the principal incentive for the illegal alien is the prospect of finding a comparatively high-paying job in the United States. We believe that H.R. 982, formulated by this committee and enacted by the House of Representatives is an important first step in dealing with this aspect of the problem. But, we also believe that we can and must do a better job on our part.

It has been suggested by some that in our enthusiasm to facilitate travel to the United States for balance-of-payments reasons, we have

put too much emphasis on the issuance of a high volume of nonimmigrant visas at the expense of the quality of decisions made by consular officers in individual cases. Some point to statistics showing that, as compared with 1963, our Foreign Service posts are now issuing 275 percent more nonimmigrant visas with 8 percent fewer personnel. Of course, some of this increased productivity is attributable to measures we have taken over the last decade to streamline visa procedures such as the waiver of personal appearance in certain cases, the indefinite validity visa, and the automated visa name-check system. But it is still argued that the constantly increasing nonimmigrant visa workload simply requires more consular officers to perform the job in order to give each consular officer more time to consider each case. There is no question in my mind that more personnel are needed to perform the visa function, and we are seeking additional consular positions in our present fiscal 1974 budget and intend to do so for fiscal 1975 in our recommendations to the Office of Management and Budget.

In August of this year, we organized a special nonimmigrant visa survey team to visit selected posts abroad and to report to me on steps that might be taken to enhance our performance in this area. The team, under the direction of a senior State Department officer, has returned and is preparing a series of recommendations which would improve local management of the program, strengthen our capacity to meet increased visa workload requirements, and introduce new approaches to insure a high standard of professionalism among consular officers.

Of course the visa function must compete in the resource allocation process not only with other parts of the Department but with other consular functions. In addition to the Visa Office, the Bureau of Security and Consular Affairs encompasses the Passport Office and the Office of Special Consular Services. The Passport Office is responsible for the issuance of passports to U.S. citizens, both in this country and abroad, and the determination of U.S. citizenship of persons outside the United States. The Office of Special Consular Services is responsible for a wide range of services to American citizens abroad including assistance to Americans under arrest, payment of Federal benefits such as social security, veterans pensions, et cetera, to Americans abroad, and the return to the United States of remains of Americans who die abroad. As more Americans travel and live abroad, and unfortunately, are arrested or die abroad, the manpower requirements of these consular functions increase. And it is not a simple matter to separate these functions for purposes of workload measurement and resource allocation because at some 65 percent of our posts the individual consular officer divides his time among these three consular functions depending on the demand for particular consular services.

In the past 2 years we have sought to improve our workload measurements in order to provide as accurate a picture as possible of resource requirements in the consular field. But no yardstick—such as visas or passports issued or refused, or manhours expended on a particular consular function—will accurately measure quality; nor, I submit, is quality to be insured by merely providing more consular officers.

Prior to the Rogers Act of 1924 the Consular Service and the Diplomatic Service were separate entities. The Rogers Act combined the two into the Foreign Service and this move toward unification was fully

reaffirmed in the Foreign Service Act of 1946. All officers in the Foreign Service today are Foreign Service officers and assignable to any Foreign Service position. At the same time, we recognize that some degree of specialization remains desirable if we are to achieve the high degree of professionalism we seek. To this end we have four major fields of specialization, or cones as we call them: these are consular, administrative, economic, and political. We now recruit officers specifically for one of these four fields. Entrance examinations vary somewhat depending on the field for which an applicant applies. The careers of successful candidates will be developed primarily in the fields they have chosen, but they will also be given training and assignments designed to give them a broad exposure to other facets of Foreign Service work as well.

We believe that we are much more likely to obtain high-quality personnel for the consular as well as other fields if officers are recruited on the basis of their interest in and a commitment to pursue a career primarily in the field of their choice. In addition to this threshold step, we have taken other measures to enhance the consular career. We have designated a number of constituent posts, that is Consulates General, not Embassies, where the consular function is the most important of the post's responsibilities, as posts which should be headed by consular specialists. We have already filled a number of these with senior consular officers. We believe that reserving such positions for consular officers will insure high quality in the performance of consular functions at these posts. In doing this, we are also mindful of the frequent criticism that there are too few senior positions in the Foreign Service to which an officer specializing in consular affairs can aspire.

We plan to put added emphasis on professional enrichment for consular officers including management and midcareer university training. We are considering reinstating the requirement that every new Foreign Service officer, whatever his intended specialty, take basic consular officer training. We are also considering increased language training for consular officers; for the consular officer, perhaps more than any other, needs and can utilize a host country language capability.

In short, we believe that we not only need to increase the number of consular officers available to meet the rising demand for visas and other consular services, but we need to improve the quality of these services by improving the quality of officers who perform them. Such improvement is inevitably a gradual process. But I am hopeful that we have taken the appropriate first steps to achieve it.

Mr. Chairman, we are mindful of the committee's concern with this aspect of the Department's operations not only in the context of the illegal alien problems, but also in connection with the committee's other oversight responsibilities. I can assure you that we will be responsive to the committee's concern and receptive to any suggestions it may wish to make for improving the way in which we carry out our responsibilities under the law.

Thank you, Mr. Chairman.

Mr. EILBERG. Dr. Tarr, I wish to thank you for a very full and complete statement, and it is obvious that you have anticipated a lot of the questions we have planned to ask you.

Under our general rule, each of us takes about 5 minutes at a time until we run out of questions.

Now, going back to the beginning, would you explain briefly for the benefit of the subcommittee what is the function of the Bureau of Security and Consular Affairs, particularly as this function is set out in the Immigration and Nationality Act?

Dr. TARR. Mr. Chairman, the function of the Bureau of Security and Consular Affairs is to supervise in the Department three broad kinds of activities; the issuance of passports, and the issuance of visas, and the performance of special consular services, and to be responsive in that charge to the Deputy Under Secretary for Management, as well as the Deputy Secretary and Secretary of State. The difficulty that is posed organizationally in this kind of arrangement is that the Department is organized geographically, not functionally.

I think that the reason for the geographic organization is that it has been determined by several administrations that the key to the coordination of activities in the field is to place the responsibility for all American activities in a foreign country under the Ambassador who is the President's personal representative. When the Ambassador is in charge, it means that he has the responsibility for supervision of the activities of our military representatives, our people from the Agency for International Development, people from other executive departments of Government as well as all of the State Department operation itself. As I am sure you know, the representatives of the U.S. Government in foreign countries is comprised of less than one-fifth State Department personnel; these other personnel make up the other four-fifths. We think it is important for the Ambassador to assume responsibility for overall supervision of these activities; and, so, it is inevitable that our link with these ambassadors would be on a geographic rather than on a functional basis.

Now, this places our functional managers in the Department in a difficult position because they need to work through the regional assistant secretaries to accomplish their purposes. In the Bureau of Security and Consular Affairs, this poses a problem. It poses a problem in our Political/Military Bureau, in our Economics Bureau, Intelligence and some of the rest; but it is true in any sophisticated organization that there is the problem of delineation of the staff and we simply have to be mature enough to work around it. This is one of our problems, I believe, in the Bureau of Security and Consular Affairs. We have to work more conscientiously to see that the consular function is handled appropriately at each of our posts overseas.

Mr. EILBERG. Would you explain the various categories of Foreign Service officers and would you explain briefly the duties of each of these officers?

Dr. TARR. Mr. Chairman, I will do it as best I can, and I am mindful in responding to these questions that there are those with me who could provide better answers. If you wish to press us further on this, then I think it would be helpful to the committee for us to call on some of these other people.

Mr. EILBERG. Dr. Tarr, it is perfectly agreeable for us to have you yield to any of your associates wherever you think it is appropriate.

Dr. TARR. Thank you, Mr. Chairman.

As I explained in my statement there are four specialties in the

Foreign Service, these are: consular officers, which I have described in my statement; the political officers, who bear the responsibility for political contacts in the countries, so that developments can be reported back to Washington; economic and commercial officers, who have the responsibility for reporting on economic and commercial development in the country and the ways in which U.S. commercial interests in that country might be enhanced; and, finally, the administrative officers, who are charged with the administrative responsibility at each of our posts to see that it operates, to see that people are housed and cared for by a variety of administrative services.

Mr. EILBERG. Would you describe the organizational structure of the SCA, and would you describe the functions of the three offices which are established under this Bureau, that is the Passport Office, the Visa Office, and the Office of Special Consular Services?

Dr. TARR. Mr. Chairman, I might think that it would be helpful for the committee for us to provide a simple organizational chart of the Bureau, which we would be very happy to do.

Mr. EILBERG. Are you referring to the SCA form 323, Dr. Tarr? We have a form up here.

Dr. TARR. I am not sure whether we are, but this is simply a chart that may be of some help to you.

Mr. EILBERG. The form is new to me.

Dr. TARR. Mr. Chairman, I have other material that I could add at this point.

Mr. EILBERG. Yes, go ahead.

Dr. TARR. The three officers of the Bureau provide substantive direction to the consular program while the Administrator of the Bureau supervises and coordinates the activities of all three officers. The principal functions are assigned to the offices as follows: The Visa Office, of which Mr. Diggins—who is with us this morning—is Director, is primarily responsible for the administration of the Immigration and Nationality Act as it relates to the issuance of both immigrant and nonimmigrant visas, for all aliens seeking to enter the United States. The responsibility includes the determination of eligibility of an alien for a particular type of visa, as I explained in my statement to the committee, the administration of the visa preference system and the control of numerical limitations imposed by law, which I also explained briefly.

Now, the Passport Office is responsible for the application of existing laws relating to passports and citizenship matters and issuance of passport to American citizens. As part of the latter function, this Office implements policies and decisions regarding validation of U.S. passports to travel to certain restricted areas. As you know, these are Cuba, North Korea, and North Vietnam. The passport officer also is responsible for determination of the acquisition or loss of U.S. citizenship by persons outside the United States.

Finally, the Office of Special Consular Services is responsible for activities relating to the protection and assistance of U.S. citizens abroad. It is responsible for aiding U.S. citizens, for instance, including U.S. merchant seamen who are abroad—who are arrested and providing assistance in the case of death of a citizen abroad and arranging for return to the United States for citizens who are destitute or ill. It is this Office that also serves as a liaison with other Govern-

ment agencies such as the Social Security Administration and the Veterans' Administration on such matters as payment of benefits to the beneficiary who resides abroad.

Mr. EILBERG. Dr. Tarr, I think you said a moment ago that if a destitute U.S. citizen is abroad there is provision for bringing him back to the United States.

Dr. TARR. This is so.

Mr. EILBERG. There came to my attention recently a case of a U.S. citizen who died in an automobile accident in Morocco, and apparently there is no provision for bringing back U.S. citizens who have died abroad.

What is your view on that kind of situation? Don't you think we should do something about that legislatively or otherwise?

Dr. TARR. Mr. Chairman, I do not know about this kind of case but I think that if we are not doing this, we should work at ways in which we can. In case of the citizen who is destitute abroad, we obviously try to arrange financing from all reasonable, available sources for his transportation. If that is not available then we simply provide a loan for the transportation with a note from the person for repayment. We have funds to cover this. Now, it would seem to me that there is no reason why this principle could not be extended to the remains of a person abroad with the assumption of the obligation by the Government if no other source can be found for it and simply assume that either we would hold the estate responsible for the expenses, or if there are not dollars available then to assume it out of the public funds if Congress so authorizes.

Mr. EILBERG. I can tell you categorically, because I have gone into this in great length on a particular case last week, and I was unsuccessful as there was no provision within the law to bring back a U.S. citizen and I would be grateful for you to look into this general situation.

Dr. TARR. Mr. Chairman, I would be happy to.

Mr. EILBERG. Now, Barbara Watson is head of the Bureau of Security and Consular Affairs.

Dr. TARR. That is so.

Mr. EILBERG. And could you give the names of the heads of the Visa Office, the Passport Office and the Office of Special Consular Services?

Dr. TARR. Mr. Diggins, whom you have already met—

Mr. EILBERG. Mr. Diggins is the head of the Visa Office?

Dr. TARR. Yes, Mr. Diggins is the head of the Visa Office, and Miss Frances Knight is the Director of the Passport Office, and Mr. Wilbur Chase is the Director of the Office of Special Consular Services.

Mr. EILBERG. And could you comment briefly on the liaison between these three offices and the Office of the Administrator of the Bureau? In other words, under your organizational chart, they all work under the Office of the Administrator. Would you describe the nature of the liaison that does, in fact, exist there?

Dr. TARR. Well, I think the Administrator has a responsibility—let us say he or she—has a responsibility for setting up policy guidelines by which these people should work. I think it is Miss Watson's method of operation to hold frequent—at least weekly—staff meetings with the people who report to her to give them that guidance. It seems that in the State Department, like all other departments, we are caught up in a plethora of written instructions as well.

Mr. EILBERG. I would just like to be reassured that there is, in fact, liaison between these offices and the Administrator of SCA. That is one of my concerns, or our concern.

Dr. TARR. It is possible that the committee would like to speak on this directly with Miss Watson at some time. I am really not that familiar with the way in which she handles some of these things insofar as I have explained it already.

Mr. EILBERG. But she is the Administrator or superior in that office?

Dr. TARR. Yes.

Mr. EILBERG. I have a great many more questions, but I think I should yield to my colleagues. Mr. Keating.

Mr. KEATING. Thank you, Mr. Chairman. Dr. Tarr, the chairman mentioned the situation of deceased persons overseas. It is a very difficult situation which comes up more frequently than I would have thought. We had a very tragic situation in Spain involving the death of a person in my district. The parents had to provide the money beforehand, before the body could be shipped back. It is a question of getting cash to the State Department or getting some credit established. I am just wondering what can be done if the heirs who wish the body returned have no money at all or any resources available to them. It is a double tragedy if they are not present when their daughter or son dies and then they cannot even bring the body home for proper burial.

Dr. TARR. Mr. Congressman, I agree completely, and I intend to look at this and provide the committee with some kind of guidance on what the limitations upon us are.

Mr. KEATING. Certainly those people who do not have any resources at all—my heart goes out to them. I thank you for that, Doctor.

How are the consular officers selected?

Dr. TARR. Do you mean initially in the process of selecting officers for the Foreign Service?

Mr. KEATING. Yes.

Dr. TARR. Well, there are exams given to young people all over the continental United States, rather well publicized, and amazingly successful in attracting people who wish to take the examination, to the extent of some 16,000. Now, these young people indicate their preference, that is, the kind of work that they would like to perform if they are chosen to come into the Foreign Service. They have some understanding of what the work is on the basis of the material that is circulated by the Department in advertising that an examination will take place. Then, a certain number of those apply for the examination to become a consular officer; they take the examination, which is for the most part the same—the core of the examination is identical for all Foreign Service examinations given to people in any one of the specialties. But to some degree it is directed toward the kind of work or the preparation for the kind of work they would be expected to do.

Mr. KEATING. What percentage qualify who are taking the exam?

Dr. TARR. There are two examinations. The written part is the preliminary screen, followed by an oral examination of those who pass the written. But of those actually chosen, it is just a little over 1.5 percent of those who take the written examination.

Mr. KEATING. How many actually elect to go into the consular service itself, or is there a special consular exam?

Dr. TARR. Well, perhaps we had better provide for the committee the figures on the total number who take the written examination in each one of the cones, the total number who pass the oral examination, and then finally the number who are selected. We can give that information for fiscal year 1973.

Mr. KEATING. How does the consular service appeal to people coming in? Is the consular service a separate career track?

Dr. TARR. Well, actually each of the four is a separate career track. Now, it is possible for a person who comes into the Foreign Service to move laterally from one career track to another by special application, but except for that, one tends to stay in his cone throughout his career. The important thing, I think, is that as you advance in the Service, the cone tends to become less important because, of course, a substantial number of our jobs are not overseas but here in this country in the State Department building. People may be assigned to an office in the State Department irrespective of cones. So, as you rise up in the hierarchy, you are less bound by this career limitation, but you do stay in your field.

Mr. KEATING. Mr. Chairman, do you want to ask a question?

Mr. EILBERG. Thank you, Mr. Keating.

Dr. TARR. I wonder if you could provide or if your regulations would permit a sample of the examination given to the consular officers and perhaps over the last few years the numbers that have applied and the numbers that have been appointed, let's say their initial assignments.

Dr. TARR. Would you like to have that information historically, say over the last 5 years?

Mr. EILBERG. Yes, sir.

Dr. TARR. All right, and we will provide copies of the typical written examinations given for each one of the cones.

Mr. EILBERG. Thank you, sir.

[The documents referred to are in app. 3 at p. 189.]

Dr. TARR. They are very interesting. As a former educator, I have been interested to see the examination techniques. They are very well done.

Mr. KEATING. Can a consular officer, if he stays a consular officer, go as far in grade and salary as a political or economic officer?

Dr. TARR. Yes, he can. One thing that we have to keep in mind is that our system of cones—these four separate career tracks—is about 2 years old now. So, we do not really have indepth experience with respect to these four tracks, but the point is that any of our Foreign Service officers can go as high as career ambassador, which is not a job but a rank in the Foreign Service. Our experience in the past in moving consular officers to the highest level before we had the cone system is not as good as we would have liked. This is part of the justification for having the special career track.

Mr. KEATING. Have any of them actually made it to that level?

Dr. TARR. Only one man who was a consular officer has become an ambassador, not a career ambassador, but an ambassador with a post abroad and he has since moved from that post to another position. This is part of the reason for the judgment that I made before, that professional recognition has not been what we would like it to be. We have an intuitive feeling that under the cone system and under the

competition for coming into the Foreign Service the consular cone is more competitive now than ever before in the history of the Foreign Service.

Mr. EILBERG. Will the gentleman yield for a minute?

Mr. KEATING. Yes, Mr. Chairman.

Mr. EILBERG. Dr. Tarr, you have said that one has made ambassador. How many have made consul general?

Dr. TARR. Mr. Recknagel says that there are 31 consular cone officers currently in the Service who are now or have served as Consul General. One thing about that—we are talking here about a job and not a rank. You see what I mean?

People who serve as consul general might be class 1, 2, or even 3.

Mr. KEATING. Why do you make so much of a distinction between job and rank? I am not clear on that.

Dr. TARR. Because the rank is a reflection of salary. You see when you look at a Foreign Service post, whether it is a consulate general or an ambassadorial post, there are wide ranges in size and responsibility and all the rest and, accordingly, in the salary that a man or woman might receive as they assume the post. Embassies are classified as class 1, 2, 3 or 4 posts. Ambassadors at class 1 posts are currently making \$42,500. I think Ambassadors of class 4 make \$36,000. Class 1 post Ambassadors might have the responsibility for directing the activities of maybe a thousand people and at a class 4 post he may direct the activities of five people, as was the case when I went to Mauritania. So, it is not only the job if you want to adequately judge.

Mr. KEATING. Do you also have the Foreign Service officer receive some kind of training in consular work.

Dr. TARR. Not as much as we would wish, and as I said in my statement, we are considering the possibility of reinstituting the requirement that all Foreign Service officers who come in should take the basic course in consular work.

Now, most consular jobs exist at the lower level of rank so that there is an urgency for us to appoint beginning officers to consular posts, and something like three fourths of all initial assignments of foreign officers will be to jobs in consular work. That is part of the reason that we think it would be well to hold up all officers for another 4 weeks, the period which would be needed for the basic course in consular work; the other is that as a person in the Foreign Service advances to a position of responsibility—either here or abroad—we think it is advisable and very important that he have some awareness of consular work. If a man or a woman is to represent the U.S. Government as an ambassador abroad, it is imperative that he or she know something about the consular functions, and so this is the reason we are considering it.

Mr. KEATING. I will yield to the chairman.

Mr. EILBERG. To continue this line of thought, are consular services performed by Foreign Service officers who have had no prior training in consular work?

Dr. TARR. To some degree yes. For instance in a post like Tokyo—were you able to visit Tokyo?

Mr. EILBERG. No, sir.

Dr. TARR. Well, Ambassador Ingersoll told me not too long ago that on some days when they have had a very heavy load they have impressed other officers in the Embassy to assume some of these functions. He went on to explain that the jobs that these officers are asked to do are the ones that do not require technical expertise of say interviewing or evaluating the validity of certain documents that are presented, but there are cases where other officers do this and they have not had the necessary training. The reason we have done it is because the workload is there and the work needs to be done, and the way we try to make it reasonable is to restrict those tasks that officers, not trained in consular work, are asked to do. First, one of the major tasks is to actually sign the visas. Now, it is not a consuming task with respect to the total work that needs to be done but someone, a Foreign Service officer, needs to sign the visas after they have been carefully checked by skilled officers. Sometimes other officers are brought in to sign these documents in a post like Tokyo where one day they had 6,000 applications for visas and issued 4,800. The task of signing 4,800 visas is a considerable one.

Mr. KEATING. How do you achieve uniformity in decisionmaking and evaluating the documents?

Do you have any guidelines for that? Are the inspectors qualified to really check that or is it just a constant, nagging problem?

Dr. TARR. It is a very difficult problem. We are in the realm here of qualitative judgment. There are a variety of ways that you can do it. Or, there are a variety of ways in which you can hopefully improve your performance. One is with the dissemination of regulations and materials that give broad guidelines. This is of some assistance but does not go all the way.

Mr. KEATING. Is there any kind of followup or check on the performance of a person who issues visas on how they turn out at the end of the line? Do you follow it that far, or is that a waste of time?

Dr. TARR. That is a difficult proposition because of the time lag. It is not in the same degree but it is similar to measuring a teacher's performance on how well his students do after they go out in a position of responsibility.

Mr. KEATING. It is pretty difficult.

Dr. TARR. But one thing that you can do beyond the regulatory material is to try to disseminate descriptive material and to try to bring consular officers together to discuss problems, to discuss cases. Another thing that you can do is to put greater reliance on the inspection function to see what is being done. Now, at the present time one of our problems in our inspector general's office, which we think is a good office, is that we do not have a consular officer on board. This is a difficulty that we are seeking to overcome, because, after all, the inspector general is the function in the Department that gives us the best overview of how things are going in the field. We hope to work in this direction.

Mr. KEATING. I used so much time, Mr. Chairman, I think I had better yield back the balance remaining.

Mr. EILBERG. I will just ask one question and then I will yield to Mr. Waldie.

How are consular officers evaluated and who conducts the evaluations?

Dr. TARR. They are evaluated the way all other Foreign Service Officers are evaluated, and that is through written evaluation by their immediate supervisors. I will have to confess, Mr. Chairman, that I do not fully understand the evaluation system, even though I have to be a participant in it—and I had the same problem when I was in the Department of Defense—the people who work with this sometimes know more about how they work than an outsider who comes in and is introduced to it. But the evaluation needs ultimately to be made by the supervisor and then the person to whom the supervisor reports.

This system has difficulties because there is always the opportunity for bias, there is always the opportunity for a judgment on the part of one person that has an influence over the career of another person, but there are ways built into the system where an officer who feels that he has not been rated or evaluated properly can make an appeal, and the appeal will be listened to.

Just to digress for a moment, a young man working in my immediate office, who is a most talented young economic officer, one of his earlier assignments was to Mexico where he did consular work. He thought that the man who supervised his work, while being a fair man, generally wrote an evaluation report on him that was not reflective of his contribution, and he appealed this and had the report changed. So, it can be done.

Mr. EILBERG. Just one more question. Would the service of Mr. Diggs be evaluated by his superior, Miss Barbara Watson? Is that how it works?

Dr. TARR. Yes.

Mr. EILBERG. Mr. Waldie?

Mr. WALDIE. I have no questions, Mr. Chairman.

Mr. EILBERG. Mr. Seiberling?

Mr. SEIBERLING. Dr. TARR, you covered this in a sense, but I would like to reiterate it a little more.

Could you tell us whether there is a systematic method for assigning consular officers to various posts and what is the basis for the assignment?

Dr. TARR. The assignment is made by the Director General of the Foreign Service, who is the personnel officer for the Foreign Service—really for the Department. He makes the assignment principally on the recommendation and in consultation with the appropriate geographic bureau. This is part of the problem to which I was referring when I described the Department as being organized primarily on a geographic rather than a functional basis. Now, the Bureau of Security and Consular Affairs can have some influence over these assignments. I am not sure that the Bureau has had as much influence in the past as perhaps would be appropriate. As a result of these hearings, I have been thinking about it for the last week or so, and it is one thing that we should explore. But most people in the Foreign Service have an area of regional specialty. This is partly determined by rank and knowledge. It is partly determined by the area study work which they do. Now, for instance, a French language officer may be assigned to Europe, Africa or places in the Carribean or in Southeast Asia, because French is a widely employed language.

If his area of regional interest is Africa, then it is likely that he will be spending a considerable amount of time moving from post to post.

in west Africa with some intermittent assignments in Washington. In the case of an officer who learns one of the exotic languages like one of the Asiatic languages, then he is more likely to remain entirely within one of our geographic bureaus. That does not mean, however, that there should not be some concern on the part of the Bureau of Security and Consular Affairs.

Mr. SEIBERLING. Maybe my question was not quite clear. I think that the answer you have given us contains some very interesting information. What I was wondering was how do you decide how many consular officers should go to a particular location?

Dr. TARR. We have to rely on the assessment of the Ambassador, the inspectors, the regional bureau assistant secretaries and their staffs to determine the staffing at these posts.

Mr. SEIBERLING. Does SCA have a voice in this decision?

Dr. TARR. Yes, they do, and that voice is becoming increasingly loud and perhaps strident as it relates to the special consular package that we have prepared both for the fiscal year 1974 and 1975 budget. They have not been so involved in the past because it was not until we got into fiscal year 1973 that the inequity of some of our staffing as it related to consular work became pronounced. Where the load tended to remain the same or where it could be offset by increased efficiency, then their responsibility was not so active. As it begins to increase then we are talking about additional manpower so that the Department must either find, by eliminating some other work that we are doing that is not essential or perhaps has become nonessential, or by asking for more positions from OMB and ultimately the Congress.

Mr. SEIBERLING. Well, do you have a systematic system for reviewing the workload and the acuteness of the problem at each consular post, or do you go by the squeaking hinge principle, assuming that a particular consul or ambassador, if he needs help, he will open his mouth and let you know loud and clear.

Dr. TARR. Mr. Seiberling, I wish that I could say that we operate entirely on the former, but that would not be correct. The way, in practical terms, to respond to this is because an Ambassador says frankly, my staff cannot keep up with the burden. Now, the eagerness of the Ambassador to seek assistance obviously varies. It varies with the interest of the Ambassador and it varies with his particular technique of operation. But you really find out from the field in most of the cases.

We have been very concerned about some of our major posts, in Germany, Great Britain, and Tokyo primarily, because the Ambassadors forcefully have placed before us the dimensions of the problem. Now, our inspectors check on this with the regional assistant secretaries who are concerned with staffing in each of their posts, but the reason I cannot say that we have a systematic means by which we evaluate these things is when the regional assistant secretary is concerned about a consular workload he measures it against his concern for an economic and commercial workload and he says, you know, we are in trouble in this bureau but we are in trouble not in one way but in a variety of ways.

Mr. EILBERG. Will the gentleman yield?

Mr. SEIBERLING. Yes, Mr. Chairman.

Mr. EILBERG. You mentioned before—and I was not quite sure of the context—that the voice of the Bureau of Security and Consular Affairs is sometimes strident as far as assignment of personnel, do you object to that?

Dr. TARR. No, I think in a bureaucracy, when problems become acute, it is imperative for people who are responsible to speak up. Any bureaucracy is tolerant of a considerable amount of grumbling. People write memoranda to me because it is the only way that they can defend themselves with their personnel, but they do not expect me to do anything with it.

Mr. EILBERG. But I hope in cases where you think the situation is meritorious, that the strident voice is listened to.

Dr. TARR. That is precisely the point. If a person persists in his plea, then you realize that there is a problem there and you have to begin to respond to it. That is precisely the point. As a functional bureau chief, one has to make certain that his voice is heard when he has a problem that needs to be solved. I commend this.

Mr. EILBERG. Thank you, sir.

Mr. SEIBERLING. I have no further questions, Mr. Chairman at this time.

Mr. EILBERG. Dr. Tarr, you mentioned the concept of geographic bureau and would you describe that?

Dr. TARR. Yes, Mr. Chairman. The Department of State is organized into five geographic bureaus one of which includes the Western Hemisphere with the exception of Canada. One includes Africa with the exception of Egypt, one includes Europe and Canada, one includes the area of the Near East, which runs from Greece to Sri Lanka; and the other includes the nations of East Asia. These are our five geographic bureaus, each with an assistant secretary.

Mr. EILBERG. Is the consent of the appropriate geographic bureau, the Ambassador or the chief of mission required before additional consular officers can be assigned either temporarily or permanently to a particular post? Do present procedures prevent a quick response to a staff problem which may arise at a particular post?

Dr. TARR. The answer to the first question is that we would be reluctant to override the wishes of an ambassador unless the case were of considerable urgency. If the Ambassador told us that either more people should not be assigned or that a particular person should not be assigned, we would not be inclined to override his wishes unless we thought we had an overwhelming case to do what we wanted to do.

Now, I confess that I forgot the second part of your question.

Mr. EILBERG. Do present procedures prevent a quick response to a staff problem which may arise at a particular post?

Dr. TARR. Oh yes, and this results primarily from the budgeting system of the Government. If we find a difficulty arising from something like the requirement of transit visas or nonimmigrant visas, which immediately adds substantially to our workload in the field, the only way that we could respond would either be to furnish resources from within the Department or ask for a supplemental appropriation. It is perhaps somewhat quicker for us to find the resources in the Department, although it is not easy and not immediate. The supplemental may take considerably longer under the present procedure where we are being funded with a continuing resolution. There is no

chance for a supplemental, obviously, where one is funded under a continuing resolution. Where there is a squeeze because of the devaluation problem abroad, we are not in a satisfactory position to do it from our own resources. So, I think, Mr. Chairman, that the answer to your question is that the procedures in the Government—not necessarily simply in the Department—do make it difficult to respond to emergency situations.

Mr. EILBERG. We are hoping that as a result of these oversight hearings this will be a stimulant for response.

Dr. TARR. Well, I think that the point has been made to us that we need to do everything we can with our own resources to put our house in order. That is why we are looking with considerable anticipation to the findings of our special team which has just recently returned from an extensive trip.

Mr. EILBERG. Along this line, last year a situation developed in Korea whereby, despite availability of nonpreference visas, there was no issuance of such visas for several months due to a shortage of personnel, yet almost 1 year later the problem has not been completely resolved. I understand that in the justification papers for the 1974 budget the State Department indicated that the Korea situation was critical. Consequently, shouldn't we devise a better way to meet emergency situations?

Dr. TARR. I thought about this, Mr. Chairman. One of the instructions that I gave to the team when they departed was that they consider the possibility of temporary assignments in emergencies. I do not know what they have recommended, but my initial reaction to your point is affirmative. I think so. The temporary duty assignments, like 60 days or something like that, are not impossible and we do it to meet other requirements.

Mr. EILBERG. I would like to ask a few questions concerning SCA's relationship to consular activities.

What role does SCA play in determining the consular personnel requirements in various posts around the world?

Dr. TARR. Well, this is similar to the question that Mr. Seiberling directed to me. In the case of our petition for greater numbers of people on the State Department rolls, the Bureau of Security and Consular Affairs is in a position to take the initiative in the Department. Now, they may have to clear their proposals with the regional Assistant Secretary but I have never been aware of a time when the regional assistant secretary would resist the introduction of more people who had to do jobs that needed to be done. So, in terms of expansion of the consular function in the field, they play a primary role.

Mr. EILBERG. What role?

Dr. TARR. A primary role. Now, in reprogramming—that is moving people out of one place and into another—I do not mean the individual person, but I mean the job—they would play a secondary but important role, and that primarily would be the determination made by the regional Assistant Secretary.

Mr. EILBERG. Dr. Tarr, comparing the Bureau of Security and Consular Affairs with other bureaus within the State Department, how does the authority of the Administrator of the Bureau of Security and Consular Affairs compare with the authority of other Bureau chiefs?

In other words, my impression is that the authority of the Administrator of the Bureau of Security and Consular Affairs is only advisory as compared with some of the other bureaus. What is the answer to that?

Dr. TARR. The bureaus that we would be thinking of in this context would be Economics and Business, Political/Military, and Scientific; the role of the Administrator of the Bureau of Security and Consular Affairs is identical. It would not be any different from the others. The responsibility of these other major functional bureau chiefs would be the same.

Mr. EILBERG. So, if they say as Administrators, that certain numbers are needed, they would be provided or at least they would have the same authority as any other bureau in the Department?

Dr. TARR. The Scientific Bureau chief may want more—another science attache at a post. He has the same problem in creating that position as Miss Watson in creating consular positions.

Mr. EILBERG. What role does SCA plan in determining the budgetary requirements for the performance of consular services abroad?

Dr. TARR. I think that it is only fair to say that their primary concern is with numbers, rather than budgetary requirements. After the numbers are established—in other words, numbers of people are established—then, we really do not exert substantial control over dollars. Our preliminary concern is over the number of spaces and the rank of those spaces, then the dollars that are necessary to fund a particular post are provided.

Mr. EILBERG. Does SCA have authority to temporarily reassign consular personnel to a post which may be experiencing several manpower problems?

Dr. TARR. No, the responsibility for temporary reassignments is with the Director General. But, once again, the Director General has the responsibility to work with the interested parties, and, in this case, the interested party would be the Bureau of Security and Consular Affairs, the geographic bureau and, obviously, the place from which temporary personnel need to be taken.

Mr. EILBERG. Is there any systematic method for assigning consular officers to the various posts? Is this assignment based upon consular workloads or the incidence of fraud in a particular post, or does SCA have any voice in the assignment of consular personnel?

In other words, how do consular officers get to the posts that they are assigned to?

Dr. TARR. Do you mean the individual officers, or do you mean additional personnel spaces to handle particular problems?

Mr. EILBERG. The latter.

Dr. TARR. The way in which the Bureau of Security and Consular Affairs becomes involved in the matter of cases is to make recommendations that more people should be assigned because of a particular problem. Now, the way in which this is decided in the Department is that ultimately I am the one who is responsible for the assignment of manpower spaces, and, as a matter of fact, this question strikes close to home now because we are putting together our fiscal year 1975 budget and we have to look at the requests of various bureaus for more people.

Mr. EILBERG. Would you agree that we might come to you if we find a particular situation as a result of our distant travels around the world?

Dr. TARR. Mr. Chairman, I am the one to come to—if I have not already anticipated some of what you have in mind.

Mr. EILBERG. One more question and then I will yield to my colleague, Mr. Keating.

What is the extent of SCA's authority over the allocation of resources which are expended in performing consular services, issuing visas, or otherwise implementing the provisions of the Immigration and Nationality Act?

Dr. TARR. You are talking about dollar resources and not manpower resources?

Mr. EILBERG. Yes.

Dr. TARR. These are usually of little consequence. They either must be met out of the dollars available to the Ambassador in the field, or they have to be made available on an extraordinary basis. I would think that the Bureau of Security and Consular Affairs would only be concerned if an extraordinary situation were presented.

Mr. EILBERG. So, there is virtually no authority in a budgetary sense, is that what you are saying?

Dr. TARR. Well, what I am saying is that there is no reason to speak unless natural need cannot be met from the funds available. Let me give an example. It is not so farfetched, but if Americans were stranded in a foreign country where there was no bank connection readily available, they were on tour and somehow their means of transportation disappeared from them, and they had to get home, in such an extraordinary situation we would not expect the Ambassador to a small country, from the funds available to him, to provide for chartering an airplane to bring them home. This is the kind of extraordinary situation where I would think that the Bureau of Security and Consular Affairs immediately must be concerned to make certain that the Department of State allocates the appropriate resources to take care of the problem.

Mr. EILBERG. Mr. Keating?

Mr. KEATING. Are there unwritten or written instructions to the consular officers for quotas in the issuance of visas? Has that subject ever come up?

Dr. TARR. Not that I know of.

Mr. KEATING. Do they have to issue so many visas during a certain period of time either to attain a specific status or to have so many officers at a post.

Dr. TARR. That reminds me of the suspicion that we used to have as young boys vis-a-vis the highway patrol and speeding tickets.

Mr. KEATING. I almost mentioned that as an example.

Dr. TARR. We do keep statistics that the committee may wish to scrutinize on the average time spent and we can provide this to you by geographic bureaus, the average time spent on both the immigrant and nonimmigrant visas in the total scheme of things. There is no time and motion study of appropriate means for how long a person should spend or how productive they should be.

Mr. KEATING. I do not have any further questions, Mr. Chairman.

Mr. EILBERG. In the fiscal year 1974 budget request, you asked for an

increase of 18 American positions abroad and 44 local positions to assist in the performance of consular work abroad. Do you believe that this personnel increase will enable the Department of State to sufficiently perform the large increase in visa activity which is anticipated in fiscal year 1974?

Dr. TARR. I am not sure. It appears that our request for fiscal year 1975 may be somewhat larger than this and I am not sure of that but I think this is one of those situations where when you prepare a budget you do the best job that you can in determining what the budget will be. One of the difficulties is that some of the effects of the devaluation have come about subsequent to the submission of our fiscal year 1974 budget. But actually, for fiscal year 1974 we are not yet aware of what the effect of the devaluation is going to be on our workload.

Mr. EILBERG. You mentioned the enormous numbers or increases in applications for immigrant visas and nonimmigrant visas and they seem to be increasing so rapidly that I am concerned the numbers of additional positions you are asking for are just a drop in the bucket.

Dr. TARR. Well, Mr. Chairman, you may be right.

One of the things that did interest me, however, in the preliminary report that I received from our team that went to various places abroad—I think it was in Tokyo where the visa officers were not able to accomplish what they had before them when their issuances were on the basis of about 30,000 a month and they were trying to operate on a 40 hour week, in other words to entertain applications at the window 40 hours during the week. Someone got the idea that their efficiency would be improved rather substantially if they reduced the workweek for acceptance to half of that so that they could better program their activities with respect to the day itself.

Apparently it had a startling impact on the efficiency of the operation, and the last estimate was that they thought they could, with the same number of people, issue a substantially larger number of visas and improve the quality of issuance by this rather simple but comprehensive change in the way in which they were going about the operation.

Now, we are not sure how much we can improve what we are doing in the field by management techniques. Insofar as we can, we will alleviate the problem that you foresee.

Another difficulty in our preparation for fiscal year 1974 was that it was still indefinite what might happen with respect to the transit without visa. We have decided now that the prudent thing is for us not to relinquish our controls in this area.

This decision obviously continues to load our people in the consular area.

Mr. EILBERG. Dr. Tarr, the concern of this subcommittee as it relates to illegal aliens has been expressed. I just want to reiterate that we hope your requests for manpower would be realistic, because if it is not realistic, it will continue to aggravate the illegal alien situation. I am just worried when I see that so few positions have been requested. Our relatively limited point of view on the illegal alien problem is that we see the situation growing rapidly out of hand.

Dr. TARR. Well, Mr. Chairman, I am listening to you and I am sympathetic.

Mr. EILBERG. Mr. Seiberling, do you have any further questions?

Mr. SEIBERLING. I have no further questions, Mr. Chairman.

Mr. EILBERG. Dr. Tarr, the immigrant visa caseload in East Asia increased by 117 percent from fiscal year 1967 to fiscal year 1972. This, of course, is mainly attributed to the provisions contained in the 1965 amendments to the Immigration and Nationality Act. In addition, there was an increase in the number of immigrant visas issued in fiscal 1973 of 18 percent and an additional 4.5 increase is expected in 1974. In response to this increasing workload in consular activities, you have requested an increase of eight American positions and 18 local positions in East Asia.

Could you advise the subcommittee as to which posts these additional officers and local employees will be assigned?

Dr. TARR. Mr. Chairman, would you like to have me read off those figures for the record?

Mr. EILBERG. You could provide them for the record.

Dr. TARR. We would be happy to.

[The figures referred to follow:]

THE POSTS OF ASSIGNMENT OF THE ADDITIONAL 8 AMERICAN OFFICERS AND 18 LOCAL EMPLOYEES PROVIDED FOR EAST ASIA IN THE BUDGET FOR FISCAL 1974

| East Asia         | Americans | Locals | Total |
|-------------------|-----------|--------|-------|
| Brisbane.....     | 0         | 1      | 1     |
| Melbourne.....    | 1         | 1      | 2     |
| Kuala Lumpur..... | 0         | 1      | 1     |
| Taipei.....       | 1         | 0      | 1     |
| Suva.....         | 1         | 1      | 2     |
| Fukuoka.....      | 1         | 1      | 2     |
| Seoul.....        | 2         | 6      | 8     |
| Auckland.....     | 0         | 1      | 1     |
| Wellington.....   | 0         | 1      | 1     |
| Manila.....       | 2         | 3      | 5     |
| Bangkok.....      | 0         | 1      | 1     |
| Singapore.....    | 0         | 1      | 1     |
| Total.....        | 8         | 18     | 26    |

Mr. EILBERG. As you know, the nonimmigrant visa workload in East Asia increased from 154,000 in fiscal 1967 to 526,000 in fiscal 1972 or an increase of 232 percent. In addition, there was an increase of 25 percent in 1973 and an additional increase of 21 percent is expected for fiscal 1974. Do you feel that the additional personnel—eight Americans and 18 local employees, noted above—will enable you to meet the spiraling demand for nonimmigrant visas in East Asia?

Dr. TARR. Well, Mr. Chairman, I think that the only reasonable answer that I can make is that I am not sure.

Mr. EILBERG. Are you continuing to study this problem to try to anticipate what your needs will be? I understand that you are working now on your 1975 budgetary requirements and I am concerned over your uncertainty. We know that these numbers are increasing very rapidly.

How much more evidence or time do you need in order to crystallize your thinking?

Dr. TARR. Well, Mr. Chairman, about all I can say is that I was not involved in the preparation of our budget for fiscal year 1974 and I am not familiar with the calculations that were made at the time or the assumption upon which they were made. I am sure that the budget was prepared carefully but I cannot defend it any further than that. With

respect to fiscal 1975 I can simply assure the committee that we are looking very carefully into this.

Mr. EILBERG. In the 1974 budget request there was an item of \$64,000 to produce a visa which would not be susceptible to altering or counterfeiting. Could you explain briefly your reasons for this request and what results are expected in the near future in the event this item is appropriated?

Dr. TARR. Mr. Diggins is the one most involved.

Mr. DIGGINS. We have \$64,000 in the 1974 budget, and that is aimed at stopping the counterfeiting of nonimmigrant visas and doing something about producing a visa stamp that cannot be altered or in some way changed from one passport to another.

In fact, since 1971, we have detected 353 counterfeit visas and we suspect that others are undetected. Of these visas, 29 different U.S. Embassies were shown as the issuance office of the visas in question. These were identified by the Immigration Service in the United States and by our own consulate people and the police of other countries who have been operating with us. This is a very lucrative business.

Some of the \$64,000 is to enable us to look at this closer and to spend some for the development of a better system. We are meeting with the Immigration Service and Mr. Green and his subordinates regularly. We are seeking help from private corporations who would develop different techniques for this and we hope this year to be able to come up with something and spend the money wisely. I do not believe that it is an exorbitant amount of money, but we really have not gotten anything affirmative as to which direction we are going. We hope to soon.

Mr. EILBERG. Do you have a form or plan in mind with respect to that visa which would be fraud proof. I mean what is your thinking or efforts in that direction?

Mr. DIGGINS. Well, first we have developed, with the Bureau of Printing and Engraving, a counter foil. I believe that the committee may have heard about this before. It is a device which will validate the kind of visa we are issuing now and we think it will be more difficult if not impossible to counterfeit it. That has been agreed upon with the Bureau of Printing and Engraving, the funds have been allocated and spent and we expect to get this counter foil, this validating device in the next month or two. So, that is our first effort to do something about this. We are looking at changing the plate of the machines that we have. We need help; it is a volume problem. We are approaching 3 million this year alone. So we want to be sure that what we are doing is secure and within our ability to pay for it.

Mr. EILBERG. Dr. Tarr, in the Department of State's budgetary summary last year it was stated that:

Consular staffing in this area, East Asia, has not increased to keep abreast of the workload. In order to alleviate some of the staffing problems caused by the increased workload, we are installing automated visa name check systems in the Philippines, Taiwan and Hong Kong in fiscal 1973 on a pilot project basis. If the system proves feasible and economical in these areas, we plan to expand to other surrounding posts in future years.

Could you explain briefly this automation program and what results have been achieved?

Dr. TARR. Mr. Chairman, if you have relevant data that can be of assistance to posts elsewhere in the system, then it can be stored in

some kind of memory device in the computer and be available immediately on call electronically. This means that if a post is issuing a sufficient number of visas and they have an application from an individual, they can simply take the name of that individual and his date and place of birth and can call upon the memory to determine if there has been some previous contact by other consular officers elsewhere with that person. The only other way that you can do this is to go through a book or list or some kind of printed information that comes out of our headquarters. The advantage, obviously, of the computer storage is that it is up to date, up to the minute and it is immediately available.

Mr. EILBERG. This would be similar to checking your airplane reservations.

Dr. TARR. Exactly.

Mr. EILBERG. But; what results have been achieved so far? How does the future look?

Dr. TARR. I think the immediate result is that people in the field who have these facilities available to them not only can speed up greatly their work and cut down errors—because going through these lists is not all that easy—but they are confident that the information is accurate at the time they ask for it.

Mr. EILBERG. Can you see this spreading to other geographic bureaus and perhaps even having worldwide application eventually?

Dr. TARR. I think that it certainly will spread. The thing we need to balance is the economics of extending the system with the number of times that an individual post needs to use it. It is the kind of system that we need.

Mr. EILBERG. Dr. Tarr and your associates, we thank you very much.

We will recess the hearings now until Tuesday at 2 p.m. and at that time we will have many more questions for you.

Thank you very much for your appearance and your obvious preparation for the committee. Thank you, Dr. Tarr, thank you, gentlemen.

[Whereupon, the subcommittee recessed at 12:05 p.m. to reconvene Tuesday, September 18, at 2 p.m.]

## REVIEW OF THE ADMINISTRATION OF THE IMMIGRATION AND NATIONALITY ACT

TUESDAY, SEPTEMBER 18, 1973

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION,  
CITIZENSHIP, AND INTERNATIONAL LAW  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met at 2:10 p.m., pursuant to notice, in room 2237, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Holtzman, Keating, and Fish.

Also present: Garner J. Cline, counsel; Arthur P. Endres, Jr., assistant counsel; and Donald G. Benn, associate counsel.

Mr. EILBERG. The subcommittee will come to order.

I hope we will stay in order until we finish.

Dr. Tarr, we welcome you back. If we do not finish today's session, we propose to submit written questions to you.

Is there anything further that you wish to add at this particular point before we resume questioning?

**TESTIMONY OF THE HONORABLE CURTIS W. TARR, ACTING DEPUTY UNDER SECRETARY FOR MANAGEMENT, DEPARTMENT OF STATE; ACCOMPANIED BY THOMAS M. RECKNAGEL, DEPUTY ADMINISTRATOR, BUREAU OF SECURITY AND CONSULAR AFFAIRS AND JOHN R. DIGGINS, JR., DIRECTOR, VISA OFFICE—(Resumed)**

Dr. TARR. Mr. Chairman, only that if you submit written questions, I will have less input to them than if you ask them to me directly.

Mr. EILBERG. Well, we will try.

It is my understanding that SCA requested an increase of 28 positions in the United States as follows: 26 additional positions for the Passport Office and two additional positions in the Office of Special Consular Services. The increase in the Office of Special Consular Services was justified on the grounds that there is a direct relationship between the number of consular services required of the posts abroad and the workload of the Office of Special Consular Services. I was wondering if the same relationship exists between the issuance of immigrant and nonimmigrant visas abroad and the workload of the Visa Office of the Department of State. If so, why was there no request for an increase in personnel for the Visa Office in view of the tremendous increase in visa issuance in recent years?

If you want to yield to Mr. Diggins on this, that is OK with me.

Dr. TARR. I would be happy to yield, Mr. Chairman, with this brief statement: When we were studying these questions with respect to our fiscal year 1975 budget just a few days ago, I asked the same question. To my satisfaction, it was answered. Some of the support that comes from Washington is in the nature of recommendations to the field and requirements placed upon the field for the handling of the workload. The workload itself obviously varies from post to post and from time to time. This is what takes the actual input of people's time. This was, in general, the answer as I understood it. Perhaps Mr. Diggins can help us further.

Mr. DIGGINS. Well, the staffing that we had arranged for or asked for in 1973 was, I believe, adequate to meet the demands then. However, since that staffing was proposed and accepted, arranged for in a previous fiscal year, we ran into things we had not anticipated, namely, the problems in terrorism, suspension of transit without visa, our border program, the revaluation of the dollar, which have increased our staffing requirements abroad. I think, in retrospect, if we could have anticipated these problems which developed in 1973, basically, we might have asked for more. But as we saw it in 1971-72, our staffing was adequate.

Mr. EILBERG. You are contemplating, then, a substantial increase of numbers for the coming fiscal year?

Mr. DIGGINS. We are anticipating increases for 1975, fiscal year 1975. But that is still in the mill. The budget is not locked in, as they say. But we are anticipating more positions for fiscal year 1975.

Dr. TARR. But, Mr. Chairman, was not your question the relationship between the numbers of people who actually are required to issue visas in the field and those in Washington who are involved in their operation?

Mr. EILBERG. Yes.

Dr. TARR. This is a somewhat different question than Mr. Diggins has answered.

Mr. DIGGINS. Again, the same thing prevails, Mr. Chairman. In 1971 and 1972, when these budgets were considered, we did not know that the increase in visa services would happen, you see, because of the things I mentioned before. I think there probably is a relationship between increase in workload in the field and workload in Washington. But we did not ask for an increase in Washington staff because we did not anticipate the increase in the workload in the field.

Mr. EILBERG. But do you plan to do something about it now?

Mr. DIGGINS. Yes, sir.

Dr. TARR. My point, Mr. Chairman, is that I would not want you to expect the size of our operation in Washington to increase in the same proportion as we may have to increase the size of our operation in the field to handle the visa workload.

Mr. EILBERG. It is my understanding that at the request of OMB, a "consular package" is a separate budgetary item in the appropriations legislation. In your opinion, should SCA have greater input in the preparation of the package, as they are most familiar with the provisions of the Immigration and Nationality Act and the duties and functions of consular officers?

Dr. TARR. Mr. Chairman, I did not participate in the preparation or the consular package for fiscal year 1974, but I am intimately familiar with what we have done in fiscal year 1975. The actual input of Security and Consular Affairs is the input that one would expect from the only office in the Department that has a worldwide feeling for the problem of issuing visas. So they have, of necessity, been responsible for the design of the package in terms of numbers and the design of the package in terms of geographic distribution.

Now, I am not sure of the degree to which they could have been more involved than they were in the preparation of the fiscal year 1975 requests unless it would be to actually present a request without talking to the Geographic Bureau personnel, which I think most of us would agree was unwise.

Mr. EILBERG. Unwise?

Dr. TARR. It would be unwise for them to request that a certain number of visa officers, for instance, be assigned to the Middle East without talking to our people dealing with the Middle East to see if they were needed.

Mr. EILBERG. My question is why should not that Administrator talk to the people in the Geographic Bureau?

Dr. TARR. That is what I say: I think it is imperative that they do.

Mr. EILBERG. What about talking to some of the consular officers themselves right on the spot to see what the situation is?

Dr. TARR. Well, the contacts between SCA and the field, except written contacts, are not on a regular basis. We do not have anybody in SCA who has a certain territory to which he travels with any particular frequency. But there are contacts as people in SCA travel. They have contacts, obviously, with people in the field wherever they go and there is a program of regional meetings of consular officers attended by the Administrator of SCA and other top consular officials from Washington. Information comes also regularly to SCA from the normal statistical reports that we get from the field, from the contact that we have from Ambassadors and other officers, either by cable or by their direct presence here, and through the Geographic Bureau.

Mr. EILBERG. Dr. Tarr, I wonder if that is enough to arrive at these conclusions on statistical reports? I am thinking now of a controversy that exists between the Bureau of Security and Consular Affairs and the Passport Office right at this particular moment as to whether there should be a Passport Office in the city of Pittsburgh or not. Frankly, I am a little perplexed that people in the same Department apparently cannot get together to discuss this. I think that perhaps too much time is spent reviewing reports and not enough direct personal contact. I wonder if you would react to that?

Dr. TARR. Well, I think that it is important for us to look at statistical reports and it is important for us to make up our mind on things other than on the basis of statistics alone. In the case to which you refer, it is partly a case of difficulties between personalities. But the point that you make, that within the Department we should be able to talk out our problems somewhat better than we have, is so good that I do not want to spend any time arguing about it.

Mr. EILBERG. OK. We have made one point that we certainly agree upon, not that we disagree basically. I must confess that I admire your integrity and candor, which has been quite obvious, Dr. Tarr.

Dr. TARR. I appreciate that.

Mr. EILBERG. I will yield to Mr. Keating now and then I will come back.

Mr. KEATING. Mr. Chairman, Congressman Fish was not here the other day and I know he has some very pertinent questions and I would like to yield to him, if it would be agreeable to you.

Mr. EILBERG. Certainly.

Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

Dr. Tarr, I am sorry I was not here at the hearings last week. I realize that because of this, it is possible that I am going to go over some old material that you possibly addressed yourself to already.

Mr. EILBERG. Excuse me, Mr. Fish. Can you hear over there, Ms. Holtzman?

Ms. HOLTZMAN. Surely. Would you like me to move closer?

Mr. EILBERG. If you would like to, you are invited.

Ms. HOLTZMAN. Thank you.

Mr. FISH. Dr. Tarr, what I would like to get into is the whole question as to who should be issuing visas abroad. Whether we should have a consular service that, looking at the testimony of Mr. Macomber a year ago, would be something separate and apart from the diplomatic service. I do not know how far the State Department has gone in moving in that direction. I have some problems here. Having been in the Service myself, I would like to think that a consul general, for example, would know what was going on in the visa section, which would be a large part of his work as well as being the political and economic officer. I think the counselor of the Embassy also should have this background if it is going to remain part of the function of the Foreign Service. Without meaning to knock any old time consuls, my mind is open to the process where everybody going into the Foreign Service would spend some time in consular work and not have it be a dead end, but have it be a part of their career.

On the other side of the question is whether to do away with it entirely as a Foreign Service responsibility, and since the ultimate decision remains with the Immigration and Naturalization Service upon entering the country, why not do what the Canadians have done for years and put those people in the field and let them do it at both ends? Can you give me your thoughts on that?

Dr. TARR. Mr. Fish, I would be happy to.

At the time of the Rogers Act in 1924, the decision was made, and I think wisely so, to combine in one service personnel performing consular and diplomatic functions. My brief contact with the Foreign Service convinces me that a typical Foreign Service officer is a unique person in the cross section of people in the United States. He or she is that kind of person who can live abroad in a strange setting and still maintain the kind of discipline, inquisitiveness, and loyalty to the principles of the country that we really need for the representation that our people deserve. I think that the typical Foreign Service officer—now, I am talking about all Foreign Service officers—is the type of person who has some experience with languages, who can fit

into the situation abroad well enough so that some of these duties that bring him very closely into contact with people abroad can be performed very well. As such, I think the contact that an officer has in some of these consular jobs, particularly at a low level, is the kind of experience that all Foreign Service officers should have in their background. For this reason partly, most of our Foreign Service officers on their first assignment will go to a consular job. We were talking about this here last week, and I think that I gave a figure something like 75 or 80 percent of the first assignments of officers are in consular jobs.

As you pointed out, you would lose if you made this a responsibility of people in another branch of Government. What would you lose? You would lose the kind of experience that Foreign Service officers, who do all kinds of jobs later in their career, would have from a consular assignment at the outset. My guess is that you would lose something else, and that is the quality of person that you now get in the Foreign Service who does these jobs as a young officer, with the expectation that this will not be a whole life's work but is a place to start one's lifework. If you recruit someone who is willing to issue visas for the rest of his life, then I think that the quality of the work of issuing visas will not be the caliber that you and I hope it would be.

Some of these young, bright, motivated people who come into the Foreign Service will take this as their first assignment and they take it as a challenge as a first assignment. But if they must look forward to doing the same kind of work, perhaps when they are 50 years old, it would not be the kind of career that really would hold them.

So I think this combination that we have, where most of our people do these kinds of jobs in their first assignment, is an eminently satisfactory one and it is an arrangement that we would like very much to continue.

Mr. FISH. Doctor, I could not agree more with your expression of the type of individual that you want to see in the Service and I know we have been very fortunate in the number of people like that that we have been able to recruit. And I am glad to hear what you said about the junior officer getting exposed to consular work.

But after this first tour of duty, or maybe the first two in this area, is the function then passed on to somebody who has come in more recently, or is there a sort of cadre of people that are structured into a career of being a consular officer who are separate? I cannot quite jibe what you are saying with the testimony of Mr. Macomber where, after talking about the type of personality that is good in strictly consular work, he was then asked if there would be a separate career development. He answered yes.

He was asked, is this a formalized part of the career program, and the answer was yes.

So I wonder how far the Department has gone in a separate consular service—it seems to me you have almost objected to this in what you said earlier about the stagnation of the career in that type of work.

Mr. EILBERG. Mr. Fish, I wonder if you would yield?

Mr. FISH. Surely.

Mr. EILBERG. I would like to add more to the quotation before there is a response. Mr. Macomber went on to say before the Foreign Affairs Subcommittee that:

Consular work is different from political work and you should not recruit the same kind of person for it. The person who is a good consular officer tends to be a good bureaucrat in this good sense of that word—the kind of person who likes to move a lot of paper, likes to deal with a lot of people, the kind of person who likes to adjudicate matters. This kind of fellow is a somewhat different breed than a fellow sitting in the embassy political section mapping out diplomatic political moves and diplomatic strategy. . . . Yes, but the problem has been that we have been trying to do these different jobs with similar people. And what has happened is that the consular work has been given a lower priority. The fact is that it is very important business and should be handled by persons specially recruited and developed for it.

Would you agree with that statement?

Dr. TARR. I do not entirely agree with it, nor do I entirely disagree with it. I think that if I could turn Mr. Fish's question around just a little bit, I think what he is asking is, OK, you do this for one or two assignments in the same or somewhat different location. Then where does the man go from here, or what does this lady that we have had in Guadalajara for 6 or 8 years look forward to as a future?

I think that what we need to look at is the total responsibility that a consular officer has while he is doing consular work. It is somewhat larger than the requirements of issuing nonimmigrant visas.

For instance, I think all of us would agree that the degree of skill involved in immigrant visa interviewing and decisionmaking may be somewhat more complicated than it is for the nonimmigrant visa. I think most of us would recognize that the problems that an officer has in dealing with the difficulties in which Americans are involved abroad are of a substantially different order than the issuance of visas. Well, the more advanced a person becomes in consular work, the more we expect him to do some of these other things in addition to simply the issuance of visas.

The reason, Mr. Chairman, that I said I do not entirely agree with those remarks is that while we begin by emphasizing specialities, at the peak of a person's career in the Foreign Service, we look more for general skills and ultimately for the kind of person who can supervise our largest operations. If the system on which we have now embarked is to be successful, it will be a system where, regardless of where a man starts, regardless of where a young lady begins her career, he or she can be an ambassador in one of our major posts.

He may start with any of several specialities, but the place where a person can end his career should be identical regardless of where he begins.

Now, I think if you took that quotation and based your entire philosophy on that, you would see a limited point beyond which an officer could not advance because he was doing only the kinds of things for which he was recruited. My point is simply that regardless of the specific skill for which an officer might have been recruited and which might have looked perfectly acceptable at that point, that may not be an appropriate career for a bright, energetic young person when he is 35 and looking toward the peak of his career.

Mr. FISH. Maybe I should have asked this question earlier. Can you tell me do we still have FSS and FSO categories in the field?

Dr. TARR. Yes, and FSRU. The FSS is a staff position in the Foreign Service. This is a category of assignment usually related to technical work. For example, our communications people in the field are staff people.

Mr. FISH. If I could just interrupt a second, do I understand that the majority of those who are consul generals or who are consuls, have the title "consul" in an embassy or so on, would be career men in the Foreign Service?

Dr. TARR. Almost invariably.

Mr. FISH. Well, I am glad to hear what you said, because of what Mr. Macomber testified to last year. It would seem as if he had said they had almost formalized a career program for consular operation separate and apart from the totality of the responsibilities which is the way you have described it. I would think there would be all kinds of problems if there were two classes of people in the field—the one who was the consul who knew he was not going to get any further always seeing the bright people passing through his office every couple of years. I would think that would be a bad situation.

Dr. TARR. May I explain a little bit more what actually happens? We now have four different specialties in the Foreign Service for which people are recruited, and we have talked rather extensively about the consular type of work. The three others are administrative work, political work, and economic and commercial work. So that we talk about four different categories of officers, none of which, in terms of rank or pecking order, is above the other.

When Secretary Macomber was talking about this channel for a consular officer, he was also talking about a similar kind of channel for each one of the other three, a logical progression that a typical economics officer could expect as he rises in the Foreign Service, or that a typical administrative officer could expect.

Now, what I am talking about is as these people move up in rank and gain more experience, the system, as I see it, is one in which there is a lot more flexibility at the top with respect to assignment. The time comes when the identification with the kind of work a person starts with and for which he was originally prepared is not nearly as impressive as his skills as a generalist in managing some of our largest operations.

Mr. EILBERG. Dr. Tarr, I think we will have to go to the quorum call. We will be back as quickly as we can.

[Recess.]

Mr. EILBERG. Mr. Fish?

Mr. FISH. Doctor Tarr, we have talked about the need for a high caliber individual that rises through the Service, that receives the total experience of being in the Foreign Service, where they can do political reporting, consular work and so forth, and that each has the possibility of achieving, as I understand, the top position of being a career minister, or career ambassador. I wonder if I could just ask you to give us in your own words the structure from the beginning. I am a little bit confused, whether one is aimed at one direction or in the four directions you mentioned or, whether it is much more of a generalist proposition.

Dr. TARR. Mr. Fish, the Foreign Service examination now is given in somewhat different form for each one of the four specialties. In other words, the Foreign Service examination for people entering the consular cone will be structured somewhat differently than the examination for people coming into the economic cone. The earliest jobs that a person is assigned to in the Foreign Service usually will be in his area of specialty. The exception to that is that even though a person is a political, economic, or administrative officer, his first assignment might very well be in consular work. But from then on, he is primarily involved in the specialty for which he was recruited.

At about the 03 level, an officer has gained enough experience so that he is more likely to be involved in supervisory work. He begins to enter into the ranks of managers in the Department. A few continue only to be conceptual thinkers and involved in strictly staff work. But insofar as a person becomes more of a manager, and most of our consular officers would be of this kind, it becomes more and more difficult to link his work strictly to the cone in which he began his service. It is from this kind of general experience in managing the activities of other people that the promotion boards are able to look to see if that person has the quality to continue on up to 01 or career minister or career ambassador.

There comes a point in a person's career where it is more important how he is able to exhibit the general skills that we expect from all Foreign Service officers as distinct from those skills that were necessary at the time he came into the Service and promotion boards will take this into account when they consider promoting people.

Now, we do have certain posts that are designated to be headed by consular officers. We have certain posts that are designated to be headed by economic officers. With the exception of these, however, the higher the rank of the person, the more general the assignment might be irrespective of cones.

Mr. FISH. One of those categories is consular work, so that a career officer could spend most of his time still in strictly consular work?

Dr. TARR. Well, he could spend most of his time, I would think, up to about the level of 03.

Mr. FISH. I would change the subject here. It has come to our attention that several posts in countries that used to be high up among the immigrant visa issuing countries are now issuing very few immigrant visas and instead are issuing a great many more nonimmigrant visas. In a country like Ireland, for example, where it might have been 4,000 immigration visas opposed to a few hundred nonimmigration visas, this has practically been reversed. I wonder if you could comment on this phenomenon and what results the Department has noted from this. Is it working well? Are these people bona fide nonimmigrants as far as experience has shown in the last few years?

Dr. TARR. I think there is no question that we have a problem, a national problem, of people who really want to emigrate to this country but realize that under our law the only practical way of doing it is to seek to come into the country on a nonimmigrant visa and simply stay. This is the most difficult question for our consular officers to answer in the field: Is the person applying for a nonimmigrant visa

going to return home at the end of the period for which he applied for the visa, or, in fact, is he intending really to settle in the United States, but realize that the nonimmigrant visa is the only vehicle by which he can come in the first place? This is one of the great difficulties that our officers have in the field. It is a difficulty that I think we need to approach in ways beyond simply the visa process itself.

I think the concern of members of this committee regarding the issuance of social security cards, for instance, or legislation requiring the employers to employ only people who are citizens or aliens legally entitled to work, are certainly appropriate, because I know of no way that we can reorganize or restructure the method by which we grant visas to eliminate the problem of the illegal entry.

Mr. FISH. Have you noticed since the law was changed in the middle 1960's a marked increase in the number of applications for change of status by nonimmigrants in the United States?

Mr. DIGGINS. I would have to look up the statistics on it. I do not know them offhand. I think, though, it is pretty safe to say that with respect to Ireland, the labor certification requirement of the 1965 act has tended to cut down the numbers of people that can come from Ireland. I think also that the better job opportunities in Europe perhaps might have siphoned off some of those people who might normally have wanted to come to the United States.

As far as adjustments are concerned, we can give you a paper on adjustments. But I do not think there is any increase. That is just an opinion. I do not believe there is any increase in adjustments from Europe, for example.

Mr. FISH. So the manifold increase in nonimmigrant visas issued in a place like Dublin would be accounted for, you say, by economic factors and factors other than people resorting to that as a subterfuge?

Mr. DIGGINS. Well, this is interesting. In fiscal year 1968, the adjustment rate was 23,000; in 1969, 21,000. In 1970, the adjustment rate was 29,000; 1971 was 36,000 or nearly 37,000. In 1972, it was 45,000. So the adjustment rate did go up worldwide.

Mr. FISH. You would not have the figures there for prior to 1965, would you, by any chance?

Mr. DIGGINS. No, I do not, only from 1968. But why did this happen? After all, with the new law, the 1965 act, adjustments were then in greater use in the Far East, for example, for people born in China, people born in the Philippines. So it is pretty hard from the scanty figures I have given to be able to attribute this to Europe. I think that, by and large, if you could analyze it closer, the adjustment rate would have increased for the rest of the world and perhaps gone down for Europe. I cannot say that for a fact. We would have to analyze it for you.

Mr. FISH. Thank you, Mr. Chairman.

Mr. ELLBERG. Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman.

With respect to the issuance of, let us say, nonimmigrant visas, how much time is consumed in the processing of a particular application?

Dr. TARR. I think that the statistics that I read in the material that these folks prepared for me indicated that the worldwide average was something on the order of 10 minutes. The actual situation, however,

involves a considerable variation, not only from post to post, but from case to case. There are some places where it takes a great deal more time than it does others simply because of the nature of the country, the expectation of fraudulent documentation, this sort of thing.

Ms. HOLTZMAN. When you say fraudulent documentation, what you are talking about is evaluation of the legitimate intent to return? Is that the basic time-consuming element?

Dr. TARR. Right. Mr. Diggins perhaps has some more information that he might like to give you.

Mr. DIGGINS. We do have a statistical runoff from our computer, based on visas issued, visas refused, divided into the total number of hours devoted to nonimmigrant visas on one hand and immigrant visas on the other hand. Where the volume is very heavy in an area where there is relatively little fraud—London, for example, or Toronto, or Tokyo, for example—the time per visa may run about 10 or 15 minutes or so. However, when you look at the Caribbean, let us say, or places in the Far East where we do have a significant problem in deciding on the bona fides of documents to be sure that it is a genuine birth certificate or a bona fide document proving marriage then, of course, the time goes up. But worldwide, we say that it takes 20 minutes on the average to handle a nonimmigrant visa. But that does not really mean anything, because in London or Tokyo, it means 10 minutes, 12 minutes, whereas in a place like Ougadougou it could be an hour.

Ms. HOLTZMAN. And also dependent on the past experience as to whether or not you are going to have a lot of visitors visas which are used for the purpose of gaining entry to the United States for long-term resident purposes, is that right?

Mr. DIGGINS. That is right. If I were a visa officer in London or Tokyo, I think I would find it a lot easier to make my mind up whether the person before me or whose application I am considering is eligible or not than I would in a country where the per capita income is, say, under \$70 a year. In the latter case my job is a lot more difficult and, consequently, I must think a little more and look at the documents a little closer.

Ms. HOLTZMAN. I recall hearing or reading about complaints in the past—I am not sure if they apply recently—concerning the redtape involved in visitors coming to the United States. If you are giving me an average of 10 minutes per visa applicant, you say in a place like London or Paris or Tokyo, are those claims justified or not? I am talking about nonimmigrant visas, tourist visas.

Mr. DIGGINS. I must confess that I think a lot of times, it is justified. For example, if I phone to get a reservation on a train or a plane or for the theater in New York City, if I phone in a busy time, I am going to get a busy signal on the telephone, because those offices, I think, are staffed to meet an average level of workload. It is the same in our Service. We budget for a certain number of people. We try as best we can to provide staff sufficient to meet the high level demand periods, but we cannot always hit it on the nose to provide the right number of people to serve the public the way they should be served.

Ms. HOLTZMAN. Has any consideration been given in the Department to the necessity, let us say, for tourists coming to the United States to have visas? Has that been rethought?

Dr. TARR. I think it is only fair to say that we think about it frequently. Yesterday, when we presented our budget to the Deputy Secretary with the consular package in it, he said, why do we issue visas? I said, frankly, there are several reasons why we issue visas. One of these is the sentiment in the Congress that we need to use the screening function that the visa requirement provides to control illegal immigration into the country, and partly, to control terrorism or terrorist activities here.

Now, I think that you can ask the question, to what degree do these processes deter people who are determined to carry out terrorist acts or are determined to settle in this country. You can make a pretty good case that much of what we are doing in the visa field is not an effective deterrent. But we are involved in a situation here where we do the best we can with the machinery that we have at hand and this is some of the machinery that we use.

Ms. HOLTZMAN. Has a cost analysis been done as to what savings would be incurred if, for example, a visa system for tourists from abroad were abolished for certain countries where the experience with respect to illegality or lack of bona fide tourism is not great and experience of terrorism is not great?

Dr. TARR. I cannot give you any precise cost analysis on this. Many people in the Department have suggested that there are some parts of the world that we should not require visas from, that we have very little difficulty in those particular places, and therefore, we might abandon visas in those places.

Ms. HOLTZMAN. I was just thinking about the idea with you, and its benefits especially in view of the tremendous burdens you say you have in processing visa applications, immigrant visa applications and even tourist visa applications in other countries where we are concerned with the problem of illegal immigration or possibly terrorism. I am surprised to hear that there has not been a budgetary analysis, especially in view of the fact that this administration claims to be particularly concerned about budgetary problems and cutting the budget.

Dr. TARR. My reply to that would be that I am not sure how far my own thinking would be clarified if I knew precisely what the money savings would be to eliminate visas because the consequences of the two questions that I asked with reference to terrorism and people coming here illegally are not things that you really can measure in cost terms. These are problems that have import not only with respect to economics, but in human terms. So the more significant thing that I would want to find out if I determined the cost benefits of abandoning the visa would be if I had another place to which I could apply that saving that would better solve the problem that I am really worried about. I am not sure that the economic justification would really help me in that regard.

But I do not want to leave you with the idea that we have a closed mind on this problem. If you could help me through to the answer to the question, how better could we control terrorism or illegal entry than by the present visa process, I am ready to consider it right now.

Ms. HOLTZMAN. If I may just make one point in response to that question, I was really directing my question to areas of the world

where we do not, as a practical matter, have experience with illegal immigration.

Dr. TARR. I understand that.

Ms. HOLTZMAN. And so far, those areas where we have not had any experience of terrorism. If I have a chance, I would like to ask you what you do in screening applications to make sure that we do not have terrorists come into this country. If it takes only a few minutes, perhaps that is a fact we could find out.

Mr. EILBERG. We will come back.

[Recess.]

Mr. EILBERG. We will resume with Ms. Holtzman upon her return, but in the meantime to conserve the limited time we have, I will ask you some questions.

We have a great many more questions than time permits, so I will have to submit some to you.

Dr. TARR. Yes, Mr. Chairman.

Mr. EILBERG. From the volume of requests for information that come to our subcommittee from Members of Congress or the staff persons of Members of Congress, it would appear that much of their time is taken up with repeatedly answering basic questions. In view of the proceedings today and last week, would you or perhaps an appropriate representative from SCA be willing to come over here and provide a lecture or two, explaining visa procedures and the various mechanical problems to the staff and Members?

Dr. TARR. I think that would be fine. We would be very happy to do that.

Mr. EILBERG. If you would do that, it would make our job easier.

Dr. TARR. We would be very happy to.

Mr. EILBERG. Ms. Holtzman, will you resume?

Ms. HOLTZMAN. Yes, thank you very much, Mr. Chairman.

I would like to pursue that area a little bit longer, because not knowing how much money it would save to eliminate the tourist visas for certain countries, and also thinking about the possible benefits of the plan from the diplomatic point of view and also from a commercial point of view, balance of trade point of view, I would like to explore the objections that you see to abolishing the visa for certain countries where we do not have the experience of illegal or lack of bona fide entry. In the screening process, you say that the basic objection you have, leaving aside the bona fide intent point on this, is potential terrorism. How do you screen for potential terrorists at this point?

Dr. TARR. If the committee would like to go into these matters that relate to terrorists, I think I would like to suggest, Mr. Chairman, that we might ask some of the people from the Department who are most familiar with this to come up and meet with members of the committee in a closed session. You might be interested in some case-by-case descriptions of what we have done in specific instances and we would be very happy to respond to that if you would like to do it. That might be interesting.

Mr. EILBERG. It would. I also suggest that you might assist us further by applying pressure on the other body to help move our illegal alien bill so that we can reduce some of the problems in that respect.

Dr. TARR. I appreciate that, Mr. Chairman, but I have never thought that my position was one of influence over either body.

Mr. KEATING. Off the record.

[Discussion off the record.]

Dr. TARR. I really believe that you might be interested in exploring some of the things that we have done thus far at moments of, I would say, near crisis and the thinking of members of the committee. I am sure, would be helpful to some of our people who are charged with this responsibility in the Department. Frankly, I would rather not, myself, either in open or closed session, talk too much about terrorism, because I only know about it in general terms.

Ms. HOLTZMAN. But just in view of the possible benefits that might accrue from the restriction or elimination of the visa requirement on a selected basis, I would certainly be interested and I know the chairman would be willing to hear that justification with respect to terrorism.

I also wonder whether we have ever been supplied with copies of the forms that nonimmigrant visa applicants must fill out.

Dr. TARR. We will certainly send them.

Ms. HOLTZMAN. Thank you.

Along the lines of what our questioning has been, and turning, perhaps, a little bit more to the scrutiny of people who come and seek entry into the United States, whether for immigrant purposes or nonimmigrant purposes, I take it one of the things that you screen for has to do with professional terrorism, do you also screen for connections with organized crime, for example?

Dr. TARR. Yes.

Ms. HOLTZMAN. Do you do any screening with respect to requests for political asylum that come to your consular office or not?

Mr. DIGGINS. We do occasionally have people who come to our embassies or consulates and ask for asylum. These cases are handled in a set procedural way. Again, I think perhaps the best way that this could be handled would be in an executive or a closed session.

Ms. HOLTZMAN. I would certainly be interested in seeing how such requests are handled as well, if we have time.

Are the consular officers trained in the foreign language of the country in which they work?

Dr. TARR. They may be and they may not be. When I was preparing to come up here and talk with you, we discussed language qualifications and we found on examination that our consular officers are generally as qualified in second, third, and fourth languages as are other officers in the Foreign Service. Sometime ago, perhaps a decade ago, the Foreign Service realized that its officers, at least some of its officers, were not as well trained in the language and customs of the host country as would be desirable for a professional service. I think that we have made great strides through our efforts in the Foreign Service Institute to provide language instruction for Foreign Service officers of all specialties.

Mr. EILBERG. Would the gentle lady yield at this point?

Ms. HOLTZMAN. Certainly.

Mr. EILBERG. As you know, this subcommittee, or some members of the subcommittee, went on a trip to the Far East during the recess. I

have several questions relating to that, but this is the one Ms. Holtzman touched on. On our visit to Hong Kong, we learned that our consular officers there were having great language difficulty with regard to applicants. This leads to the question of what language training do consular officers receive and is there a need to expand the language training programs operated by the Foreign Service Institute?

Dr. TARR. In order to be promoted to class 5, Foreign Service officers need to show a certain level of proficiency in one language. The level of proficiency is slightly higher for what we usually term the easier languages, the European languages, as opposed to the more difficult—Chinese, Japanese, or Arabic, for example. One of the difficulties we have, however, is that if we must assign people to jobs only in a country in whose language they have a proficiency, then the people who are Burmese language officers recognize full well that their experience in the Service is going to be either in the United States or in Burma or in an English-speaking country. I think the Foreign Service must not limit itself that much. But no one would disagree with a statement that you perhaps might make, and that is that a person performs his duties as a consular officer much better if he has a working knowledge of the language of the people who come in and ask for a visa. There is just no question about that.

Now, should our instruction in languages be increased, and should we devote more of a Foreign Service officer's time to language instruction? I think that we all recognize that, of necessity, there has to be a compromise between how much time should be devoted to regular work and how much time an officer should spend in preparation, such as language study, for assignments. If we are going to give officers a variety of experience in the field to prepare them for advanced positions, then we are somewhat inhibited by a language requirement. So our present policy is really a compromise.

In general, however, putting aside the compromise that one has to make in the assignment of people, the recent trend toward increased language instruction in the Foreign Service is very appropriate and if anything, it should be intensified, not diminished.

Mr. ELBERG. And will you move in that direction or try to move in that direction?

Dr. TARR. We certainly hope that we will be able to move in that direction.

Ms. HOLTZMAN. Along this line, Mr. Chairman, perhaps we can get some more precise figures.

Do you have any figures as to what percent of the consular officers dealing with visa applications in non-English speaking countries speak the language of the country in which they are stationed?

Dr. TARR. Do you know?

Mr. RECKNAGEL. No, we will have to get that. [See app. 6, p. 291.]

Dr. TARR. The only statistics that I think we can produce for you here are the general statistics of consular officers who have proficiency in one or two or three or more languages as compared to the rest of the Foreign Service.

Ms. HOLTZMAN. I understand. I can speak a little bit of French and a smattering of Italian, but I would certainly be lost in Hong Kong. So I think that question I asked is rather pertinent to the level of efficiency in terms of our Foreign Service officers.

Second, say a consular officer is assigned to a non-English speaking country; does he receive any training in the language of the country before he is assigned there?

Dr. TARR. Before I go into that, may I say that we do have one statistic that is of some assistance; 250 of our 608 consular officer positions are language-designated, which means that a person is not assigned to the position unless he has some working familiarity with the language. So that would be about—well, it is about 38 percent.

Ms. HOLTZMAN. That would not necessarily include the people who are dealing with the visa applicants? Some might be in that figure and some might not.

Dr. TARR. Well, it would not include some of the young people who are not consular officers who might be assigned to consular duties on their first tour of duty.

Ms. HOLTZMAN. I understand.

Dr. TARR. I am sorry, though. I forgot the question now that you asked.

Ms. HOLTZMAN. What language training is received beforehand by someone who is assigned to a post abroad to deal with visa applicants. Or is there any requirement?

Mr. RECKNAGEL. The policy now of having language-designated positions is being very rigidly enforced in order to try to be sure that we do get more people who are language competent in positions where we feel that it is essential that they should have language. Now, if we have an officer who is qualified, fine, then we can send him out. But if we do not, then our policy now is to insist that the officer be given sufficient language training to reach at least a useful level before he goes to a position that is designated as language essential. We have increased the training programs in the Foreign Service Institute to some extent to that end, and we are possibly going to have to increase them more to meet the need.

Dr. TARR. But typically, what do we do if a person is not going to a language-designated position and he does not have the language?

Mr. RECKNAGEL. If he is not going to a language-designated position and does not have the language, then he will normally have to get it at post, unless there is time to give him language training simply because it is desirable for him to have it. But if he is not being assigned to a language-designated position, then there is no mandatory requirement that he have a language before he goes. Obviously, we always do try to help an officer toward some proficiency in the language of the country to which he is being assigned, regardless.

Ms. HOLTZMAN. If he receives no training before he leaves, is there a requirement that that person pursue some inservice or at-post language training when he is assigned to that non-English-speaking country?

Mr. RECKNAGEL. A requirement, no, but it is highly desirable, yes, and an officer is encouraged to do it, as a practical matter. Another thing, it is of advantage to his promotion record to have more than one language. In fact, in order to reach class 5, to move from the junior officer group to the midcareer group, he must have proficiency in one language. The promotion boards attach a good deal of weight to proficiency in languages as the officer moves up the line. Although

there is not a requirement in the sense that he is told he has to study language at-post, he knows it is highly desirable that he do it and most do.

Dr. TARR. As a former professor, I have been interested in what we do at the Foreign Service Institute. The operations at the Foreign Service Institute are very flexible with respect to officers who are going out on assignment. My observation in the year and a half that I have been in the Department is that soon after an officer knows that he is assigned to a country he usually goes to the Institute to begin making arrangements for some kind of help in the language. It might only be a week or two or whatever. But they are flexible enough so that they can provide that officer with intensive study insofar as he has the time to devote to it. On a less certain basis, his wife also sometimes has opportunities to become familiar with the language.

When he gets to the post, the Foreign Service Institute has courses of study in the local language and tapes. These certainly do not substitute for a tutor who could work intensively with the person, but they are materials that are very well developed. I have been working with some of these materials on my own to be familiar with what we are requiring of our people, and I think that unless we were to dedicate ourselves to more time for training, we have done about as well as we can.

Ms. HOLTZMAN. Thank you very much.

Mr. EILBERG. We are under some time pressure now and I am going to ask you a number of questions which are important to me at the moment. Any member can interrupt at any time. In the hope of conserving time, would you answer these as quickly as you can.

How often does the State Department use contract personnel to perform consular work?

Dr. TARR. Sometimes we use part-time personnel, but I am not familiar with our use of contract personnel. Perhaps Mr. Recknagel—

Mr. RECKNAGEL. That is correct. Perhaps, Mr. Chairman, you could explain exactly what you mean, though, by contract personnel to be sure the answer is correct?

Mr. EILBERG. I think short term.

Mr. RECKNAGEL. You mean short-term hire people coming in as locals?

Mr. EILBERG. Yes.

Mr. RECKNAGEL. This is done to some extent.

Mr. EILBERG. What is the policy or how frequently does this occur?

Mr. RECKNAGEL. We prefer not doing it, because people brought in that way normally do not have the qualifications required. But in my own experience, we have done this at posts where we have had people who have previously been employees, previously had experience, who could be temporarily brought back.

Mr. EILBERG. How extensive is this?

Mr. RECKNAGEL. Throughout the Service, my answer is it would not be extensive.

Mr. EILBERG. Sometimes it might need to be depending on the post?

Mr. RECKNAGEL. That is right. Sometimes it is hard to get needed personnel by other means.

Mr. EILBERG. There appears to be an increasing need for additional investigatory personnel to look into questionable cases or cases involving fraudulent documentation. This need is also demonstrated by the increasing number of mala fide nonimmigrant visa applications. In this regard, has there been any attempt to provide U.S. consulates with investigatory personnel, either American or local positions?

Mr. RECKNAGEL. Mr. Chairman, on that, again, this does involve somewhat sensitive information and I wonder if it would be agreeable if that could be answered also in a closed session.

Dr. TARR. Or perhaps we could provide the answer, Mr. Chairman.

Mr. EILBERG. Would you provide the answer?

Mr. RECKNAGEL. Yes, we will provide the answer. [See app. 6, p. 291.]

Mr. EILBERG. Let me just also add, and I hope I am not touching on a sensitive subject, but we observed the situation in Hong Kong. It seemed quite inadequate in terms of personnel; that is, training or numbers. How often are security people at the consulate used to perform investigations of visa applicants?

Mr. RECKNAGEL. It would be preferable to include that also in the written answer.

Mr. EILBERG. Please do.

During our Far East trip last month, in discussions with the consular officers in all the countries that we visited, I found that they were not sufficiently informed of legislative activity or pending legislation. For example, in one post, they did not know that the so-called illegal alien legislation had passed the House, which absolutely startled me. I would think that they would easily have known or might have known of the passage of that legislation and its pendency in the other body; and also other pending legislation with respect to visa issuing functions. Sometimes we are concerned that people in this field are not contacted for their views on immigration legislation. We ran into a consular officer in Saigon who seemed to be extremely well motivated and nobody asked her opinion on Vietnamese orphan legislation. It seems to me there should be some mechanism for reaching out for getting the benefits of grass roots experience.

Mr. DIGGINS. Mr. Chairman, in respect to H.R. 982, in April, we sent a circular analyzing that bill thoroughly. We sent it to all posts abroad. We also included, I think it is the short version of your very comprehensive study by Subcommittee No. 1. But it is a brief, a 16-page writeup on it. It is quite possible that the person you spoke to about this may not have seen it, but it was circulated throughout the entire Foreign Service.

We also have a debriefing procedure in, for example, the Visa Office, where we discuss the visa situation. Any officer returning is debriefed. We discuss the current situation with them to get their views and we talk about new legislation. For example, the 90-day waiver bill has been brought to the field's attention quite a few times in the past, I know when I was on the other side, serving abroad. So it is just possible that when this information is sent abroad, perhaps some of the officers have not seen it.

Mr. EILBERG. What about the other part of my question? For example, I am speaking of a young lady I met in Saigon who had very

marked views on some of the bills that have been introduced regarding Vietnamese orphans. That does not express any particular attitude on my part, but she was expressing very strong, very interesting views. I sent her copies of the bills. I do not know that she will reply or be allowed to reply directly without going through the chain of command. I do not know what your regulations are. But it seems to me that these people in the field may have a lot to offer in terms of legislative input. How do you respond to that?

Mr. DIGGINS. In this one case you are talking about, I believe Mrs. Mink's bill—

Mr. EILBERG. On that and a number that are similar to it.

Mr. DIGGINS. I cannot explain how that happened. I know I saw the response and there was some interesting input.

Mr. EILBERG. I am not speaking of the departmental letter or correspondence; I am talking about just one consular official whom I happened to meet while traveling through some of the orphanages over there.

Mr. DIGGINS. Well, I think what you say is valid.

Mr. RECKNAGEL. Mr. Chairman, I have one brief thing to add. We are exploring right now the idea of a newsletter which will go out literally to all consular officers in the field with the idea of attracting from exactly this sort of thing, calling to their attention matters of interest, bills among them, but things of general interest to consular people, asking for their comments. We have gone to the field and asked one selected group what they would think of this idea and we have gotten a very enthusiastic response. I think this will help to some degree on this one.

Mr. EILBERG. This was my very next question. I cannot stress too much the desirability of some form of newsletter. Put in it what you want, but at least include what is happening on the Hill legislatively, not only bills passed, but bills being proposed so that together we may do a more practicable job.

Mr. RECKNAGEL. Yes, sir.

Mr. EILBERG. This next question may startle you; however, it is not my desire to do so. In Manila we heard from several consular officers that pressure is exerted—perhaps I should not have said Manila as I am liable to get somebody in trouble. But I have special faith in you now, Dr. Tarr, that you will not try to find out who said that pressure is exerted by the Department of State in Washington to issue the maximum number possible of immigrant and nonimmigrant visas. Would you please react to that statement?

Dr. TARR. Mr. Chairman, I really do not know how I can.

Mr. DIGGINS. May I?

Dr. TARR. Yes.

Mr. DIGGINS. It is quite possible that these time and productivity studies that we do have been misinterpreted in the field. But in my 27 years in consular work, mostly spent abroad, I have never had the Visa Office or the Department of State instruct me as to how long I should spend on a visa case. Our people in the field may get that impression from their own supervisors. But if so, it is erroneous. We could not possibly set a norm. It would be impractical and just silly. If they have that impression, it is erroneous.

Mr. EILBERG. I am just wondering how general it is or whether you should consider in your newsletter making clear what your policy is, because these two fellows were certainly quite sincere in their expression toward us.

Now, when we were in Guam, we learned that there were 1,558 treaty traders admitted to Guam during fiscal 1973. We also learned that these nonimmigrants were being used often to perform menial and unskilled services, in violation of the Immigration and Naturalization Act. I wonder if you would react to this problem and give us any recommendations for possibly better processing procedures for this category of nonimmigrant. It is quite unfair to enter Guam as a treaty trader and end up as a laborer.

Mr. DIGGINS. You know, of course, that half of our total treaty-trader, or E-1, E-2 categories are issued to Japanese. I cannot answer the question about what they are being used for in Guam. It is something that certainly we should look into, but I have not heard anything about them being used for menial work. Could it be in the hotel industry and that sort of thing?

Mr. EILBERG. Yes.

Mr. DIGGINS. I would suspect that might be the problem but I just do not know about it, nor have I heard.

Mr. EILBERG. I suggest that you look into that one, since we have found some evidence of it?

Mr. DIGGINS. Yes, sir.

Mr. EILBERG. With regard to Taiwan which some Members visited during the trip. Section 221 requires the Secretary of State to accord nationals of other countries "the same treatment upon reciprocal basis as such foreign country affords nationals of the United States for purposes of prescribing the validity of nonimmigrant visas." Is this reciprocal treatment visible in view of the differing demands for immigration into the United States as opposed to the demand of American citizens to emigrate to other countries?

Mr. DIGGINS. This would be on immigration between the two countries?

Mr. EILBERG. We provide for reciprocal treatment between countries, let us say.

Mr. DIGGINS. For visitors and all of that?

Mr. EILBERG. Yes, multiple entries.

Mr. DIGGINS. I do not know anything about the Taiwan situation. We certainly will look into it. You are saying that there is an imbalance between the two countries?

Mr. EILBERG. Indeed there is. So many come over and never go back. The percentage is extraordinarily high from the information we have. Maybe there should be a reexamination of this reciprocity which exists, and if so, I would like to have your reaction to that. Perhaps legislation is necessary.

Regarding Chile, has the recent overthrow of the Allende government caused an increase in the consular work over there or do you expect an increase in the consular work load in Chile as a result of Allende—

Mr. DIGGINS. I have not heard anything as to whether we have. We are not functioning 100 percent in Chile at the present time. I really cannot answer your question.

Mr. EILBERG. We would be very interested to know. That has impact also on legislation which we now have pending, the Western Hemisphere immigration bill. We are wondering at this moment whether we will suddenly have a refugee situation developing in Chile which might come under scrutiny in the event that H.R. 981 becomes law.

Just a couple more questions. Has the Nicaraguan earthquake caused any substantial problems with respect to the issuance of visas? It is my understanding that no immigrant visas were issued for a period of 3 months and as a result, a large number of B-2, or visitors, visas were issued to intending immigrants. Do you have any comment?

Mr. DIGGINS. In the initial stages after the earthquake, because, as you know, the Embassy was virtually leveled and all of our equipment, our visa forms, our files and all of this, were unavailable to us, we perhaps were a little easier on issuing visitor visas. Because if we were to err, I think we wanted to err on the side of being helpful to people. But if it was true—and I am not sure it was—things are back to normal now. We had to operate out of a swimming pool, I believe, for a while at the residence. But I am told that things are back on a normal basis right now.

Mr. EILBERG. We were informed in the Philippines that in many instances, H-1 visas are issued to registered third preference applicants who are unable to obtain immigrant visas because of the backlog in that preference category. How can a nonimmigrant visa be issued to a person who has expressly indicated his intent to immigrate to the United States?

Mr. DIGGINS. I do not know about the circumstances there, and I would really have to, on a case-by-case basis, know what happened.

Mr. EILBERG. We know about the nurses coming over. They cannot come over as third preference and they come over as H-1 and they stay indefinitely.

Mr. DIGGINS. Well, the consular officer should follow the law and the regulation. We certainly would want to know if they are not. It is possible under the regulations and under the law for someone to qualify as an H-1 if, in fact, his or her intention is not to immigrate now. I know that there are cases where it could happen. But I have never heard of any abuse of it. We certainly would like to look into it.

Mr. EILBERG. Mr. Diggins, in my own city of Philadelphia, I know that one of the hospitals is bringing nurses over under the H-1 program and I cannot vouch or guarantee that they will not return. I have learned that the consulate there is advising medically trained people to apply for an H-1 visa. I can only suspect this is to circumvent the third preference backlog. I would hope that you would look at this situation and do whatever you can.

Mr. DIGGINS. Mr. Chairman, it should not happen and if it is happening we will inquire and take steps, because H-1 should not be a device to circumvent the law.

Mr. EILBERG. Well, gentlemen, we are going to have to conclude unless Mr. Fish or Ms. Holtzman have any more questions?

Mr. FISH. May I take the doctor's time for one more brief question?

Mr. EILBERG. Yes.

Mr. FISH. I want to explore the visa by mail procedure, which I gather was started a few years back. I want to ask you in what countries is visa by mail being used and what has been the experience? What is the field reporting to you about the success of the program?

Dr. TARR. I cannot answer the question.

Mr. DIGGINS. By and large, the visa by mail is a success in Western Europe; it is not a success where people are unemployed and the per capita income is low. In places like Great Britain, Germany, other places in Western Europe it is an unqualified success.

Mr. FISH. Could you describe the procedure to us?

Mr. DIGGINS. The use of the term or the phrase "by mail" really means waiver of personal appearance. By mail is just one way it might be done. It might also be done through a travel agent or by a friend of the family. So if you do not mind, I would rather use it in that context, waiver of personal appearance.

The individual fills out the form prescribed, 257(a)—which has all of the questions prescribed by the law and the regulations—and would include a passport, a photograph, and evidence of one sort or another to show that they in fact would return to their country, their home country, after a visit in the United States.

Mr. FISH. This is restricted to nonimmigrant visas?

Mr. DIGGINS. That is right, sir, nonimmigrant visas entirely. If it turns out that they are students, other requirements might be put on them. The form they fill out has a comprehensive instruction sheet attached to it and hopefully, the applicant will classify himself out. If he is a visitor for business or pleasure, he will provide one kind of documentation; if he is a student, he will do something else.

Ms. HOLTZMAN. How much time does it take for an individual to make such an application and have a personal visit waived? How long does it take from the time he initiates the application until the time the visa is issued?

Mr. DIGGINS. It is a very difficult question. If you take Tokyo where most of those kinds of visas are handled by agents, the post will know that that tour might leave in 2 weeks or a week or so, so time is not really of the essence. The visa would be processed in time for them to receive it, to make the trip. But it may be different in a place like London, for example. What we have instructed the post is that anything received one day ought to be returned the next day. This is what we strive for. In other words, if we receive the application by mail on a Monday, we would expect that the visa would be put in the mail on a Tuesday. Now, in times of heavy volume, that might not happen, but this is what we are trying to achieve.

Mr. EILBERG. We observed that operation in London. I am glad I had that opportunity.

Ms. HOLTZMAN. Mr. Chairman, may I ask just one more question?

Mr. EILBERG. Surely.

Ms. HOLTZMAN. You say you do some additional screening for students who come for tourist purposes?

Mr. DIGGINS. No. What I mean was students who come to our country to be students. For students, there are additional requirements. He must have a form I-20 which shows acceptance by the school—we have to have the I-20. If he is from a country where English is not the native language, we may want to test him in English. There are a

number of reasons why we would see a student, in order to insure conformity with the law and the regulations.

Mr. EILBERG. Dr. Tarr, this has been very useful to us. I hope it has been of some use to you. We are determined to exercise our oversight function quite obviously, and will continue to do so. We are very grateful to you and Mr. Diggins and Mr. Recknagel for your kind cooperation. I hope that we all will learn from this exchange. You have given us many ideas.

[The prepared statement of Hon. Curtis W. Tarr follows:]

STATEMENT OF THE HONORABLE CURTIS W. TARR, ACTING DEPUTY  
UNDER SECRETARY FOR MANAGEMENT

Mr. Chairman: I welcome this opportunity to meet with you and the other members of the committee to discuss the VISA Operations of the Department of State and its Foreign Service posts abroad, my colleagues and I will be happy to try to answer any questions the committee may have about our VISA Operations. I believe, however, that it would be useful initially to describe some aspects of our VISA Operations, particularly as they relate to the illegal alien problem. I believe such a description may provide a better understanding of our role and our responsibilities in this matter as we see them.

Under the Immigration and Nationality Act, U.S. consular officers abroad are responsible for, among other things, the granting or refusing of both immigrant and nonimmigrant visas to aliens seeking to come to the United States. The issuance of visas is a major consular function both in terms of importance to various U.S. interests and in terms of the allocation of resources for consular functions.

Under the law, certain quantitative and qualitative restrictions are placed upon aliens seeking to become permanent residents of the United States. There is an annual numerical limitation of 120,000 on immigration to the U.S. by natives of independent countries of the Western Hemisphere. Likewise, there is an annual numerical limitation of 170,000 on immigration to the United States by natives of all other countries and areas of the world. The only aliens not subject to such numerical limitations are those who come within the definition of "immediate relatives" in the law (for example, the spouse or child of a U.S. citizen) and certain other narrowly defined and numerically insignificant classes of aliens (for example, returning resident aliens, ministers of religion).

An alien who does not qualify as an immediate relative nor, in the case of Eastern Hemisphere natives, come within a preference category for close relatives of U.S. citizens or permanent residents must obtain a certification from the Department of Labor that there is a shortage of qualified workers in the United States with the skills possessed by him and that his employment will not adversely affect the wages and working conditions of workers in the United States similarly employed. Therefore, the first step for a would be immigrant is to establish his status in relation to these requirements.

Some of these determinations are made by agencies other than the Department of State. For example, the Immigration and Naturalization Service is normally responsible for determining the relationship of the applicant to a U.S. citizen or permanent resident that would entitle him to immediate relative or some preference status. The Department of Labor is responsible for determining whether there is a shortage of the applicant's skills in the United States. But, ultimately, all the documentation is submitted to a consular officer at one of our 178 Foreign Service posts that issue immigrant visas. It is the consular officer who must pass on the validity of most of the documentation submitted and who must determine the numerical limitation to which the alien is subject as well as whether he comes within any of the 30-odd categories of ineligibility. These cover, for example, aliens who are insane, have been convicted of crimes involving moral turpitude, are or were members of a Communist organization, or are likely to become a public charge.

Because of the numerical limitations on both Eastern and Western Hemisphere immigration, the immigrant visa workload, in terms of numbers of immigrant visas issued, does not show wide annual variations. In recent years an average of some 300,000 immigrant visas have been issued annually. However,

this figure does not accurately reflect the immigrant visa workload of our consular officers. In addition to cases in which the applicant is determined to be ineligible for an immigrant visa, many more qualified immigrants apply than there are visa numbers immediately available. For example, a Western Hemisphere applicant now faces a waiting period of almost two years from the date he qualifies. Although immigrant visas constitute less than 10 percent of all visa issuances, because of extensive documentary and other requirements, the immigrant visa function consumes more than half of the manpower resources allocated to the visa function.

In contrast to the relatively stable immigrant visa workload, the nonimmigrant visa workload has been increasing dramatically, particularly in the last decade. In fiscal year 1963 some 800,000 nonimmigrant visas were issued to aliens to come to the United States temporarily for purposes such as business, pleasure, study, or temporary employment. In fiscal year 1973 this number exceeded 3 million, an increase of some 360 percent. As with immigrant visas, the number of nonimmigrant visas issued does not necessarily give a true picture of nonimmigrant visa workload. While nonimmigrant visa issuance was increasing 360 percent over the 10-year period, refusals of nonimmigrant visas rose some 500 percent. Indeed, more time normally is required to decide the case of the applicant ultimately determined to be ineligible for a nonimmigrant visa than that of the eligible applicant.

The nonimmigrant visa application process itself is relatively simple. The alien completes an application form and submits it, together with his valid passport and any appropriate supporting documents, to one of our 242 posts that issue nonimmigrant visas. After a name check is run, the application is submitted to the consular officer for a decision. In some cases, primarily those involving applicants for visitor visas, the personal appearance requirement may be waived. But in such instances, the applicant must complete the application form which contains most of the questions that the consular officer would ask in an interview. The consular officer, after examining the application form and supporting papers, decides whether he should interview the applicant personally.

Our visa procedures are intended to insure, so far as possible, that only those aliens who intend to come to this country temporarily, will receive a nonimmigrant visa. The problem faced by the consular officer is to determine that these are indeed the intentions of the visa applicant. This is, of course, an extremely difficult task. In considering an application for a nonimmigrant visa, the consular officer must be satisfied by the evidence presented, including the applicant's own statements, that the applicant is not someone who will need or is likely to seek employment while in this country and that he has a residence abroad to which he intends to return after completing his visit, his studies, or other purpose of his trip. The consular officer normally has only a short time to try to ascertain what is in the mind of a person he usually has never seen before. Moreover, even if the consular officer has judged correctly, the alien who applied in good faith as a visitor may later, at the urging of relatives or friends, change his mind and decide to remain here.

The kinds of misrepresentation encountered by consular officers in visa work vary greatly. However, they usually consist of different types of verbal misrepresentation and, as is also the case in connection with immigrant visa applications, various kinds of fraudulent documentation. Some applicants may simply misrepresent or omit facts which would result in refusal of the visa. Others present false letters from employers, false bank statements, false birth or marriage certificates, or other false documents indicating ties that would normally compel them to return to their home country.

The instances of would be immigrants seeking to enter the United States as temporary visitors or in some other nonimmigrant status varies markedly from one foreign area to another as do the instances of visa refusals. Many circumstances enter into this picture: Local economic conditions, the length of waiting period for an immigrant visa, the cost of travel to the United States, the presence or absence in the United States of sizable numbers of fellow countrymen. Consequently, the volume of visa refusals varies from country to country. For example, in fiscal year 1973 some 47 percent of all nonimmigrant visa applications at Guadalajara were refused as were 35 percent at Santo Domingo. However, the refusal rate was only 1.5 percent at Brussels and 0.1 percent at Tokyo. These variances point up the fact that because of different economic, cultural, and other conditions in different countries it is not possible

to judge the efficiency of different foreign service posts merely by looking at the number of visas issued per officer assigned.

Each time a visa is refused, a record of that refusal is made at the post where the alien applied. This information may also be disseminated immediately to other nearby posts in case the alien who has been refused seeks to apply for a visa elsewhere. To assist high-volume posts, the Department, in 1966, established an electronic name-check file in which refusal data is stored on a current basis in a computer and can be immediately retrieved by posts connected to the system. Thus far 12 posts in Europe, 2 in Canada, 6 in Latin America, and 3 in East Asia are connected to the computer.

We also work closely with the Immigration and Naturalization Service both in Washington and in the field to insure that our respective efforts to deal with the illegal alien problem in its various aspects are mutually reinforcing. In the final analysis, however, it is undeniable, as stressed by one consular post after another, that the principal incentive for the illegal alien is the prospect of finding a comparatively high-paying job in the United States. We believe that H.R. 982, formulated by this committee and enacted by the House of Representatives is an important first step in dealing with this aspect of the problem. But, we also believe that we can and must do a better job on our part.

It has been suggested by some that in our enthusiasm to facilitate travel to the United States for balance-of-payments reasons, we have put too much emphasis on the issuance of a high volume of nonimmigrant visas at the expense of the quality of decisions made by consular officers in individual cases. Some point to statistics showing that, as compared with 1963, our foreign service posts are now issuing 360 percent more nonimmigrant visas with 8 percent fewer personnel. Of course, some of this increased productivity is attributable to measures we have taken over the last decade to streamline visa procedures such as the waiver of personal appearance in certain cases, the indefinite validity visa, and the automated visa name-check system. But it is still argued that the constantly increasing nonimmigrant visa workload simply requires more consular officers to perform the job in order to give each consular officer more time to consider each case. There is no question in my mind that more personnel are needed to perform the visa function, and we are seeking additional consular positions in our present fiscal 1974 budget and intend to do so for fiscal 1975.

In August of this year, we organized a special nonimmigrant visa survey team to visit selected posts abroad and to report to me on steps that might be taken to enhance our performance in this area. The team, under the direction of a senior State Department officer, has returned and is preparing a series of recommendations which would improve local management of the program, strengthen our capacity to meet increased visa workload requirements, and introduce new approaches to insure a high standard of professionalism among consular officers.

Of course the visa function must compete in the resource allocation process not only with other parts of the Department but with other consular functions. In addition to the Visa Office, the Bureau of Security and Consular Affairs also encompasses the Passport Office and the Office of Special Consular Services. The Passport Office is responsible for the issuance of passports to U.S. citizens, both in this country and abroad, and the determination of U.S. citizenship of persons outside the United States. The Office of Special Consular Services is responsible for a wide range of services to American citizens abroad including assistance to Americans under arrest, payment of Federal benefits such as social security, veterans pensions, and so forth, to Americans abroad, and the return to the United States of remains of Americans who die abroad. As more Americans travel and live abroad and, unfortunately, are arrested or die abroad, the manpower requirements of these consular functions increase. And it is not a simple matter to separate these functions for purposes of workload measurement and resource allocation because at some 65 percent of our posts the individual consular officer divides his time among the three consular functions depending on the demand for particular consular services.

In the past 2 years we have sought to improve our workload measurements in order to provide as accurate a picture as possible of resource requirements in the consular field. But no yardstick—such as visas or passports issued or refused, or man-hours expended on a particular consular function—will accurately meas-

ure quality. Nor, I submit, is quality to be insured merely by providing more consular officers.

Prior to the Rogers Act of 1924 the Consular Service and the Diplomatic Service were separate entities. The Rogers Act combined the two into the Foreign Service and this move toward unification was fully formalized in the Foreign Service Act of 1946. All officers in the Foreign Service today are Foreign Service officers and assignable to any Foreign Service position. At the same time, we recognize that some degree of specialization remains desirable if we are to achieve the high degree of professionalism we seek. To this end we have four major fields of specialization, or cones as we call them: consular, administrative, economic, and political. We now recruit officers specifically for one of these four fields. Entrance examinations vary somewhat depending on the field for which an applicant opts. The careers of successful candidates will be developed primarily in the fields they have chosen, but they will also be given training and assignments designed to give them a broad exposure to other facets of Foreign Service work.

We believe that we are much more likely to obtain high quality personnel for the consular as well as other fields if officers are recruited on the basis of their interest in and a commitment to pursue a career primarily in the field of their choice. In addition to this threshold step, we have taken other measures to enhance the consular career. We have designated a number of constituent posts, that is consulates general, not Embassies, where the consular function is the most important of the post's responsibilities, as posts which should be headed by consular specialists. We have already filled a number of these with senior consular officers. We believe that reserving such positions for consular officers will insure high quality in the performance of consular functions at these posts. In doing this, we are also mindful of the frequent criticism that there are too few senior positions in the Foreign Service to which an officer specializing in consular affairs can aspire.

We plan to put added emphasis on professional enrichment for consular officers including management and midcareer university training. We are considering reinstating the requirement that every new Foreign Service officer, whatever his intended specialty, take basic consular officer training. We are also considering increased language training for consular officers, for the consular officer, perhaps more than any other, needs and can utilize a host country language capability.

In short, we believe that we not only need to increase the number of consular officers available to meet the rising demand for visas and other consular services, but need to improve the quality of these services by improving the quality of officers who perform them. Such improvement is inevitably a gradual process. But I am hopeful that we have taken the appropriate first steps to achieve it.

We are mindful of the committee's concern with this aspect of the Department's operations not only in the context of the illegal alien problem, but also in connection with the committee's other oversight responsibilities. I can assure you that we will be responsive to the committee's concern and receptive to any suggestions it may wish to make for improving the way in which we carry out our responsibilities.

Mr. EILBERG. We will continue our oversight hearings on Thursday morning with witnesses from the Immigration and Naturalization Service. We will also be submitting some additional questions to you in writing. I wish we had more time. [See app. 4 at p. 236.]

With that, the hearing is adjourned.

Dr. TARR. Thank you, Mr. Chairman.

[Whereupon, at 4:10 p.m., the subcommittee recessed to reconvene at 10 a.m., Thursday, September 20, 1973.]



## REVIEW OF THE ADMINISTRATION OF THE IMMIGRATION AND NATIONALITY ACT

THURSDAY, SEPTEMBER 20, 1973

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON IMMIGRATION,  
CITIZENSHIP, AND INTERNATIONAL LAW  
OF THE COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 2237, Rayburn House Office Building, Hon. Joshua Eilberg [chairman of the subcommittee] presiding.

Present: Representatives Eilberg, Waldie, Flowers, Holtzman, Railsback, and Keating.

Also present: Garner J. Cline, counsel; Arthur P. Endres, Jr., assistant counsel; and Donald G. Benn, associate counsel.

Mr. EILBERG. The meeting will come to order.

Today's hearing is a continuation of the oversight hearings which will be held by this subcommittee to thoroughly review the administration of the Immigration and Nationality Act by those Government agencies and departments which are charged with this responsibility.

We have heard from officials of the Department of State and today we direct our attention to the Immigration and Naturalization Service of the Department of Justice.

When these hearings were commenced on July 26, 1973, in my opening statement I laid the predicate for these hearings by reciting our oversight responsibilities. In order that there is no misunderstanding of the objectives of these hearings I will again state our purpose.

Section 118 of the Legislative Reorganization Act of 1970 requires each standing committee of the House to review and study on a continuing basis the application and administration of those laws which fall within the subject matter jurisdiction of that committee. The Judiciary Committee, particularly the Subcommittee on Immigration, Citizenship and International Law, has exclusive legislative jurisdiction over all immigration and nationality matters. Consequently, today's hearings have been called in order to properly exercise the legislative oversight duties of this committee and, in particular, we intend to ascertain the manner in which the provisions of the Immigration and Nationality Act are being administered by the Immigration and Naturalization Service.

Today I am happy to welcome Mr. James F. Greene, Acting Commissioner of the Immigration and Naturalization Service, and we recognize our old friend, Charles Gordon, General Counsel for the Immigration and Naturalization Service.

Mr. Greene, it is a pleasure to have you and will you proceed, unless Mr. Keating has any comments.

Mr. KEATING. Mr. Chairman, the only comment that I might make, is to state that Mr. Greene has stepped into a difficult position and I think he has done a very commendable job and is to be congratulated on the fine work he has done as Acting Commissioner. He has a distinguished record of more than 30 years with the Service. I personally want to commend him for it and let him know we are most pleased that someone of your caliber has served in this capacity and done so well through the years.

Mr. GREENE. Thank you very much, Mr. Keating.

Mr. EILBERG. I certainly share what Mr. Keating has said and our admiration is unbounded with respect to your work and your integrity. We greatly appreciate knowing you and working with you.

Mr. GREENE. Well, I am deeply appreciative of those very kind comments. It sort of makes it all worthwhile.

**TESTIMONY OF THE HONORABLE JAMES F. GREENE, ACTING COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE; ACCOMPANIED BY CHARLES GORDON, GENERAL COUNSEL**

Mr. GREENE. I appreciate the opportunity to come before your committee again, Mr. Chairman. I have a short statement that outlines the functions of the Service. With your permission, I will read the statement.

Mr. Chairman, at the request of the committee, I will attempt to give a brief description of the Immigration and Naturalization Service, its formulation, activities, and present status.

I have attached a concise but comprehensive article on the development of immigration and naturalization laws and Service history written by Mr. Charles Gordon, General Counsel of the Immigration and Naturalization Service, who is with me today and is certainly well known as an authority on the immigration law.

The history concludes with the reorganization of 1955. Attached also is a chart of the organization subsequent to that date.

A simple but general statement of the purpose of the Immigration and Naturalization Service is the fact that it administers and enforces all of the Federal immigration and nationality laws. The broad range of duties performed in fulfilling this responsibility includes the inspection of persons to determine their admissibility to the United States; adjudicating requests for benefits under the law; preventing illegal entry into the United States; investigation, apprehension and removal of aliens in this country in violation of the law; and the examination of applicants wishing to become citizens.

The breakdown of functions at the Central Office level reflects the general nature of the work and organization of the regional offices and those offices under their supervision.

There are six major areas of operational activities and two of lesser degree. These do not include the various management support functions which are common to all organizations. The following is a brief description of each activity.

*Inspections.*—All persons entering the United States by any means at any of the approximately 1,000 points of entry must be inspected to determine their nationality and, if they are aliens, whether they are qualified for entry under the immigration laws. The inspectors must protect the security and best interests of the United States through a careful determination of the admissibility of each person inspected, admit or deny entry on the basis of their inspection and, at the same time, be guided by the fact that the numbers involved necessitate the best inspection in the shortest possible time.

During fiscal year 1973 there were over a quarter of a billion persons inspected and admitted to the United States of which 148 million were aliens. During that same period 379,600 aliens were denied entry, which is a 10-percent increase over fiscal year 1972.

*Adjudications.*—In administering the law regarding the rights of aliens to enter, reenter or remain in the United States as well as the nature of the activities they may wish to pursue while in this country the Service adjudicates a wide variety of petitions and applications. These range from petitions to bring persons in for permanent residence, that is, relatives, special workers, and orphans to be adopted, as well as petitions to bring persons in temporarily as nonimmigrant workers, trainees, fiancées and fiancés. Applications are filed for extensions of stay, for permission for part-time employment, for permission to attend school or change school, and many other reasons. During fiscal year 1973 a record 1,393,163 applications and petitions were received, which was 21 percent more than the receipts of 5 years ago. These also included applications for adjustment of status from nonimmigrants who wanted to and qualified to remain in the United States as permanent residents.

Both the inspection and the adjudications activities are performed by immigrant inspectors, also immigrant examiners, of which there are some 1,350 positions in the Service, not all of which are occupied at any one time.

*Investigations.*—A total of 826 investigator positions make up the force stationed throughout the country which shares the responsibility with the Border Patrol for the location of aliens who through illegal entry or violation of the terms of lawful admission are in the United States in illegal status. The work of the Investigations Division can be identified in three general groups. General Investigations is involved with everything from smuggling of aliens, sham marriages, fraudulent petitions, and fraudulent or counterfeit documents. Special investigations deals with the criminal, immoral, narcotic, and subversive classes of aliens and its activities are self-identified; 628 aliens of these classes were deported from the United States during fiscal year 1973. The third group, Area Control, is one which operates largely in the urban or industrialized sections of principal cities in the United States which are areas of high alien concentration and is responsible for apprehending the illegal aliens who are employed or seeking employment to the detriment of the U.S. residents. Increased operations by Area Control forces resulted in the location of 123,963 deportable aliens last year which was a 26-percent increase over the record number located during the previous year.

*Border Patrol.*—One thousand seven hundred highly mobile uniformed officers, some of whom are pilots, make up the Border Patrol

responsible for guarding the Canadian and Mexican borders between the ports of entry to prevent the smuggling and illegal entry of aliens. They also operate in areas away from the border by checking the citizenship and immigration status of farm ranch workers. The functions performed include patrolling areas to apprehend persons seen crossing the border and inspecting and searching cars, buses, trucks, trains, ships and terminals to detect illegal aliens.

Antismuggling activities of the patrol have been quite successful as indicated by the fact that last year Border Patrol agents apprehended over 41,000 aliens who had been induced or assisted to enter unlawfully or who had been transported unlawfully after entry. They also apprehended 6,355 smugglers or violators of statutes relating to the unlawful transportation of these aliens.

During the past fiscal year Service officers located approximately 656,000 deportable aliens, a 30-percent increase over the previous year. Of these, 88 percent were Mexican nationals and 84 percent had entered illegally at other than a port of entry. The Border Patrol also assists other agencies in the conduct of their work. One example is the fact that last year Service officers seized over 98 tons of marihuana and hard drugs and dangerous drugs valued at more than \$9.6 million.

Mr. EILBERG. Mr. Greene, may I just interrupt there? When you speak of the past fiscal year and last year, do you refer to the fiscal year that just ended?

Mr. GREENE. Yes, sir.

*Detention and deportation.*—The service operates detention facilities at New York City, Port Isabel, and El Paso, Tex., and El Centro, Calif. In addition, a processing center is maintained at Chula Vista, Calif., where most of the aliens apprehended on the west coast are assembled and processed before their onward movement across the border or to the interior of Mexico. A total of 365 deportation officers and detention guards are responsible for keeping records of aliens ordered deported, obtaining travel documents for those being deported by the Government and detaining those who are likely to abscond prior to deportation. The Service also uses nonservice facilities in many locations. Of the 292,544 admissions to detention facilities during fiscal year 1973, 120,985 were to these Federal, State, county, or municipal facilities.

During fiscal year 1973, 16,842 aliens were deported under orders of deportation and 568,000 were required to depart without final issuance of such orders. Among these were over 504,000 required departures under safeguards, chiefly Mexicans who had entered without inspection.

*Citizenship.*—The citizenship program of the Service consists of 160 naturalization examiners whose duties include the examination of candidates for naturalization to determine their qualifications; the making of recommendations to the naturalization courts for the grant or denial of citizenship, the examination of applicants for certificates of citizenship who have acquired or derived United States citizenship through a citizen parent, the naturalization of an alien parent, or by marriage of a citizen; the examination of applicants for various other miscellaneous citizenship documents and the conduct of proceedings to cancel illegally or fraudulently procured certificates of citizenship.

During fiscal year 1973, 120,740 persons were naturalized at approximately 2,000 hearings conducted in 560 naturalization courts, an 11-percent increase over the total of 5 years ago. At the same time, citizenship was denied to 9,706 persons, many because of their inability to satisfy the educational requirements. Referring to the certificates of citizenship which are administratively issued by the Service, 30,800 were issued during fiscal year 1973.

*Trial attorneys and immigration judges.*—Any alien whose entry is held up at a port of entry may request an exclusion hearing before a special inquiry officer, now called an immigration judge. In cases where an order to show cause has been issued as to why an individual should not be deported, a deportation hearing is held before such a judge.

In both types of hearings the alien may represent himself or be represented by counsel of his choice. The Government, in turn, is represented by a trial attorney who presents the Government's position to the immigration judge whose actions and decisions are as binding on the Service as they are on the alien. The number of deportation cases deferred during the 1973 fiscal year by the 25 trial attorneys before 29 immigration judges had more than doubled over the past 5 years to an all time high of 42,054. Exclusion hearings totaled 1,743, the greatest number during the past decade.

*Recruitment, training and awards.*—The Service recruits its Border Patrol agents from a civil service examination for that position. For the past 2 years the recruitment of immigrant inspectors and investigators has been at the trainee level (GS-5) with provision for promotion as they obtain training and experience. These individuals are selected from the Federal civil service entrance examination and are, in the majority, college graduates. I would like to insert at that point that we also have provisions for lower grade employees entering into the officer ranks by taking examination, so that the door is open to our clerical employees in addition to those coming off the street.

Personnel in the Service receive training both at their duty station and, as the situation permits, at the Service's Officer Development Center, which is at Port Isabel, Tex. This center is used for all types of instruction as indicated by the 660 employees who received classroom training during fiscal year 1973. Among these were 115 Border Patrol agents who completed the 14-week training course at the Border Patrol Academy, 211 criminal investigators, immigrant inspectors, and deportation officer trainees who completed the 6-week immigration officer basic training course; 38 middle managers who participated in the 2-week executive development seminar; 40 Border Patrol agent supervisors who completed a 2-week training course for supervisory agents; 168 criminal investigators who attended the 12-day journeyman investigator course; 11 naturalization examiners who completed the 12-day naturalization examination training course; and 54 employees who completed the 2-week instructor training course conducted by Civil Service Commission instructors.

In addition to this training, trainees in these programs received intensive off-the-job and on-the-job training in the various essential job knowledges and skills in their occupational fields. I might add

we also have a rather extensive correspondence course that is available to all Service employees covering all activities of the Service.

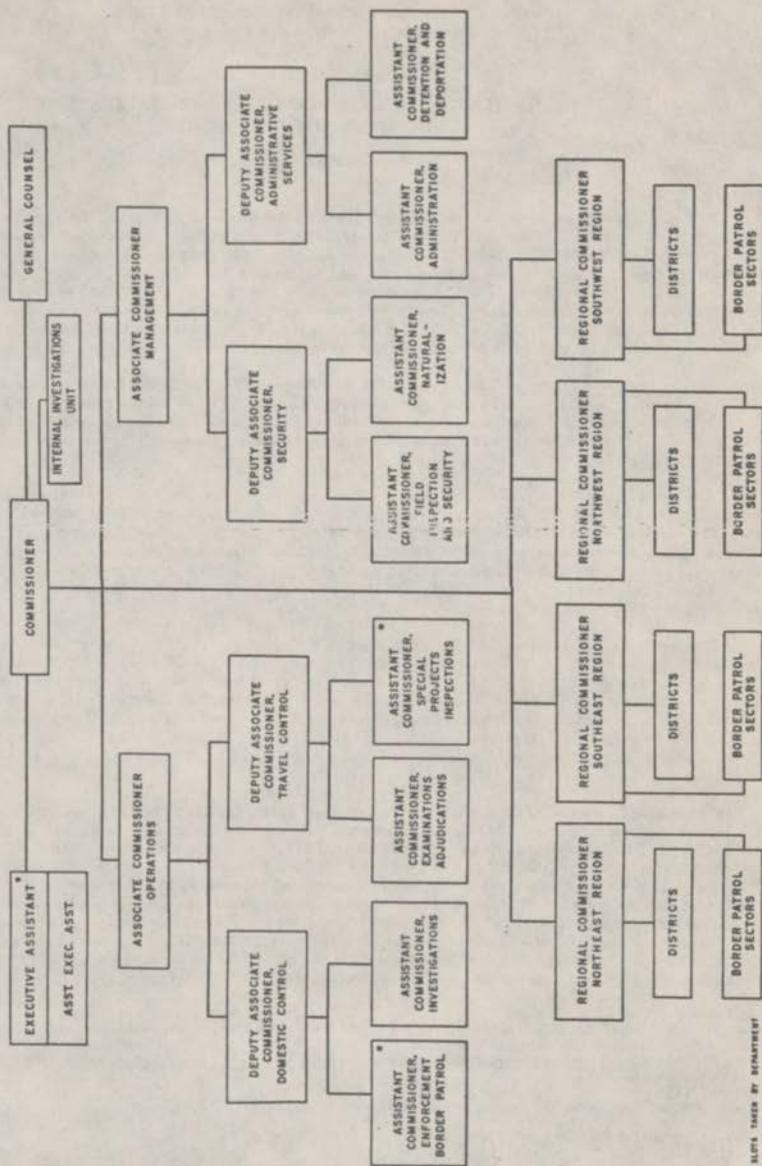
In recognition of their exceptional work performance 788 employees received awards. These would be in the form of outstanding performance ratings, and sustained superior performance awards. Additionally 64 employees' suggestions were adopted under the Service's incentive awards program.

That, sir, is a rather brief summary of the activities of the Service which may be somewhat repetitious to you who have dealt with us through these years but I thought for the record we would summarize it.

Mr. EILBERG. Thank you, Mr. Greene, for a very fine statement and it will be made a part of the record along with the appendixes which include the "Development of Immigration and Naturalization Laws, and Service History" by Charles Gordon.

[The documents referred to follow :]

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE



\* SLIPS TAKEN BY REINSTATEMENT

UNITED STATES DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service  
Washington, D.C. 20536

DEVELOPMENT OF IMMIGRATION AND NATURALIZATION  
LAWS AND SERVICE HISTORY

By Charles Gordon  
General Counsel

The Immigration and Naturalization Service is concerned primarily with the administration of the national laws relating to aliens. The growth of this Service has followed closely the growth and pattern of legislative policy fixed by Congress. Consequently a study of the historical development of the immigration and naturalization laws provides a general outline of the work of this Service as an agency of the Government. The paragraphs which follow crowd a very large subject into a few broad phases. Generally, statutes which are temporary in character or merely procedural are not included. By pursuing the references appended, those who wish may gain a fairly comprehensive knowledge of this subject.

1. Immigration Laws:--For almost a hundred years after this nation was founded the federal laws did not incorporate any restriction against the admission of aliens. Our national policy then favored unrestricted immigration, and this policy was richly rewarded through the substantial contributions made by immigrants and their descendants in the building of this country.

The first enactment of Congress affecting immigration was the Alien Act of 1798,<sup>1</sup> adopted as part of the Alien and Sedition Laws, which enabled the President to order the departure from the United States of any alien whom he deemed dangerous to the United States. This legislation proved very unpopular, and it was not renewed at the expiration of its two year term. Subsequent statutes approved by Congress, commencing in 1819, sought to encourage immigration chiefly by improving conditions on the vessels that brought immigrants to the United States.<sup>2</sup>

During this period the sentiment in favor of unrestricted immigration was by no means unanimous. From time to time, particularly during intervals of economic depression, there were movements which sought to harness the surging tide of immigration that kept pouring into this country. Some of the States became impatient at the delay in securing federal restrictive legislation, and they passed their own local statutes regulating the admission of aliens.<sup>3</sup> However, the Supreme Court of the United States declared all such State laws invalid on the ground that they were an unconstitutional attempt to regulate foreign commerce.<sup>4</sup>

Thereafter, some of the States became insistent that federal regulations be instituted to combat some of the evils that had arisen. This insistence soon bore fruit. The admission of convicts and prostitutes was prohibited in 1875,<sup>5</sup> and this was soon followed by the first general immigration statute on August 3, 1882.<sup>6</sup> The 1882 Act provided for a head tax of 50 cents and barred admission to idiots, lunatics, convicts, and persons likely to become public charges. In 1885 the first contract labor law<sup>7</sup> was adopted, aimed at ending the practice of some employers of importing large bodies of cheap labor and thus depressing the labor market in the United States.<sup>8</sup> The constitutionality of these early immigration restrictions was upheld by the Supreme Court.<sup>9</sup> The Act of October 19, 1888<sup>9a</sup> authorized deportation of alien contract laborers within one year after entry.

<sup>1</sup> Act of June 25, 1798, 1 Stat. 570.

<sup>2</sup> Act of March 7, 1819, 3 Stat. 488; Act of Feb. 22, 1847, 9 Stat. 127; Act of March 2, 1847, 9 Stat. 149; Act of May 17, 1848, 9 Stat. 233.

<sup>3</sup> See Van Vleck, *Administrative Control of Aliens*, p. 4.

<sup>4</sup> *The Passenger Cases (Smith v. Turner)*, 48 U.S. 282 (1849); *Henderson v. Mayor of City of New York*, 92 U.S. 259 (1875).

<sup>5</sup> Act of March 3, 1875, 18 Stat. 477.

<sup>6</sup> 22 Stat. 214.

<sup>7</sup> Act of Feb. 26, 1885, 23 Stat. 332. See also Act of Feb. 23, 1887, 24 Stat. 414.

<sup>8</sup> See Van Vleck, note 3 *supra*, at p. 6.

<sup>9</sup> *Lees v. U.S.*, 150 U.S. 476 (1893).

<sup>9a</sup> 25 Stat. 566.

The year 1882 also witnessed the adoption of the first Chinese exclusion law,<sup>10</sup> which occasioned much controversy but which remained on the statute books until it was repealed on December 17, 1943.<sup>11</sup>

In 1891<sup>12</sup> another general immigration law was adopted which provided for medical inspection and added to the excludable classes persons suffering from a loathsome or dangerous contagious disease, those previously convicted of a criminal offense involving moral turpitude, paupers, and polygamists. The 1891 statute also provided for deportation of all aliens who entered unlawfully. In 1893<sup>13</sup> provision was made for the establishment of boards of special inquiry and for the furnishing of manifests or lists of passengers by vessels entering the United States.

The general immigration law of 1903<sup>14</sup> added to the excludable classes epileptics, insane persons, professional beggars, and anarchists. The inclusion of the last mentioned class may be related to the assassination of President McKinley approximately 18 months earlier. Provision was made for enforcement of some of its provisions by administrative fines. Another general statute in 1907<sup>15</sup> made further extensions in the excludable classes to include the feeble minded, children under 16 unaccompanied by their parents, persons suffering from physical or mental defects that might affect their ability to earn a living, and those who admitted the commission of a crime involving moral turpitude.

During the early years of the 20th century there was a phenomenal increase in immigration--in 1905, 1,026,000 aliens were admitted to the United States. This influx of immigrants, which occurred partly during a period of widespread economic distress, resulted in increased demands for restrictive legislation. A commission was appointed in 1907 to study the problem, and its report, comprising 42 volumes, was completed in 1911. However, no legislation was enacted on the basis of this report until February 5, 1917.<sup>16</sup> It codified all the previous laws relating to exclusions and added two important excluding provisions: a literacy requirement<sup>17</sup> and an automatic exclusion of persons coming from a designated geographical barred zone, comprising most of Asia and the Pacific Islands. In addition, the powers of immigration officers were defined and broadened, and discretionary power was given to the Secretary of Labor (now given to the Attorney General) to admit certain excluded groups in meritorious cases. Aliens who entered in violation of law and those who committed certain serious offenses within the United States were made subject to deportation.

Even in 1917 the immigration restrictions were concerned only with the quality or character of the immigrant himself. No attempt had been made to limit the number of aliens who might be admitted to the United States. At the conclusion of World War I the number of immigrants again commenced to soar, and there was much concern lest an uncontrolled flood of immigration from the war-ravaged countries of Europe might descend upon the United States. Out of this fear emerged the Quota Act of 1921,<sup>18</sup> designed at first as a temporary measure,<sup>19</sup> which introduced the principle of numerical limitation into our immigration laws. The 1921 statute permitted the admission annually of three percent of the number of persons of each nationality in the United States in 1910. On May 26, 1924 Congress adopted a permanent quota law<sup>20</sup> that was the second major immigration statute which regulated the admission and deportation of aliens. This statute limited quota immigrants to approximately 150,000 each year, and the annual quota for each nationality group was based on the number of persons of their national origin in the United States in 1920.

<sup>10</sup> Act of May 6, 1882, 22 Stat. 58.

<sup>11</sup> 57 Stat. 600.

<sup>12</sup> Act of March 3, 1891, 26 Stat. 1084.

<sup>13</sup> Act of March 3, 1893, 27 Stat. 569.

<sup>14</sup> Act of March 3, 1903, 32 Stat. 1213.

<sup>15</sup> Act of Feb. 20, 1907, 34 Stat. 898.

<sup>16</sup> 39 Stat. 874.

<sup>17</sup> The 1917 Act was vetoed by President Wilson because it included this literacy requirement, but Congress passed the legislation over his veto.

<sup>18</sup> Act of May 19, 1921, 42 Stat. 5.

<sup>19</sup> It was scheduled to expire June 30, 1922, but its provisions were extended to June 30, 1924 by the Act of May 11, 1922, 42 Stat. 540.

<sup>20</sup> 43 Stat. 153, 8 USC 201.

The 1924 Act also required the advance procurement of immigration visas by aliens who sought to enter the United States.

A third important measure relating to immigration was the Alien Registration Act of 1940,<sup>21</sup> which extended the deportable classes to include certain criminal and subversive groups, provided suspension of deportation in the cases of certain resident aliens of good character, and for the first time required the registration and fingerprinting of all aliens who were in the United States or who sought to enter as immigrants. In the Internal Security Act of 1950,<sup>22a</sup> the restrictions providing for the exclusion and deportation of aliens who were potentially dangerous to the national security were greatly expanded.

The fourth major measure concerned with the subject of immigration is the Immigration and Nationality Act which was enacted on June 27, 1952 and became effective on December 24, 1952.<sup>22</sup> The enactment of this statute followed an investigation by the Judiciary Committee of the United States Senate of the immigration and naturalization system, immigration policies, and enforcement and administration of the immigration laws of the United States.<sup>23</sup> The Act was designed to repeal most existing immigration and nationality laws and to constitute a complete revision and codification of such laws. Omitting some of the provisions of the earlier laws governing the importation of contract laborers and barring immigration on racial grounds, which provisions had become outmoded primarily due to the effectiveness of the quota restrictions, it codified the principal classes of excluded aliens, and added others. These additions included the narcotic drug addict; persons convicted of two or more offenses, whether or not involving moral turpitude, if the total sentence to confinement was 5 years or more; and certain classes of immoral persons.

This Act, for the first time, specified the administrative process by which the deportation of aliens shall be determined and modified the admission and exclusion process. Changes were made in the immigration system with respect to the application of the quota restrictions. The total annual quotas remained substantially the same as under the previous law. However, the first 50% of the quota from any quota area was made available, on petition, to certain highly skilled or educated persons whose immigration would be beneficial to the economic or cultural interests of the United States. The remaining 50% was made available, on petition, to designated close relatives of citizens of the United States or lawfully admitted aliens. Only to the extent that these preference groups did not exhaust a particular quota, could there be any self initiated immigration from that quota area. Alien husbands of United States citizens were accorded the same quota exempt status as was previously enjoyed by wives of United States citizens. Upon the basis of approved petitions, persons needed to perform temporary services could be temporarily admitted to the United States. Rigid controls were provided over alien crewmen, including requirements for the issuance and revocation of temporary landing permits; and provisions were made for the summary removal of crewmen who violated the terms of their admission.

The grounds for deportation of aliens appearing in former laws were codified and generally carried forward. The eligibility of deportable aliens for suspension of deportation was circumscribed with additional requirements and safeguards, but the classes of aliens, generally, who might establish eligibility for suspension were enlarged. Provision was made for the adjustment of status to permanent resident in the cases of certain aliens who were here in a lawful temporary status, without requiring them to leave the country. Powers of immigration officers were more clearly defined and broadened, and authority was granted to the Attorney General to withhold the deportation of an alien to any country where, in the opinion of the Attorney General, the alien would be subject to physical persecution.

One provision directly bearing upon the excluded classes was made in the Act of September 3, 1954<sup>24</sup> which excused one guilty of a single offense if it was a misdemeanor classifiable as a petty offense under the United States Code.

<sup>21</sup> Act of June 28, 1940, 54 Stat. 670.

<sup>21b</sup> 64 Stat. 997.

<sup>22</sup> 66 Stat. 163, 8 USC 1101 et seq.

<sup>23</sup> Senate Report No. 1515, 81st Cong., 2d Sess.

<sup>24</sup> Sec. 4, 68 Stat. 1145, 8 USC 1182a.

Other changes were also made by the Act of September 11, 1957, among the more important of which were provisions vesting discretionary authority in the Attorney General to authorize the admission of certain aliens of the criminal and immoral classes who are closely related to citizens or lawful resident aliens, and whose exclusion would result in extreme hardships to such relatives, but whose admission would not be contrary to the security of this country; similar discretionary authority to relieve from deportation certain aliens who obtained visas by misrepresenting their nationality and identity through fear of persecution if the true facts were known; authority reciprocally to waive the fingerprinting requirements of the law in the cases of nonimmigrants, and authority to permit certain nonimmigrant government officials and international organization aliens who fail to maintain their status to remain here permanently. Not more than fifty such aliens can be granted that privilege during any fiscal year, and Congressional approval is necessary.

The provision by which a record of lawful entry could be made for aliens where none is available was amended by Act of August 8, 1958. The amendment advanced the date of entry since which the alien must have had a continuous residence from prior to July 1, 1924 to prior to June 28, 1940. The disqualification of deportability was removed, and the test of admissibility added.<sup>24a</sup>

The Act approved September 22, 1959 amended paragraph 3 of Section 203(a) of the Immigration and Nationality Act so as to include unmarried sons and daughters of aliens lawfully admitted for permanent residence in the third class of quota preferences. Previously the law had applied to children of such residents, and that term derived from the definition of "child", meaning one unmarried under 21 years of age. The same Act amended paragraph 4 of subsection (a) to provide a larger portion of the preference quota visas allotted under that paragraph to the brothers, sisters and the married sons and daughters of United States citizens.<sup>24b</sup>

Public Law 87-301, 87th Congress, effective September 26, 1961, repealed the sections of the Acts of September 3, 1954<sup>24c</sup> and September 11, 1957, *supra*, containing the provisions referred to above but incorporated those provisions in the permanent law as amendments to the Immigration and Nationality Act. It also defined the term "eligible orphan" and included it in the definition of "child" in the 1952 Act.<sup>24d</sup> This statute also permitted aliens afflicted with tuberculosis in any form to be admitted to the United States under certain conditions and safeguards provided they have a specified relationship to citizens or lawful resident aliens.<sup>24e</sup>

Sec. 109 of the Mutual Educational and Cultural Exchange Act, approved September 21, 1961, added the alien spouse and minor children of an alien student to the nonimmigrant classes of Sec. 101(a)(15)(F) of the Immigration and Nationality Act and a new clause (J) to subsection (a)(15) of Sec. 101 of that Act. (J) defined aliens included in the Educational and Exchange Act who shall be nonimmigrants under the Immigration and Nationality Act. Sec. 109(c) of the former Act amended Sec. 212 of the latter by adding a new subsection (e) which prescribed under what conditions aliens admitted under new (J) could have status adjusted while here. Sec. 109(d) amended Sec. 248 of the Immigration and Nationality Act for similar purposes.<sup>24f</sup> The Act of April 7, 1970<sup>24g</sup> expanded the conditions for adjustment of status of exchange aliens.

Sec. 9 of the Act of September 22, 1961 (Peace Corps Act) provided that foreign nationals coming to the United States to assist in training Peace Corps volunteers could be admitted as nonimmigrants and be deported upon failure to maintain status, or to make timely departure, or if while here they engaged in activities detrimental to our interests or security. The Attorney General's findings of fact are conclusive in such cases.<sup>24g</sup>

<sup>24</sup> Sec. 4, 68 Stat. 1145, 8 USC 1182a.

<sup>24a</sup> 72 Stat. 546, 8 USC 1259.

<sup>24b</sup> 73 Stat. 644, 8 USC 1153.

<sup>24c</sup> 75 Stat. 650, 8 USC 1101.

<sup>24d</sup> 75 Stat. 654, 8 USC 1182 (a) (f).

<sup>24e</sup> 75 Stat. 534, 535, 8 USC 1101, 1182.

<sup>24f</sup> P.L. 91-225, 84 Stat. 116.

<sup>24g</sup> 75 Stat. 617, 8 USC 1101, 1251, 1253.

A new procedure for the judicial review of an order of deportation was also provided for by the September 26, 1961 amendments to the 1952 Act (Public Law 87-301, *supra*)<sup>24h</sup> which prescribed that a petition for such a review must be timely filed in an appropriate United States Court of Appeals instead of in a District Court as formerly and that the action must be brought against the Immigration and Naturalization Service, as respondent, and not against an individual officer of the Government. It also provided that a final order of exclusion may be judicially reviewed only in habeas corpus proceedings, and that neither an order of deportation nor of exclusion shall be reviewed by any court until the alien has exhausted the administrative remedies available to him, nor if he has departed from the United States after the issuance of the order. An alien in custody pursuant to an order of deportation may still obtain a judicial review of the order by habeas corpus proceedings.

Section 4 of the Act of October 24, 1962<sup>24i</sup> restated Section 244 of the Immigration and Nationality Act by reducing from five to two the classes of aliens whose status may be adjusted to permanent residence by suspension of deportation: those here seven years who are deportable for technical reasons and those here ten years deportable for more serious causes.

The most important enactment relating to immigration since the general Act of 1952 was the Act approved October 3, 1965.<sup>25</sup> The major purpose of this enactment was to abolish the national origins quota system, which was in effect since the Quota Act of 1924. The 1965 amendments became effective December 1, 1965, except as otherwise therein provided. The following principal changes were made by the 1965 legislation.

Until July 1, 1968, the quota provisions of the Immigration and Nationality Act, including the national origins premise for them, remained in effect. As of July 1, 1968, the national origins quota system was abolished, and the annual quota for immigrants was set on a world-wide basis. The unused portion of any quota for any quota area for the fiscal years 1965, 1966, and 1967 was placed in a pool from which visas were issued without regard to the country from which the alien came. Visas from the pool were made available only to admissible aliens for whom visas could not be promptly issued because the quota to which they would otherwise be chargeable was oversubscribed. Such visas were issued in the order of preference prescribed generally for immigrants by the new law.<sup>26</sup> The annual quota is fixed at a maximum of 170,000.<sup>27</sup> After December 1, 1965, the number of immigrants from any single foreign state may not exceed 20,000 in any fiscal year, except that this limitation may not operate to reduce the number admissible under any existing national quota before June 30, 1968.<sup>28</sup>

Not reckoned within the quota limitations are "immediate relatives" who are the children, spouses or parents of citizens of the United States, but in the case of parents the citizen child must be at least 21 years of age. These can enter without any numerical limitations.<sup>29</sup> Also excluded from quota limitations are aliens called "special immigrants" who have been lawfully admitted for permanent residence and are returning from a temporary visit abroad; certain former citizens who seek to reacquire citizenship; ministers of religious denominations who meet prescribed standards and the spouses or children accompanying or following to join them; under certain conditions, employees or retired former employees of the United States and their spouses and children accompanying them; and natives of independent countries of the Western Hemisphere or the Canal Zone and the spouses and children accompanying or following to join them.<sup>30</sup>

Immigrants who are neither "immediate relatives" or "special immigrants" are subject to limitations of the quota. Visas are issuable to admissible aliens according to preferences and portions of the total quota in the following order: not to exceed twenty per centum to the

<sup>24d</sup> 75 Stat., 651, 652, 8 USC 1106.

<sup>24i</sup> 76 Stat., 1247, 8 USC 1254.

<sup>25</sup> 79 Stat., 911.

<sup>26</sup> Secs. 1(c) and 1(d), Act of Oct. 3, 1965, 79 Stat., 911.

<sup>27</sup> Sec. 1(a), Act of Oct. 3, 1965, 79 Stat., 911.

<sup>28</sup> Sec. 2(a), Act of Oct. 3, 1965, 79 Stat., 911-912.

<sup>29</sup> Sec. 1(b), Act of Oct. 3, 1965, 79 Stat., 911.

<sup>30</sup> Sec. 8, Act of Oct. 3, 1965, 79 Stat., 916-917.

unmarried sons or daughters of the United States citizens; not to exceed twenty per centum, plus those not required for the unmarried sons or daughters of citizens, to the spouses or unmarried sons or daughters of lawful permanent resident aliens; not to exceed ten per centum to members of the professions or immigrants who because of exceptional ability in the arts or sciences will benefit the economic or cultural interests of the United States; not to exceed ten per centum, plus any visas not required for the classes specified above, to the married sons or daughters of citizens of the United States; not to exceed 24 per centum, plus visas not required for the foregoing classes, to brothers or sisters of United States citizens; not to exceed ten per centum to those capable of performing specified skilled or unskilled labor, of a permanent nature, for which a shortage of willing and employable persons exists in the United States; next, conditional entries not to exceed six per centum of the quota are available to certain designated classes of refugees. One half of the six per centum allotted for conditional entries is made available to aliens of the same classes who have been physically present in the United States for at least two years prior to their application for adjustment of status. Conditional entrants may, after two years, have their cases considered for adjustment to permanent residence.<sup>31</sup>

Visas not required for the foregoing preference immigrants or for conditional entrants are available to other admissible immigrants strictly in the chronological order in which they qualify and without regard to race or national origin.<sup>32</sup> But no visa is issuable to the last mentioned class or to those within the preferences as professionals or as aliens having ability in the arts or sciences or immigrants coming to perform labor or to special immigrants from the Western Hemisphere (except parents, spouses, or children of citizens or of permanent resident aliens), until the consular officer is in receipt of a determination by the Secretary of Labor that there are not available in the United States persons able, willing and qualified to perform such services, and that the coming of such aliens will not adversely affect similarly employed persons in the United States.<sup>33</sup>

Under the 1952 Act immigrants generally might be issued visas and be admitted unless the Secretary of Labor certified that their services were not needed, or that their coming would be contrary to the welfare of workers in the United States. The 1965 amendment reverses this provision so as to require withholding of visas for the classes described until the certification of the Secretary of Labor is favorable to the immigrant's coming.

The Attorney General is authorized to withhold deportation to any country in which, in his opinion, the alien would be persecuted because of his race, religion or political opinion.<sup>34</sup> Before the 1965 amendment the law did not specify the grounds of persecution but did refer to it as "physical" which has now been stricken.

The 1952 Act, as amended, permitted award of permanent residence for certain aliens unlawfully in the United States through suspension of deportation, but barred this relief to those who had entered as crewmen. The 1965 Act made this relief available to crewmen if their entry occurred prior to July 1, 1964.<sup>35</sup>

Adjustment of status to permanent residence is provided for aliens, (except crewmen) who at entry were inspected and admitted for temporary purposes or paroled, if they are found to be presently admissible as immigrants and a visa is immediately available on the date of approval of their application. But under a 1965 amendment this privilege is no longer open to natives of the Western Hemisphere or adjacent islands.<sup>36</sup>

A record of lawful admission for permanent residence to qualified aliens may be made at the discretion of the Attorney General if no such record exists and the alien entered the United States prior to June 30, 1948, and has continued his residence since that date.<sup>37</sup> Before December 1965 the critical date was June 28, 1940.

By the Act of November 2, 1966<sup>37a</sup> Congress authorized adjustment of status for Cuban refugees who were inspected and admitted or paroled into the United States subsequent to January 1, 1959, and had been physically present in the United States for at least two years.

<sup>31</sup> Sec. 3, Act of Oct. 3, 1965, 79 Stat. 912-915.

<sup>32</sup> Sec. 2(a), Act of Oct. 3, 1965, 79 Stat. 911-912.

<sup>33</sup> Sec. 10, Act of Oct. 3, 1965, 79 Stat. 917-918.

<sup>34</sup> Sec. 11(f), Act of Oct. 3, 1965, 79 Stat. 918.

<sup>35</sup> Sec. 12(b), Act of Oct. 3, 1965, 79 Stat. 918.

<sup>36</sup> Sec. 13(b), Act of Oct. 3, 1965, 79 Stat. 919.

<sup>37</sup> Sec. 19, Act of Oct. 3, 1965, 79 Stat. 920.

<sup>37a</sup> P.L. 89-732, 80 Stat. 1161.

In the excluded classes the term "feeble-minded" is deleted and is replaced by the term "mentally retarded".<sup>38</sup> The term "epilepsy" is stricken and the phrase "or sexual deviation" is inserted.<sup>39</sup> Prior law providing for admission under safeguards of close relatives of citizens, permanent residents, or those to whom an immigrant visa has been issued, who are excludable as afflicted with tuberculosis, has been amended to provide also for the similar admission of those who are mentally retarded or who have suffered attacks of mental illness.<sup>40</sup>

A Commission was provided to study and finally report to the President and the Congress on or before January 15, 1968 as to what changes should be made, if any, concerning limitation of immigrants from the Western Hemisphere countries. However, no change resulted from the study and report of the Commission, and a numerical limitation on Western Hemisphere immigration went into effect for the first time on July 1, 1968. The total immigration authorized from the Western Hemisphere, exclusive of immediate relatives, has been 120,000 annually since July 1, 1968.<sup>41</sup>

The Act of April 7, 1970<sup>41a</sup> added two new classes of nonimmigrants to section 101(a)(15) of the Immigration and Nationality Act of 1952.<sup>41b</sup> The first (category K) is an alien who is the fiancée or fiancé of a citizen of the United States. The second new class of nonimmigrant (category L) encompasses aliens who have been employed abroad for one year for a firm or corporation and who seek to enter the United States temporarily to work for the same employer.

2. Naturalization Law:--The course of our naturalization statutes has followed an entirely different pattern. The initial naturalization law was enacted by the first Congress of the United States on March 26, 1790.<sup>42</sup> Successive enactments within the next few years, culminating in 1802,<sup>43</sup> established the general requirements for naturalization that substantially still are applicable, including the requirements of five years' residence in the United States, good moral character, attachment to the Constitution of the United States, a formal declaration of intention, and witnesses. The function of admitting to citizenship was entrusted to Federal courts and to designated State courts.

This system continued in operation for over a hundred years. However, by the beginning of the 20th century many grave deficiencies had developed, attributable largely to the absence of any federal administrative control or supervision of the naturalization process. There was a complete lack of uniformity in the practices of naturalization courts, in the records that were maintained, in the types of naturalization documents issued, in the nature of proof required, and in the care exercised by different court officials in assuring adherence to the requirements fixed by law. As a consequence, widespread frauds became prevalent, and naturalization fell into disrepute. Many courts habitually naturalized large groups of aliens on the eve of a political election, without serious inquiry as to whether the requirements fixed by law had been met.<sup>44</sup>

In 1905 a commission was appointed to investigate and report on the flaws in the naturalization process. As a result of the report of this commission,<sup>45</sup> Congress enacted the basic Naturalization Act of 1906,<sup>46</sup> which formulated the fundamental procedural safeguards in naturalization that are generally still in effect. Administrative supervision over naturalization was vested in a Federal agency, although the courts still retained the power to grant or deny naturalization. In addition, duplicates of every naturalization paper were required to be filed with the central Federal agency; uniform fees were fixed, and the clerks of court were required to account for fees; naturalization forms were prescribed, and each petitioner for naturalization who arrived in the United States after June 29, 1906, was required to obtain and attach to his petition an official certificate of his lawful arrival; the applicant was required to sign the petition in his own handwriting and to speak the English language; and procedure was prescribed for cancellation of certificates of naturalization which were fraudulently or illegally procured.

<sup>38</sup> Sec. 15(a), Act of Oct. 3, 1965, 79 Stat. 919.

<sup>39</sup> Sec. 15(b), Act of Oct. 3, 1965, 79 Stat. 919.

<sup>40</sup> Sec. 15(c), Act of Oct. 3, 1965, 79 Stat. 919.

<sup>41</sup> Sec. 21, Act of Oct. 3, 1965, 79 Stat. 920-921.

<sup>41a</sup> P.L. 91-225, 84 Stat. 116.

<sup>41b</sup> 66 Stat. 163, 8 U.S.C. 1101 et seq.

<sup>42</sup> 1 Stat. 103.

<sup>43</sup> Act of Jan. 29, 1795, 1 Stat. 414; Act of June 18, 1798, 1 Stat. 566; Act of April 14, 1802, 2 Stat. 153.

<sup>44</sup> *U.S. v. Nees*, 245 U.S. 319 (1917).

<sup>45</sup> House Doc. No. 46, 59th Cong., 2d Sess.

<sup>46</sup> 34 Stat. 596.

Other important innovations were made in the ensuing years, but it seems sufficient at this time to mention only two of them; the allowance of special naturalization exemption to spouses of citizens, inaugurated by the Cable Act of September 22, 1922,<sup>47</sup> and the authorization for issuance by the Service of certificates of derivative citizenship and other documentary evidence of citizenship.<sup>48</sup>

On October 14, 1940, most naturalization laws were codified in the Nationality Act of 1940.<sup>49</sup> The latest complete codification of the naturalization and nationality laws was made in the Immigration and Nationality Act (see footnote 22). All racial bars to naturalization were removed, and the provisions for naturalization of spouses of United States citizens were made more uniform by elimination of special requirements predicated upon date of marriage and of acquisition of citizenship by the citizen spouse. As first enunciated in the Internal Security Act of 1950, (see footnote 21a), petitioners for naturalization are required to establish an ability to read, write and speak the English language, unless physically disqualified or unless otherwise exempted from the requirement by reason of age and residence in the United States. A declaration of intention is no longer a prerequisite for naturalization, but it may still be applied for and received by a lawfully admitted alien if he desires that document for some other purpose.

The requirements for acquisition of United States citizenship abroad by a child born to one alien and one citizen parent were substantially changed, as were the provisions with respect to the duties to be performed by the child in order to retain his citizenship. The grounds of expatriation of citizens were modified and are more specifically set out in the new Act. Special requirements are imposed upon certain dual nationals who seek to retain their United States citizenship, although residing abroad. The grounds for cancellation of citizenship were revised, and new grounds were added, relating to conduct of a subversive nature adverse to the interests of the United States.

"Illegal procurement" of a naturalization as grounds for cancellation of citizenship, which was removed from the law by the Immigration and Nationality Act, was restored on September 26, 1961 by Public Law 87-301, 87th Congress.<sup>50</sup>

One amendment of the Immigration and Nationality Act of a permanent character is found in the Act of September 3, 1954<sup>51</sup> which re-states paragraph (9), subsection (a) of section 349 of that Act, by providing for the expatriation of persons convicted of offenses under sections of the United States Code relating to rebellion or insurrection, seditious conspiracy, or advocating the overthrow of government.

Public Law 85-316 of the 85th Congress, *supra*, further amended the basic statute to permit naturalization of certain adopted children of citizens in the Armed Forces, or employed by the Government or by American institutions abroad, without requiring specific periods of residence and physical presence in the United States by the child prior to its naturalization. The Act also provides that children born abroad to a citizen and alien parent could be absent from this country for as much as twelve months between the ages of 14 and 28 years and during the period of five years during which the statute otherwise requires continuous physical presence here to avoid loss of the child's citizenship status.

3. History of the Service:--Prior to the enactment of the first general immigration law of August 3, 1882, there was no federal agency charged with the supervision of immigration. The 1882 Act<sup>52</sup> vested responsibility for its administration in the Secretary of the Treasury, but actual enforcement was entrusted to State boards or officers designated by him. An 1864 statute which had established a commissioner of immigration in the State Department for the purpose of encouraging immigration was repealed in 1868.<sup>53</sup>

<sup>47</sup> 42 Stat. 1021, See also Act of July 3, 1930, 46 Stat. 854; Act of March 3, 1931, 46 Stat. 1511; Act of May 24, 1934, 46 Stat. 787.

<sup>48</sup> Act of March 2, 1929, 45 Stat. 1512.

<sup>49</sup> 54 Stat. 1137, 8 U.S.C. 501.

<sup>50</sup> 75 Stat. 656, 8 U.S.C. 1451 (a).

<sup>51</sup> Sec. 2, 69 Stat. 1146, 8 U.S.C. 1481 (a)(9).

<sup>52</sup> 22 Stat. 214.

<sup>53</sup> Act of July 4, 1864, 13 Stat. 385, repealed by Sec. 4, Act of March 30, 1866, 15 Stat. 58.

The Immigration and Naturalization Service really had its beginnings on March 3, 1891,<sup>54</sup> when Congress provided that there should be in the Treasury Department, under the control and supervision of the Secretary of the Treasury, a Superintendent of Immigration. Four years later, by the Act of March 2, 1895,<sup>55</sup> the title of Superintendent of Immigration was changed to Commissioner General of Immigration. In February 1903<sup>56</sup> Congress authorized the transfer of immigration functions from the Secretary of the Treasury to the Secretary of Commerce and Labor. Under the terms of the Act of June 29, 1906,<sup>57</sup> which provided for the federal supervision of naturalization, the Bureau of Immigration became the Bureau of Immigration and Naturalization. On March 4, 1931,<sup>58</sup> the consolidated Bureau was transferred to the new Department of Labor and divided into two bureaus to be known as the Bureau of Immigration and the Bureau of Naturalization. At the head of the Bureau of Immigration was a Commissioner General of Immigration, while at the head of the Bureau of Naturalization was a Commissioner of Naturalization. These bureaus were placed under the immediate direction of the Secretary of Labor.

As separate bureaus they continued to function until June 10, 1933, when, by virtue of Executive Order 6166,<sup>59</sup> the President, acting pursuant to Congressional authority, directed that the Bureaus of Immigration and Naturalization of the Department of Labor be consolidated as the Immigration and Naturalization Service of that Department, the head of which Service should be known as the Commissioner of Immigration and Naturalization. From 1933 until June 14, 1940, the consolidated Service functioned under the direction of the Secretary of Labor.

By Reorganization Plan No. V<sup>60</sup> the President, on May 22, 1940, acting pursuant to the provisions of the Reorganization Act of April 3, 1939,<sup>61</sup> submitted to Congress a proposal to transfer the Immigration and Naturalization Service from the Department of Labor to the Department of Justice. The plan was approved, and the transfer became effective June 14, 1940. Along with the transfer of the Service from the one department to the other, all functions and powers theretofore exercised by the Secretary of Labor relating to the administration of the Immigration and Naturalization Service and the immigration and naturalization laws were transferred to the Attorney General. Since June 14, 1940, the Service has functioned as a part of the Department of Justice under the direction of the Attorney General of the United States. Under the Immigration and Nationality Act, the Attorney General is charged with the administration and enforcement of that Act, and of all other laws relating to the immigration and naturalization of aliens, except insofar as such laws relate to the powers and functions of the President, the Secretary of State, and officers of the Department of State. However, determinations and rulings by the Attorney General on questions of law are controlling.<sup>62</sup> The Attorney General is, by this Act, authorized to delegate such of his authority and duties as he shall choose. He has delegated much of these to the Commissioner and other officers of the Immigration and Naturalization Service. Such delegations may be found in the regulations promulgated under the Act.<sup>63</sup>

Effective January 3, 1955, a considerable reorganization of the Service and redelegations of authority were put into effect.<sup>64</sup> It is necessary in order to keep abreast of organizational changes and delegations of authority to examine the Federal Register and Title 8 of the Code of Federal Regulations.

<sup>54</sup> Sec. 7, Act of March 3, 1891, 26 Stat. 1084.

<sup>55</sup> Sec. 1, 28 Stat. 780.

<sup>56</sup> Act of Feb. 14, 1903, 32 Stat. 825. See also Act of April 28, 1904, 33 Stat. 591.

<sup>57</sup> 34 Stat. 596.

<sup>58</sup> Sec. 3, 37 Stat. 737.

<sup>59</sup> 5 U.S.C. 157, 160.

<sup>60</sup> 54 Stat. Pt. 1, 1238, 5 U.S.C. 179, 1964 ed.

<sup>61</sup> 53 Stat. 561.

<sup>62</sup> Sec. 103, Immigration and Nationality Act, 66 Stat. 163, 173, 8 U.S.C. 1101, 1103.

<sup>63</sup> 28 CFR Part O, Subpart S; 8 CFR 2.1 and 103.1.

<sup>64</sup> Statement of organization, 19 F.R. 8071, published Dec. 8, 1954, and amendment of regulations 19 F.R. published Dec. 8, 1954.

Mr. KEATING. I have heard that name before.

Mr. EILBERG. I cannot wait to read it.

Mr. GORDON. You have not read anything of mine this week?

Mr. EILBERG. The committee reports on the illegal alien bills in the last two Congresses and GAO noted the lack of interagency cooperation in combating the illegal alien problem. Can you advise the subcommittee what efforts have been made by IRS, HEW, and the Social Security Administration to assist INS in their efforts to attack this problem?

Mr. GREENE. Yes, Mr. Chairman. I think we have made some real progress in these three areas. As the committee is aware, the law relating to social security—if I may I will start with that organization—was changed last year to provide that the Social Security Administration could no longer issue social security account numbers to aliens who are in the country illegally or who do not have permission to work.

We have had numerous meetings with them, including my level, and although there have been some delays, on August 7 they published their regulations implementing the law which was passed last October.

Basically, the law provides that aliens who enter the United States as immigrants must be issued a social security account number immediately and to implement that, arrangements have been made with the Department of State so that the application for the account number is issued in connection with the visa.

When an alien arrives in the United States the application is removed, stamped to show the admission by our officers, and forwarded to the Social Security Administration who then in turn send to the alien the account number. The further proviso is that an alien can not obtain a social security account number unless he has an authorization to work from the Attorney General. To implement this regulation, aliens must present to the applications office of social security a document issued by the Service indicating that they are authorized to work.

At the present time, we are using form I-94, the entry and departure document. I have on the design board a substitute for that piece of paper in the form of a Service issued permit to work which will be on safety paper and which will be self-expiring. It would have to be renewed periodically so that we can make another determination for those who are in a temporary status. For example, a student might be given permission to work for a limited period and the document would expire and he would have to come back to us for another judgment or adjudication before he could continue working.

We have not issued that document because there is some question whether we have a right to issue a document authorizing someone to work. We are hopeful that when H.R. 982 is passed, and I am optimistic that it is going to pass, we will have a mandate to issue something to aliens so that the employer can ask for a specific document which shows he is authorized to work, so that this will tie in. In the meantime, we will continue to document the nonimmigrant or the temporary alien with an I-94 showing a stamp when he is authorized to work.

The regulations provide that an initial determination be made of persons by the social security account office to determine their citizen-

ship and if there is some doubt, they send the document to us and we will run it through our records and if we find no record of admission for permanent residence, nothing in our file indicating they are authorized to work, then the card will be sent to our field office for investigation.

This is a major step forward. For years and years the Social Security felt they were bound by law of confidentiality and, therefore, could not tell us anything except when we asked a specific question about a specific alien. If the law works, as I expect it will be made to work, an illegal alien, an alien who has entered without inspection or an alien who has become as a visitor and has violated the status, will no longer be able to get a social security account number. As I have said before this committee, I do not think the social security account number should be authorization for the person to work but I think the fact that they cannot get that number and cannot get on the social security account record is going to be a step forward.

Now, there is a gray area that gives us a great deal of trouble. There are many, many uses of the social security account number that have nothing to do with working. For example, practically all universities now require a student to have a social security account number in order to control his records. If you open an account where there is interest involved you must have a social security account number. So the Social Security Administration has agreed that when they issue the account number for a purpose other than working, they will annotate their records and if earnings are posted to that record, we will be notified. Now, at first blush this sounds like a real major enforcement tool.

Unfortunately many, many months expire before the earnings get posted to the accounts. Right now it is running about 6 months. I am told they are entering into negotiations with the Internal Revenue so that earnings might be posted once a year rather than once a quarter, so I do not see a great deal of benefit from that particular phase of it. But I think we must get started and then if it does not work, perhaps then we can go back and attack it again.

Another phase of the social security law that was changed was removing of the confidentiality of the welfare records and providing that they may be made available to other agencies or law enforcement agencies. We have not seen too many results from that particular change in the law. Again, I need not remind you that there is in H.R. 982 a section which takes it out of the permissive area and puts it in the must area. In other words, it says they shall tell the Immigration Service when they have records of someone who is illegally in the country drawing welfare. So again, another reason for hopefully seeing H.R. 982 enacted into law is the blocking off of an area that is being abused, namely, aliens illegally in the country receiving welfare or other benefits administered by HEW.

Our contacts with HEW have for the most part been in the area of Social Security except for this one area I just touched on.

I might mention that in the State of California there is a situation developing that is causing some concern. The State now asks the Immigration Service for the status of an alien who has applied for welfare benefits. We inform them if the person was admitted or is in the country illegally, whatever the records show. We are finding that, I will not say a substantial number but a number of, aliens who have

recently entered the United States, say within the last year, are now applying for welfare benefits notwithstanding the fact that someone gave an affidavit to overcome the possible public charge feature that indirectly they would assist them. Those affidavits—and Mr. Gordon here can explain to you the legal aspect of it—are not enforceable under the present law. We have recommended and there is a bill before the Congress, H.R. 395, which the administration has supported, which will correct that situation. In other words, if the person applies for welfare within 2 years after entry, he then becomes deportable. Is that not correct, Mr. Gordon?

Mr. GORDON. Right.

Mr. GREENE. So there is lots of work to be done in that area but I think we are on the move and I think these are healthy moves which should have been undertaken years ago.

If I may move on the Internal Revenue, we are making some progress in this area, too. There are two areas that cause concern and one is related to the Mexicans, the vast numbers of aliens we are finding in the Southwest which we pick up and endeavor to obtain money from their employer if they are employed, gather up their effects and remove them to the border immediately.

The second group is the ones we find primarily in the East who are working, perhaps South American or Central American peoples. You find them going to work or coming from work and they have the usual amount of money most people carry in their wallets, a few dollars. The collection of moneys by IRS is not as easy as it is from the Mexicans found in the West. The aliens in the East have it in banks, where it is hard to find, or have sent it home.

But notwithstanding that we have entered into an agreement with the Internal Revenue where they established a break point that they thought would be to the Government's interests to endeavor to collect taxes. At \$1,000 and "or in the United States 6 months." I am sorry. "And in the United States 6 months." We put this into effect last spring. We felt they were not getting to the real hard core evaders of income tax and we asked that they change that to \$1,000 "or" in the country 6 months. In either case we will report their whereabouts to the Internal Revenue so that they can make an effort to collect the taxes. They go into our camps along the border where these people are gathered. Particularly the camp at El Paso where most of the aliens that come from Chicago and who have been up there many months are likely to have more funds than some of those from California, is productive.

We have invited the Internal Revenue to station at all of our offices in major cities an Internal Revenue agent. He would be there to interview the aliens that we bring in off the street so they can make a determination whether there is a tax liability right at that point and then we can decide what has to be done with the alien.

They asked that we hold these aliens for 6 days so that they could decide whether they wanted to come over and make an attempt to recover the tax. We cannot go along with that because we are moving these aliens too fast and I think it is incumbent upon them, if they have a tax recovery or liability to be paid off, to get down there quicker because if we turn around and hold aliens for 6 days we can

very quickly eat up the amount they would pay in taxes by having to maintain them.

Mr. WALDIE. I think the humanity that comes through in your remarks—how much money do you collect from these people?

Mr. GREENE. Mr. Waldie, I have no total figure on it. I have some isolated figures.

Mr. WALDIE. How about getting the committee some figures for the situation where you suggest you hold them 6 days and decide how much they owe the Government? You say you cannot hold them 6 days because that would cost more than you might collect. Is there not any other motivation for not holding them 6 days such as the fact that they are in custody and if they are to be deported they ought to be sent home? Is it not a little unhappy holding people 6 days?

Mr. GREENE. Well, Mr. Waldie, perhaps I phrased it poorly but it is our desire to move these aliens as quickly as we can. If we do hold them, we must then get an immigration order to show cause.

Mr. WALDIE. Is it your desire to move them as quickly as you can to save money or to assist them in getting out of the country?

Mr. GREENE. Well, it is both. It is more to save money because if we hold them in the country we rapidly start building up costs to the Government.

Mr. WALDIE. Tell me how they handle this situation where you pick up a fellow and he is in the Chicago area and so it is much easier to—he has probably got his money with him, so he is a prime target, as I understood you. You do not bother too much in California or the border areas because they probably have gotten their money out of there or they can get away. So you have got them up in Chicago. Do you notify the IRS that you have got an illegal in Chicago? Is that how you do it? The IRS then comes swooping in. What do they do? Determine the guy owes money and then take whatever cash they find on him? Is that how they do it?

Mr. GREENE. They have a procedure, and I cannot give you the legal terminology, where they assess, if he has money, and then they put the burden on him to prove that he does not owe that cash.

Mr. WALDIE. And they take the cash right off him?

Mr. GREENE. Yes, sir; I do not say in every instance but they do in some instances.

Mr. WALDIE. That is where you get them out in Chicago because he is more likely to have cash on him, right?

Mr. GREENE. Yes, sir.

Mr. WALDIE. I just think that is outrageous. That really smacks to me of totalitarianism, Mr. Chairman, of the worst kind. We ought to have better things to do with our immigration authorities than to pick on people just because they have cash in their pockets and have the IRS pounce on them and take it from them. Do you know how much due process those people have? People are frightened to death and they are being held in custody. They have got cash in their pockets and immigration people around them. The IRS is around them to take the money out of their pockets. Who really determines they owe it? Do those people—are they represented at all?

Mr. GREENE. I do not know, sir.

Mr. WALDIE. Well, you do know. They are not, are they?

Mr. GREENE. They are not represented in Immigration unless they ask for it.

Mr. WALDIE. They are not represented before IRS, are they?

Mr. GREENE. The IRS, I do not know if they are advised to have an attorney, representation or not.

Mr. WALDIE. Mr. Chairman, I do not want to make any more of an issue of this but I would like to have a lot more details on this kind of an operation. It seems to me it is a demeaning operation, needs more dignity in the United States as we are fooling around with it. I would like to see what kind of money they take off of these people, how much it costs to get that money, and those kinds of reports we ought to be able to have.

Mr. EILBERG. Can you supply some of that information, Mr. Greene?

Mr. GREENE. We can ask the IRS to supply their procedures in detail.

[The information referred to follows:]

Under the present agreement with the Internal Revenue Service the Immigration and Naturalization Service furnishes the names and locations of apprehended illegal aliens who have more than \$1,000 in their possession and who have been in the United States for more than six months. The Internal Revenue Service then contacts such an alien and determines his tax liability, if any, and sees to its collection through levy on any money in the alien's possession. If the alien's money is in the possession of this Service, the levy is upon the officer of the Service having jurisdiction and that officer releases the money to the Internal Revenue Service.

The Internal Revenue Service has informed us that the only money figures now available on the program were the result of a study made from September 1969 to March 1973 at our El Paso Detention Facility.

The figures for this study are:

|   |          |
|---|----------|
| Referrals .....   | 197      |
| Returns Served .....                                    | 182      |
| Amount Collected .....                                  | \$36,000 |
| Man-Hours Expended.....                                 | 333      |
| Yield per Man-Hours (vs. \$354 projected by test) ..... | \$108    |

Yield per man-hour averaged \$327 per man-hour on delinquent accounts and \$199 per man-hour on delinquent investigations during calendar year 1972.

The Internal Revenue Service also informs us that if in the preparation of a tax return it turns out that the illegal alien is entitled to a refund, such refund is sent to the alien's foreign address.

The Internal Revenue Service has informed us that it is also considering starting a new program aimed at the employers of illegal aliens, particularly those employers who continuously hire many illegal aliens and do not comply with the Internal Revenue Service requirements. At the present time a pilot program is being considered in the Los Angeles area. The local immigration office will furnish the local Internal Revenue Service office with the names and addresses of habitual employers of illegal aliens and such other data as is readily available to assist them in this program. If successful, it is the intention of the Internal Revenue Service to extend it to other large cities.

Mr. FLOWERS. Mr. Chairman, let me make a statement on this. I do not believe on the face of what Mr. Greene has said here that I would draw the same conclusions that my colleague does. I do not think an illegal alien is entitled to a superior status over an American citizen and it would be almost the conclusion I would draw from my distinguished colleague's statement or his conclusions.

What is the alternative to holding them to try to collect taxes? If they owe taxes, if you turn them loose and let them go back to Mexico, you certainly are not going to ever get the taxes. They owe the same

burden of paying taxes when they earn money in this country that a citizen does. I do not want to see an illegal alien treated less than a human being ought to be treated but I do not think he ought to achieve a superior status to an American citizen either. In our lavish attempt to treat them fairly I just think we need a whole lot more testimony to prove that we are treating them unfairly than to draw the conclusion that we are from what Mr. Greene has said here.

Mr. KEATING. Mr. Chairman, may I make a comment?

Mr. EILBERG. Mr. Keating.

Mr. KEATING. It seems to me that Mr. Flowers has raised a very valid point and I think that the problem probably falls better under the purview of the IRS. I do not think we should have a preferred status for anyone, and certainly not in relation to the American citizen as Mr. Flowers points out. But I do think that we are asking questions of Mr. Greene that really should more properly be directed to some IRS representative. I think it is rather unfair to press you on procedures unless you are totally familiar with them.

Mr. GREENE. And I am not because the procedures we have is to, insofar as possible, recover his belongings and wages and money before he leaves. That is our prime purpose—locate him, find him and remove him, but we have been asked time and again, and it was raised once before, what about the alien who has substantial amounts of money on him and is about to leave the United States after having been here and working illegally. The IRS was brought into it and we were asked to refer them to IRS.

As I said, they gave us a break point on a nationwide basis. If he has \$1,000 and has been in the United States over 6 months they would come in and exercise their responsibility. That is as far as we go. They did ask us to hold him and I said I did not think we should hold the man until they made up their mind on the basis of some determination in their office while we stood around holding the alien at Government expense until they come over. If they have a responsibility, let them exercise it the same as I have to exercise mine. As quickly as I can.

Mr. KEATING. Mr. Chairman, may I interrupt again? Is it not a fact that you do attempt to collect wages from the employer, as you indicated earlier in your testimony, so that the alien is compensated and not deported without compensation for work performed?

Mr. GREENE. That is right.

Mr. KEATING. You indicated earlier in our hearings on the illegal alien bill, that some of the people who are deported were not compensated by the employer. Do you attempt to correct that?

Mr. GREENE. We do attempt to. It is getting more and more difficult. Some of the larger companies have computerized their payroll, so we try to let the alien make arrangements through his consul. Through a recent agreement with the Mexican Government we permit the stationing of Mexican consuls at all the detention camps so they can consult their consul and get advice or help in recovering their money if we have not been able to get it.

Mr. KEATING. Well, it is essential also that we develop cooperation between the various agencies and I think you are pointing that out, that you want to cooperate with the IRS, with the Social Security, and that has been part of your total testimony this morning. I think it is proper that we have cooperation to achieve a proper end, but on the

procedure to be followed, once the cooperation takes place, I think we should pursue our inquiry with the proper Department.

Mr. EILBERG. I would say that I agree with the statement Mr. Keating has made. However, all of us know of the limitations on the time of all the subcommittee members and we have had considerable difficulty in obtaining good attendance at our subcommittee meetings. I would welcome having oversight hearings that are indicated but at the same time we must recognize the practicality of the situation.

I wonder if in the meanwhile you would attempt to get whatever you can from the Immigration Service for the subcommittee.

Mr. GREENE. Right. I will be most pleased to give you the data that we have as to how they are operating and what we know about it and then perhaps at that point you could decide which direction you want to go. There is just one more area in this Internal Revenue cooperation. They recently approached us about getting data on the employers with a thought of going to the employer and doing something. We are now working out a procedure whereby we will inform them when we take aliens out of a plant. Particularly, the thrust right now is at those who we find are employing aliens on a repeated basis. They are trying to figure out some way to go at the employer from a tax standpoint. This has only just been recently. Just within the last 10 days we have started developing this.

Mr. EILBERG. I would like to ask a few more questions and then I will yield to Mr. Keating.

There are a great many questions in this area that repeatedly are raised, but the subcommittee continues to be interested in the clean sweep operations. What is the status of the civil rights suits filed in New York against INS with regard to the clean sweep operations?

Mr. GORDON. Can I answer that, Mr. Chairman?

Mr. EILBERG. Yes.

Mr. GORDON. With the Acting Commissioner's permission. The suit in New York started off with a rush but then the parties apparently got a little weary and it is in inactive status at the moment. Depositions were taken by both sides. No motions for summary judgment have been made and there has been no effort to push the case to a conclusion.

I guess the reason for that is that the activity at which that litigation was directed has stopped and the Civil Liberties Union people and others interested in the litigation apparently have not as much active interest in it.

Mr. EILBERG. Would you review again for us how the clean sweep operations work and, in your opinion, the legal justification for them?

Mr. GORDON. Well, we do not call the operation clean sweep. That is somebody else's terminology. The operation is an aspect of what is known in the Service as Area Control and the reason the operation is undertaken is that there are many illegal aliens in the United States and they are all over and part of the population. Various methods are used to locate them and one of the methods is to ascertain at places where aliens may gather or may be found or experience has demonstrated that aliens may be found, to attempt to determine—

Mr. KEATING. Mr. Gordon, you mean illegal aliens.

Mr. GORDON. Yes, illegal. We are particularly interested in illegal aliens. Our right to inquire would depend on whether the persons

are believed to be aliens in the first place and whether they are believed to be illegally in the United States.

The officers go to various locations where experience has demonstrated that illegal aliens may have gathered or may be found and seek to interrogate people suspected of being here illegally, people who appear to be aliens, and who are believed may be here illegally.

The right to interrogate is given by statute, which is section 287 (a) (1) of the statute, and I believe the right would exist even in the absence of statute as an aspect of law enforcement.

In connection with the interrogation, it is sometimes necessary to detain the person briefly and the courts have upheld that aspect of the interrogation. This is not arrest. It is merely a continuation of the interrogation. It must be brief, however. It must be based on a reasonable belief that the person is an alien and may be in the United States illegally. And this type of interrogation thus far has been supported by the courts.

Now, as the Chairman indicated, there are some litigations throughout the country which have sought to challenge this practice where it has been conducted on a widespread basis. There were concentrated efforts in New York at one time, in Los Angeles at one time, in Chicago and in other large areas where there is a very large infiltration of illegal aliens, to attempt to locate considerable numbers, and those efforts were successful. However, as a result of those efforts, various civil liberties groups and nationality groups believed that the Service was exceeding its authority, was acting in an improper and unconstitutional manner. They sought to challenge the actions of the Service through litigations.

In most instances the litigations have been sponsored by the American Civil Liberties Union and in various areas by nationality groups and by bar groups. Thus far, none of these litigations has resulted in any conclusion by a court which has questioned the authority of the Service.

Mr. EILBERG. It is your position that the actions taken have been proper and within the spirit of the law?

Mr. GORDON. As far as we are concerned, we are convinced that they are proper and we instruct our officers to observe the constitutional requirements and lean over backwards as far as possible to make sure that we are not violating any constitutional rights. We hope that they are following those instructions. As far as we are concerned, we have operated under the belief that we are following the statute and following the constitutional requirements. Thus far, as I say, the courts have upheld our actions. If any officers are found to deviate from the requirements of the law, or the requirements of the Constitution, they would be acting improperly and would be subject to any disciplinary action that we could impose on them.

Mr. EILBERG. Have you had occasion to discipline any officer for deviating from these requirements.

Mr. GORDON. I do not know the details. There have been such disciplinary actions and some are in process. Mr. Greene would have that information.

Mr. GREENE. Yes. We have three officers under disciplinary procedures in Florida for engaging in an operation where they ended up with a citizen youngster being processed and permitted to go to

Mexico. He claimed to be a Mexican, but the mother turned up with a birth certificate establishing his citizenship. It caused a great deal of embarrassment and cost a lot of money. Three officers, including the officer supervising that operation, have been put under disciplinary action. It has been investigated for possible violation of civil rights. I have issued instructions and made it emphatically clear that the published instructions, and we have a number of them, that we furnished the committee after the last hearing, are very clear, very explicit, and they must be obeyed. We are conducting a legal operation. If they exceed their instructions, it is like any officer breaking the law. But I will maintain discipline in this area, I guarantee you.

Mr. EILBERG. Mr. Greene, you can supply the committee with the number of illegal aliens who were apprehended in the last fiscal year, the area in which they were located and their country of origin?

Mr. GREENE. Yes, sir.

Mr. EILBERG. You can make it part of the record.

Mr. GREENE. All right.

[The information referred to follows:]

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

REPORTABLE ALIENS LOCATED BY NATIONALITY  
FISCAL YEAR 1973

1.

|                              | Total   | Canadian | Mexican | Cuban | B.W.I. & Br. Dep. Hon- Jurgen | Other West. Hemis. | Chil- nese | Phil- ip- nese | Other Asia | Greek | Ital- ian | Scand- inavian | Span- ish | U.K.  | Yugo- slav | Other Europe | Other Nat. |       |
|------------------------------|---------|----------|---------|-------|-------------------------------|--------------------|------------|----------------|------------|-------|-----------|----------------|-----------|-------|------------|--------------|------------|-------|
| U. S. TOTAL .....            | 655,968 | 11,011   | 576,823 | 1,273 | 4,657                         | 2,948              | 25,185     | 1,970          | 3,482      | 7,148 | 4,394     | 2,069          | 938       | 1,092 | 2,113      | 573          | 4,200      | 3,292 |
| Crewmen on 29-day vessels .. | 8,456   | 14       | 16      | -     | 152                           | 12                 | 873        | 1,873          | 370        | 1,896 | 1,195     | 282            | 482       | 220   | 238        | 34           | 372        | 427   |
| Total Districts .....        | 149,389 | 2,328    | 96,219  | 1,094 | 3,863                         | 2,864              | 18,902     | 2,876          | 2,866      | 4,683 | 2,748     | 1,649          | 394       | 729   | 1,650      | 491          | 3,285      | 2,385 |
| Northwest Region .....       | 27,473  | 328      | 635     | 189   | 1,053                         | 2,127              | 12,052     | 1,753          | 1,056      | 974   | 1,823     | 1,315          | 206       | 463   | 793        | 265          | 1,485      | 741   |
| Boston, Mass. ....           | 1,315   | 121      | 25      | 6     | 110                           | 30                 | 367        | 77             | 28         | 102   | 96        | 47             | 2         | 6     | 39         | 1            | 215        | 43    |
| Buffalo, N.Y. ....           | 447     | 82       | 4       | 1     | 33                            | 3                  | 54         | 49             | 10         | 60    | 16        | 12             | 2         | 6     | 28         | -            | 59         | 28    |
| Hartford, Conn. ....         | 1,039   | 99       | 11      | 2     | 10                            | 396                | 46         | 17             | 179        | 316   | 400       | 17             | 7         | 46    | 19         | -            | 166        | 19    |
| Newark, N.J. ....            | 19,368  | 132      | 107     | 107   | 194                           | 1,179              | 3,026      | 1,814          | 316        | 1,179 | 316       | 300            | 17        | 83    | 609        | 240          | 662        | 588   |
| Portland, Me. ....           | 46      | 2        | 486     | 73    | 716                           | 1,917              | 8,218      | 1,427          | 476        | 584   | 1,319     | 993            | 138       | 36    | 25         | 1            | 42         | 2     |
| Portland, Maine .....        | 218     | 2        | -       | -     | -                             | -                  | 1          | 10             | 9          | 6     | 35        | 5              | 4         | -     | -          | -            | 1          | 42    |
| St. Albans, Vt. ....         | 23      | 16       | -       | -     | -                             | -                  | 1          | -              | -          | 4     | -         | -              | -         | -     | -          | -            | 1          | -     |
| Southwest Region .....       | 16,122  | 561      | 770     | 811   | 2,329                         | 694                | 4,065      | 539            | 715        | 1,102 | 476       | 188            | 91        | 160   | 360        | 59           | 543        | 659   |
| Atlanta, Ga. ....            | 780     | 41       | 190     | 7     | 22                            | 5                  | 127        | 59             | 35         | 132   | 29        | 3              | 5         | 35    | 3          | 43           | 39         | 3     |
| Baltimore, Md. ....          | 830     | 11       | 6       | 1     | 80                            | 4                  | 268        | 32             | 25         | 135   | 97        | 28             | 4         | 18    | 18         | 1            | 36         | 66    |
| Cleveland, Ohio .....        | 836     | 47       | 201     | -     | 21                            | -                  | 90         | 53             | 32         | 157   | 45        | 17             | 2         | 4     | 43         | 22           | 69         | 33    |
| Miami, Fla. ....             | 3,331   | 285      | 91      | 782   | 459                           | 21                 | 1,261      | 34             | 46         | 99    | 8         | 11             | 12        | 36    | 40         | 5            | 61         | 80    |
| Miami, Fla. ....             | 6       | 56       | 4       | 23    | 2                             | 116                | 5          | 15             | 31         | 30    | 3         | 24             | 9         | 7     | 5          | -            | 5          | 5     |
| New Orleans, La. ....        | 2,348   | 110      | 131     | 2     | 68                            | 2                  | 328        | 182            | 33         | 334   | 150       | 101            | 24        | 9     | 7          | 5            | 197        | 187   |
| Philadelphia, Pa. ....       | 3,889   | 45       | 5       | 14    | 1,648                         | 647                | 1,623      | 134            | 334        | 349   | 22        | 55             | 44        | 20    | 197        | 187          | 187        | 187   |
| San Juan, P.R. ....          | 1,880   | 45       | 70      | 1     | 8                             | 8                  | 884        | 173            | 213        | 180   | 114       | 19             | 5         | 22    | 55         | 3            | 85         | 213   |
| Washington, D.C. ....        | 23,540  | 655      | 17,328  | 18    | 386                           | 32                 | 597        | 251            | 462        | 1,377 | 238       | 106            | 43        | 47    | 248        | 152          | 934        | 656   |
| Northwest Region .....       | 197     | 62       | 38      | -     | -                             | -                  | 11         | 4              | 21         | 13    | -         | -              | 7         | 1     | 9          | -            | 18         | 13    |
| Anchorage, Alaska .....      | 14,355  | 105      | 11,851  | 11    | 355                           | 23                 | 252        | 59             | 246        | 343   | 110       | 32             | 2         | 3     | 45         | 75           | 576        | 267   |
| Chicago, Ill. ....           | 1,768   | 120      | 100     | 4     | 15                            | 5                  | 71         | 95             | 96         | 587   | 60        | 67             | 18        | 6     | 110        | 48           | 240        | 108   |
| Detroit, Michigan .....      | 873     | 35       | 770     | -     | -                             | -                  | 3          | 3              | 1          | -     | -         | 1              | 32        | 6     | -          | 9            | 10         | 10    |
| Helena, Mont. ....           | 1,915   | 66       | 1,397   | 1     | 4                             | 4                  | 73         | 22             | 16         | 169   | 4         | 4              | 1         | -     | 20         | 3            | 26         | 107   |
| Kansas City, Mo. ....        | 906     | 28       | 651     | -     | 3                             | -                  | 38         | 10             | 14         | 76    | 9         | 2              | 1         | -     | 6          | 2            | 21         | 45    |
| Omaha, Neb. ....             | 1,244   | 57       | 916     | -     | 1                             | -                  | 96         | 26             | 12         | 56    | 25        | 3              | 2         | 12    | -          | -            | 13         | 25    |
| Portland, Ore. ....          | 411     | 46       | 123     | 2     | 9                             | -                  | 40         | 15             | 20         | 41    | 18        | 1              | 2         | 1     | 19         | 2            | 21         | 51    |
| St. Paul, Minn. ....         | 1,671   | 146      | 1,482   | -     | 1                             | -                  | 13         | 17             | 56         | 91    | 12        | 8              | 2         | 1     | 21         | 2            | 10         | 30    |
| Seattle, Wash. ....          | 86,254  | 576      | 77,486  | 76    | 178                           | 11                 | 2,178      | 333            | 733        | 1,230 | 211       | 40             | 54        | 56    | 927        | 15           | 323        | 539   |
| Southwest Region .....       | 6,322   | 110      | 5,742   | 2     | 5                             | -                  | 1          | 26             | 4          | 10    | 105       | 31             | 6         | 7     | 37         | -            | 38         | 57    |
| Denver, Colo. ....           | 7,526   | 11       | 7,464   | -     | 2                             | -                  | 1          | 24             | 4          | 5     | 2         | -              | -         | 3     | -          | 3            | 4          | 4     |
| El Paso, Tex. ....           | 704     | 36       | 647     | -     | 2                             | -                  | 5          | 42             | 231        | 187   | 2         | 7              | 3         | 2     | 24         | 1            | 21         | 134   |
| Honolulu, Hawaii .....       | 29,456  | 173      | 26,615  | 39    | 121                           | 3                  | 1,420      | 59             | 197        | 428   | 59        | 13             | 7         | 15    | 62         | 2            | 118        | 125   |
| Los Angeles, Calif. ....     | 4,478   | 74       | 4,288   | -     | 1                             | -                  | 30         | 5              | 2          | 59    | 1         | -              | -         | 8     | 9          | 4            | 18         | 9     |
| Phoenix, Ariz. ....          | 2,441   | 12       | 1,902   | 27    | 4                             | -                  | 94         | 39             | 45         | 132   | 64        | 6              | 23        | 7     | 17         | 2            | 31         | 36    |
| Fort Isabel, Tex. ....       | 26,486  | 25       | 26,157  | 2     | 10                            | 4                  | 74         | 13             | 12         | 132   | 5         | -              | 1         | 3     | 7          | 1            | 22         | 18    |
| San Antonio, Tex. ....       | 6,941   | 133      | 5,311   | 6     | 27                            | 2                  | 447        | 158            | 236        | 212   | 67        | 14             | 14        | 17    | 68         | 5            | 72         | 152   |

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

REPORTABLE ALIENS LOCATED BY NATIONALITY (Continued)  
FISCAL YEAR 1973

|                              | Total   | Canadian | Mexican | Cuban | B. W. I.<br>& Br.<br>Hon.<br>Sudan | Dom.<br>Rep. | Other<br>West.<br>Hemis. | Chi-<br>nese | Phil-<br>ip-<br>pines | Other<br>Asia | Greek | Ital-<br>ian | Scan-<br>dina-<br>vian | Span-<br>ish | U. K. | Yugo-<br>slav | Other<br>Europe<br>Nat. |     |
|------------------------------|---------|----------|---------|-------|------------------------------------|--------------|--------------------------|--------------|-----------------------|---------------|-------|--------------|------------------------|--------------|-------|---------------|-------------------------|-----|
| Total Border Patrol Sectors. | 498,123 | 8,669    | 480,588 | 179   | 362                                | 72           | 5,407                    | 221          | 146                   | 569           | 451   | 138          | 62                     | 143          | 245   | 48            | 543                     | 280 |
| Northeast Region             | 7,118   | 5,275    | 96      | 1     | 155                                | 36           | 525                      | 109          | 26                    | 240           | 104   | 59           | 9                      | 24           | 103   | 15            | 261                     | 80  |
| Buffalo, N. Y.               | 1,586   | 606      | 80      | -     | 147                                | 7            | 251                      | 65           | 24                    | 183           | 33    | 22           | 6                      | 1            | 33    | 6             | 78                      | 44  |
| Houlton, Maine               | 838     | 783      | 1       | -     | -                                  | 2            | 9                        | 3            | -                     | 10            | 3     | -            | -                      | -            | 10    | 1             | 10                      | 6   |
| Ogdensburg, N. Y.            | 731     | 679      | 3       | -     | -                                  | -            | 12                       | 2            | -                     | 4             | 8     | 3            | -                      | -            | 11    | -             | 9                       | -   |
| Swanton, Vt.                 | 3,963   | 3,207    | 12      | 1     | 8                                  | 27           | 253                      | 39           | 2                     | 43            | 60    | 34           | 3                      | 23           | 49    | 8             | 164                     | 30  |
| Southeast Region             | 9,901   | 597      | 6,547   | 20    | 115                                | 12           | 1,664                    | 65           | 44                    | 142           | 262   | 53           | 26                     | 94           | 40    | 9             | 142                     | 69  |
| Miami, Fla.                  | 5,170   | 534      | 2,591   | 20    | 83                                 | 6            | 1,424                    | 22           | 23                    | 105           | 70    | 51           | 15                     | 79           | 34    | 2             | 89                      | 22  |
| New Orleans, La.             | 4,731   | 63       | 3,956   | -     | 32                                 | 6            | 240                      | 43           | 21                    | 37            | 192   | 2            | 11                     | 15           | 6     | 7             | 53                      | 47  |
| Northwest Region             | 6,333   | 2,633    | 3,038   | -     | 15                                 | 1            | 98                       | 34           | 35                    | 131           | 44    | 19           | 13                     | 7            | 83    | 23            | 89                      | 70  |
| Blaine, Wash.                | 1,287   | 867      | 310     | -     | 2                                  | -            | 3                        | 9            | 2                     | 4             | 1     | 5            | 3                      | 2            | 33    | 2             | 30                      | 14  |
| Detroit, Mich.               | 1,617   | 645      | 607     | -     | 9                                  | 1            | 78                       | 19           | 20                    | 86            | 38    | 6            | 4                      | 5            | 19    | 14            | 29                      | 37  |
| Grand Forks, N. D.           | 1,008   | 742      | 126     | -     | 2                                  | -            | 13                       | 6            | 13                    | 33            | 5     | 6            | 5                      | -            | 22    | 7             | 19                      | 9   |
| Harve, Mont.                 | 1,663   | 206      | 1,431   | -     | 2                                  | -            | 3                        | -            | -                     | -             | -     | 2            | -                      | -            | 4     | -             | 6                       | 9   |
| Spokane, Wash.               | 758     | 173      | 564     | -     | -                                  | -            | 1                        | -            | -                     | 8             | -     | -            | 1                      | -            | 5     | -             | 5                       | 1   |
| Southwest Region             | 474,771 | 164      | 470,907 | 158   | 77                                 | 23           | 3,120                    | 13           | 41                    | 56            | 41    | 7            | 14                     | 18           | 19    | 1             | 51                      | 61  |
| Chula Vista, Calif.          | 128,889 | 26       | 126,206 | 19    | 38                                 | 5            | 2,519                    | 2            | 12                    | 15            | 5     | 1            | 3                      | 6            | 10    | 1             | 13                      | 8   |
| Del Rio, Tex.                | 42,232  | 2        | 42,130  | 72    | 2                                  | 1            | 24                       | -            | -                     | -             | -     | -            | -                      | -            | -     | -             | -                       | -   |
| El Centro, Calif.            | 23,125  | 26       | 22,962  | 6     | 4                                  | -            | 91                       | -            | 2                     | 11            | 1     | -            | -                      | 1            | 2     | -             | 10                      | 9   |
| El Paso, Tex.                | 82,386  | 9        | 82,268  | -     | 3                                  | 1            | 78                       | 3            | -                     | 11            | 2     | 1            | 2                      | 1            | -     | -             | 5                       | -   |
| Laredo, Tex.                 | 23,854  | 9        | 23,659  | 42    | 7                                  | 5            | 126                      | -            | -                     | 2             | -     | -            | -                      | 1            | -     | -             | 3                       | -   |
| Livermore, Calif.            | 33,705  | 21       | 33,579  | -     | 1                                  | -            | 18                       | 6            | 25                    | 12            | 6     | 1            | -                      | 4            | 4     | -             | 11                      | 5   |
| Marfa, Tex.                  | 22,378  | 17       | 22,336  | 1     | 1                                  | 1            | 30                       | -            | -                     | 1             | -     | -            | 1                      | -            | -     | -             | 1                       | -   |
| McAllen, Tex.                | 23,064  | 12       | 22,974  | 13    | 6                                  | 3            | 55                       | -            | -                     | -             | -     | -            | -                      | -            | -     | -             | -                       | -   |
| Fort Isabel, Tex.            | 14,028  | 13       | 13,791  | 5     | 9                                  | 1            | 119                      | 2            | 2                     | -             | 26    | 3            | 9                      | 2            | 1     | -             | 6                       | 39  |
| Tucson, Ariz.                | 44,824  | 14       | 44,767  | -     | 2                                  | -            | 35                       | -            | -                     | 4             | -     | -            | 2                      | -            | -     | -             | -                       | -   |
| Yuma, Ariz.                  | 36,286  | 15       | 36,235  | -     | 4                                  | 6            | 25                       | -            | -                     | -             | -     | -            | -                      | -            | -     | -             | -                       | -   |

2.

Mr. EILBERG. Further, can you indicate whether they were gainfully employed at the time of apprehension and list the occupations in which they were employed?

Mr. GREENE. I think we can, I know we can break it out agricultural versus industry but whether we can break out the industry is something I would have to take a look at.

[The information referred to follows:]

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

DEPORTABLE ALIENS LOCATED BY EMPLOYMENT STATUS  
FISCAL YEAR 1973

|                                | Total   | In<br>Agriculture | In<br>Industry<br>And Other | Seeking<br>Employment |
|--------------------------------|---------|-------------------|-----------------------------|-----------------------|
| U.S. Total <sup>1/</sup> ..... | 594,571 | 108,162           | 129,868                     | 356,541               |
| Total Districts .....          | 122,937 | 6,342             | 102,370                     | 14,225                |
| Northeast Region .....         | 26,975  | 6                 | 24,956                      | 2,013                 |
| Boston, Mass. ....             | 1,272   | -                 | 1,230                       | 42                    |
| Buffalo, N.Y. ....             | 388     | -                 | 384                         | 4                     |
| Hartford, Conn. ....           | 997     | -                 | 996                         | 1                     |
| Newark, N.J. ....              | 4,918   | -                 | 4,899                       | 19                    |
| New York, N.Y. ....            | 19,217  | 6                 | 17,273                      | 1,938                 |
| Portland, Me. ....             | 161     | -                 | 154                         | 7                     |
| St. Albans, Vt. ....           | 22      | -                 | 20                          | 2                     |
| Southeast Region .....         | 10,594  | 256               | 10,054                      | 284                   |
| Atlanta, Ga. ....              | 683     | 11                | 659                         | 13                    |
| Baltimore, Md. ....            | 718     | -                 | 705                         | 13                    |
| Cleveland, Ohio ....           | 658     | 14                | 628                         | 16                    |
| Miami, Fla. ....               | 2,816   | 25                | 2,777                       | 14                    |
| New Orleans, La. ....          | 202     | 1                 | 201                         | -                     |
| Philadelphia, Pa. ....         | 1,317   | 25                | 1,283                       | 9                     |
| San Juan, P.R. ....            | 2,504   | 180               | 2,120                       | 204                   |
| Washington, D.C. ....          | 1,696   | -                 | 1,681                       | 15                    |
| Northwest Region .....         | 18,762  | 2,554             | 15,056                      | 1,152                 |
| Anchorage, Alaska ....         | 174     | -                 | 154                         | 20                    |
| Chicago, Ill. ....             | 12,861  | 618               | 11,721                      | 522                   |
| Detroit, Mich. ....            | 1,224   | 5                 | 1,165                       | 54                    |
| Helena, Mont. ....             | 614     | 439               | 147                         | 28                    |
| Kansas City, Mo. ....          | 850     | 39                | 789                         | 22                    |
| Omaha, Nebr. ....              | 710     | 65                | 257                         | 388                   |
| Portland, Oreg. ....           | 533     | 280               | 246                         | 7                     |
| St. Paul, Minn. ....           | 249     | 1                 | 228                         | 20                    |
| Seattle, Wash. ....            | 1,547   | 1,107             | 349                         | 91                    |
| Southwest Region .....         | 66,606  | 3,526             | 52,304                      | 10,776                |
| Denver, Colo. ....             | 5,212   | 1,062             | 3,050                       | 1,100                 |
| El Paso, Tex. ....             | 5,632   | 23                | 2,499                       | 3,110                 |
| Honolulu, Hawaii ....          | 485     | -                 | 414                         | 71                    |
| Los Angeles, Calif. ....       | 21,302  | 1,223             | 17,837                      | 2,242                 |
| Phoenix, Ariz. ....            | 2,809   | 359               | 1,403                       | 1,047                 |
| Port Isabel, Tex. ....         | 1,222   | 6                 | 1,158                       | 58                    |
| San Antonio, Tex. ....         | 24,950  | 561               | 21,561                      | 2,828                 |
| San Francisco, Calif. ..       | 4,994   | 292               | 4,382                       | 320                   |

<sup>1/</sup> Excludes Crewmen On 29-Day Vessels

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

DEPORTABLE ALIENS LOCATED BY EMPLOYMENT STATUS (Contd.)  
FISCAL YEAR 1973

2.

|                               | Total   | In<br>Agriculture | In<br>Industry<br>And Other | Seeking<br>Employment |
|-------------------------------|---------|-------------------|-----------------------------|-----------------------|
| Total Border Patrol Sectors . | 471,634 | 101,820           | 27,498                      | 342,316               |
| Northeast Region .....        | 2,615   | 125               | 813                         | 1,677                 |
| Buffalo, N.Y. ....            | 824     | 51                | 315                         | 458                   |
| Houlton, Me. ....             | 332     | 51                | 117                         | 164                   |
| Ogdensburg, N.Y. ....         | 96      | 4                 | 30                          | 62                    |
| Swanton, Vt. ....             | 1,363   | 19                | 351                         | 993                   |
| Southeast Region .....        | 8,202   | 2,692             | 1,767                       | 3,743                 |
| Miami, Fla. ....              | 3,770   | 2,539             | 1,185                       | 46                    |
| New Orleans, La. ....         | 4,432   | 153               | 582                         | 3,697                 |
| Northwest Region .....        | 3,846   | 1,787             | 847                         | 1,212                 |
| Blaine, Wash. ....            | 500     | 271               | 95                          | 134                   |
| Detroit, Mich. ....           | 1,075   | 257               | 314                         | 504                   |
| Grand Forks, N.D. ....        | 315     | 73                | 133                         | 109                   |
| Havre, Mont. ....             | 1,425   | 781               | 217                         | 427                   |
| Spokane, Wash. ....           | 531     | 405               | 88                          | 38                    |
| Southwest Region .....        | 456,971 | 97,216            | 24,071                      | 335,684               |
| Chula Vista, Calif. ....      | 126,997 | 6,772             | 2,195                       | 118,030               |
| Del Rio, Tex. ....            | 40,787  | 5,058             | 673                         | 35,056                |
| El Centro, Calif. ....        | 20,022  | 2,127             | 1,035                       | 16,860                |
| El Paso, Tex. ....            | 80,156  | 13,773            | 6,097                       | 60,286                |
| Laredo, Tex. ....             | 23,784  | 3,517             | 1,687                       | 18,580                |
| Livermore, Calif. ....        | 29,576  | 24,576            | 2,546                       | 2,454                 |
| Marfa, Tex. ....              | 21,378  | 8,786             | 1,599                       | 10,993                |
| McAllen, Tex. ....            | 22,318  | 8,722             | 2,023                       | 11,573                |
| Port Isabel, Tex. ....        | 12,193  | 2,436             | 3,951                       | 5,806                 |
| Tucson, Ariz. ....            | 43,669  | 13,935            | 2,032                       | 27,702                |
| Yuma, Ariz. ....              | 36,091  | 7,514             | 233                         | 28,344                |

Mr. EILBERG. And we would like to know the duration of their employment if that is available.

Mr. GREENE. We may have to resort to a sample on some of those, this last one, because this phase of our work is not computerized and is buried in each district but perhaps we can go back and—

Mr. EILBERG. We would appreciate the best available information.

Mr. GREENE. It will be done.

[The information referred to follows:]

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

DEPORTABLE ALIENS LOCATED BY LENGTH OF TIME ILLEGALLY IN THE UNITED STATES 1/  
FISCAL YEAR 1973

|                            | Total   | At entry | Within 72 hours | 4-30 days | 1-6 months | 7 months to 1 yr. | Over 1 yr. |
|----------------------------|---------|----------|-----------------|-----------|------------|-------------------|------------|
| U.S. Total 2/ .....        | 647,512 | 187,220  | 166,747         | 121,736   | 103,223    | 24,456            | 44,130     |
| Total Districts .....      | 149,389 | 1,357    | 11,350          | 28,950    | 52,196     | 17,570            | 37,966     |
| Northeast Region .....     | 27,473  | 35       | 488             | 1,402     | 5,273      | 4,501             | 15,774     |
| Boston, Mass. ....         | 1,315   | 1        | 46              | 96        | 366        | 215               | 591        |
| Buffalo, N.Y. ....         | 447     | 2        | 23              | 60        | 193        | 64                | 105        |
| Hartford, Conn. ....       | 1,039   | 1        | 4               | 63        | 363        | 231               | 377        |
| Newark, N.J. ....          | 5,089   | 22       | 105             | 274       | 893        | 680               | 3,115      |
| New York, N.Y. ....        | 19,346  | -        | 244             | 852       | 3,388      | 3,301             | 11,561     |
| Portland, Maine ....       | 214     | 9        | 66              | 50        | 57         | 9                 | 23         |
| St. Albans, Vt. ....       | 23      | -        | -               | 7         | 13         | 1                 | 2          |
| Southeast Region .....     | 14,122  | 890      | 1,512           | 2,134     | 4,627      | 1,745             | 3,214      |
| Atlanta, Ga. ....          | 780     | 71       | 55              | 100       | 335        | 97                | 122        |
| Baltimore, Md. ....        | 830     | 32       | 58              | 132       | 285        | 104               | 219        |
| Cleveland, Ohio ....       | 836     | 1        | 21              | 165       | 345        | 106               | 198        |
| Miami, Fla. ....           | 3,331   | 760      | 177             | 577       | 980        | 234               | 603        |
| New Orleans, La. ....      | 348     | 1        | 116             | 92        | 71         | 18                | 50         |
| Philadelphia, Pa. ....     | 2,128   | 1        | 158             | 224       | 870        | 347               | 528        |
| San Juan, P.R. ....        | 3,989   | 20       | 683             | 643       | 1,111      | 548               | 984        |
| Washington, D.C. ....      | 1,880   | 4        | 244             | 201       | 630        | 291               | 510        |
| Northwest Region .....     | 23,540  | 17       | 894             | 4,389     | 10,207     | 3,248             | 4,785      |
| Anchorage, Alaska ....     | 197     | 1        | 31              | 33        | 70         | 26                | 36         |
| Chicago, Ill. ....         | 14,355  | 3        | 251             | 2,380     | 6,041      | 2,069             | 3,611      |
| Detroit, Mich. ....        | 1,768   | 3        | 49              | 305       | 817        | 363               | 231        |
| Helena, Mont. ....         | 873     | 1        | 10              | 126       | 567        | 54                | 115        |
| Kansas City, Mo. ....      | 1,915   | -        | 264             | 657       | 569        | 209               | 216        |
| Omaha, Nebr. ....          | 906     | -        | 136             | 240       | 344        | 89                | 97         |
| Portland, Oreg. ....       | 1,244   | -        | 45              | 228       | 683        | 129               | 159        |
| St. Paul, Minn. ....       | 411     | -        | 33              | 97        | 170        | 55                | 56         |
| Seattle, Wash. ....        | 1,871   | 9        | 75              | 323       | 946        | 254               | 264        |
| Southwest Region .....     | 84,254  | 415      | 8,456           | 21,025    | 32,089     | 8,076             | 14,193     |
| Denver, Colo. ....         | 6,222   | -        | 221             | 1,610     | 3,077      | 681               | 633        |
| El Paso, Tex. ....         | 7,526   | 365      | 4,322           | 1,232     | 993        | 212               | 402        |
| Honolulu, Hawaii ....      | 704     | -        | 59              | 172       | 302        | 65                | 106        |
| Los Angeles, Calif. ....   | 29,456  | 13       | 1,175           | 5,092     | 10,961     | 3,819             | 8,396      |
| Phoenix, Ariz. ....        | 4,478   | 11       | 898             | 1,606     | 1,352      | 284               | 327        |
| Port Isabel, Tex. ....     | 2,441   | -        | 193             | 600       | 876        | 260               | 512        |
| San Antonio, Tex. ....     | 26,486  | 23       | 1,380           | 9,447     | 11,912     | 1,820             | 1,904      |
| San Francisco, Calif. .... | 6,941   | 3        | 208             | 1,266     | 2,616      | 935               | 1,913      |

1/ Length of time illegally in the U.S. cannot be related to period of employment.

2/ Excludes crewmen on 29-day vessels.

United States Department of Justice  
Immigration and Naturalization Service  
Washington, D.C.

DEPORTABLE ALIENS LOCATED BY LENGTH OF TIME ILLEGALLY IN THE UNITED STATES (Continued)  
FISCAL YEAR 1973

2.

|                                       | Total   | At entry | Within 72 hours | 4-30 days | 1-6 months | 7 months to 1 yr. | Over 1 yr. |
|---------------------------------------|---------|----------|-----------------|-----------|------------|-------------------|------------|
| Total Border Patrol Sectors . . . . . | 498,123 | 185,863  | 155,397         | 92,786    | 51,027     | 6,886             | 6,164      |
| Northeast Region . . . . .            | 7,118   | 3,574    | 1,964           | 492       | 580        | 211               | 297        |
| Buffalo, N.Y. . . . .                 | 1,586   | 39       | 561             | 244       | 348        | 173               | 221        |
| Houlton, Maine . . . . .              | 838     | 204      | 488             | 68        | 58         | 3                 | 17         |
| Ogdensburg, N.Y. . . . .              | 731     | 451      | 214             | 35        | 22         | 3                 | 6          |
| Swanton, Vt. . . . .                  | 3,963   | 2,880    | 701             | 145       | 152        | 32                | 53         |
| Southeast Region . . . . .            | 9,901   | 22       | 1,718           | 2,552     | 3,833      | 867               | 909        |
| Miami, Fla. . . . .                   | 5,170   | 22       | 591             | 1,083     | 2,365      | 526               | 583        |
| New Orleans, La. . . . .              | 4,731   | -        | 1,127           | 1,469     | 1,468      | 341               | 326        |
| Northwest Region . . . . .            | 6,333   | 813      | 1,395           | 1,286     | 2,023      | 402               | 414        |
| Blaine, Wash. . . . .                 | 1,287   | 336      | 467             | 157       | 256        | 35                | 36         |
| Detroit, Mich. . . . .                | 1,617   | 323      | 262             | 261       | 434        | 135               | 202        |
| Grand Forks, N.D. . . . .             | 1,008   | 101      | 408             | 256       | 179        | 33                | 31         |
| Havre, Mont. . . . .                  | 1,663   | 32       | 140             | 493       | 782        | 124               | 92         |
| Spokane, Wash. . . . .                | 758     | 21       | 118             | 119       | 372        | 75                | 53         |
| Southwest Region . . . . .            | 476,771 | 181,454  | 150,320         | 88,456    | 44,591     | 5,406             | 4,544      |
| Chula Vista, Calif. . . . .           | 128,889 | 68,567   | 42,274          | 10,924    | 5,331      | 905               | 888        |
| Del Rio, Tex. . . . .                 | 42,232  | 23,371   | 6,409           | 8,912     | 3,267      | 168               | 105        |
| El Centro, Calif. . . . .             | 23,125  | 7,815    | 9,472           | 3,112     | 1,929      | 344               | 453        |
| El Paso, Tex. . . . .                 | 82,386  | 29,039   | 39,486          | 10,680    | 2,501      | 351               | 329        |
| Laredo, Tex. . . . .                  | 23,854  | 11,225   | 2,983           | 6,825     | 2,459      | 183               | 179        |
| Livermore, Calif. . . . .             | 33,705  | -        | 1,148           | 12,760    | 16,032     | 2,234             | 1,531      |
| Marfa, Tex. . . . .                   | 22,378  | 3,314    | 5,546           | 7,051     | 5,435      | 523               | 509        |
| McAllen, Tex. . . . .                 | 23,064  | 6,651    | 11,941          | 3,763     | 554        | 56                | 99         |
| Port Isabel, Tex. . . . .             | 14,028  | 2,109    | 5,039           | 4,080     | 2,243      | 300               | 257        |
| Tucson, Ariz. . . . .                 | 44,824  | 9,990    | 13,215          | 16,800    | 4,383      | 299               | 137        |
| Yuma, Ariz. . . . .                   | 36,286  | 19,373   | 12,807          | 3,549     | 457        | 43                | 57         |

MR. EILBERG. Can we have a statistical breakdown of how these illegal aliens in fiscal 1973 entered the country; that is, nonimmigrant overstays, border crossers, ship jumpers and surreptitious entrants?

MR. GREENE. Yes, I think we can provide that.

[The information referred to follows:]

TABLE 279.  
DEPORTABLE ALIENS LOCATED BY STATUS AT ENTRY AND NATIONALITY  
YEAR ENDED JUNE 30, 1973

| Nationality                                       | Number located | STATUS at ENTRY     |         |         |                      |                  |                      |                  |           |          |                          |        |
|---|----------------|---------------------|---------|---------|----------------------|------------------|----------------------|------------------|-----------|----------|--------------------------|--------|
|   |                | Agricultural worker | Visitor | Student | D-1<br>Greenman      |                  | D-2<br>Greenman      |                  | Immigrant | Stowaway | Entry without inspection | Other  |
|   |                |                     |         |         | Non-willful violator | Willful violator | Non-willful violator | Willful violator |           |          |                          |        |
| All countries .....                               | 655,968        | 1,073               | 63,654  | 7,107   | 9,277                | 4,651            | 161                  | 108              | 3,299     | 232      | 551,328                  | 15,078 |
| Europe .....                                      | 15,379         | 123                 | 6,988   | 681     | 3,183                | 2,487            | 48                   | 45               | 128       | 30       | 556                      | 1,110  |
| Greece .....                                      | 4,396          | 16                  | 702     | 128     | 1,306                | 1,811            | 8                    | 25               | 20        | 10       | 122                      | 248    |
| Italy .....                                       | 2,069          | 3                   | 1,203   | 78      | 318                  | 80               | 11                   | 4                | 22        | 7        | 131                      | 212    |
| Scandinavia <sup>1/</sup> .....                   | 938            |                     | 348     | 38      | 554                  | 48               | 12                   | 4                | 1         | -        | 7                        | 36     |
| Spain .....                                       | 1,092          | 38                  | 368     | 33      | 266                  | 272              | 4                    | 8                | 2         | 7        | 35                       | 99     |
| United Kingdom .....                              | 2,113          | 10                  | 1,265   | 164     | 289                  | 77               | 4                    | 1                | 29        | 1        | 66                       | 207    |
| Yugoslavia .....                                  | 573            | 8                   | 410     | 24      | 444                  | 51               | -                    | -                | 1         | 9        | 9                        | 26     |
| Other Europe .....                                | 4,200          | 48                  | 2,822   | 216     | 428                  | 148              | 9                    | 3                | 53        | 5        | 166                      | 282    |
| Asia .....  | 15,600         | 56                  | 4,626   | 3,059   | 4,253                | 1,633            | 53                   | 19               | 91        | 10       | 112                      | 1,688  |
| China .....                                       | 4,970          | 9                   | 814     | 483     | 1,919                | 1,326            | 4                    | 11               | 24        | 3        | 86                       | 291    |
| Philippines .....                                 | 3,482          | 37                  | 1,906   | 290     | 413                  | 131              | 40                   | 3                | 32        | 3        | 4                        | 623    |
| Other Asia .....                                  | 7,148          | 10                  | 1,906   | 2,286   | 1,921                | 176              | 9                    | 5                | 35        | 4        | 22                       | 774    |
| North America .....                               | 596,512        | 241                 | 34,623  | 866     | 276                  | 102              | 9                    | 9                | 2,805     | 65       | 547,062                  | 10,454 |
| Canada .....                                      | 11,011         | 18                  | 5,988   | 182     | 20                   | 6                | -                    | -                | 80        | 3        | 4,034                    | 700    |
| Mexico .....                                      | 576,823        | 135                 | 22,912  | 225     | 34                   | 9                | 4                    | -                | 2,597     | 5        | 542,244                  | 8,658  |
| Cuba .....  | 1,273          | -                   | 650     | 26      | 3                    | 9                | -                    | -                | 31        | 12       | 397                      | 145    |
| Dominican Republic .....                          | 2,948          | 2                   | 2,274   | 159     | 20                   | 38               | -                    | 1                | 66        | 18       | 189                      | 181    |
| British West Indies and<br>British Honduras ..... | 4,457          | 86                  | 2,799   | 294     | 199                  | 40               | 5                    | 8                | 31        | 27       | 198                      | 770    |
| Other Western Hemisphere .....                    | 25,185         | 640                 | 16,075  | 1,530   | 1,101                | 245              | 50                   | 28               | 259       | 119      | 3,547                    | 1,591  |
| Other nationalities .....                         | 3,292          | 13                  | 1,342   | 971     | 464                  | 194              | 1                    | 7                | 16        | 8        | 51                       | 235    |

<sup>1/</sup> Denmark, Norway, Sweden, and Iceland.

United States Department of Justice  
Immigration and Naturalization Service

Mr. EILBERG. I think I will yield to Mr. Keating at this time.

Mr. KEATING. Mr. Greene, what is the status of the electronic border crossing control experiments?

Mr. GREENE. We have equipment installed in about four of the southern border sectors. If you will bear with me a moment I have some data with me on that.

Mr. KEATING. If it would be easier we can put it in the record.

Mr. GREENE. Generally speaking, if I may, it would be more accurate. I have it here. It would take more time to read it. But we have gotten it in about four of the major sectors. We are expanding it. Eventually we will have some equipment in all sectors.

It was never our intentions to completely wire the border. I think when we complete the installation there will be about 350 miles covered by the electronic surveillance. We refer to it as a sensor system.

I might say I was in California within the last month. In the morning I went up to the headquarters at Chula Vista. We had intercepted three automobiles that morning that were moving 951 kilos of marihuana that tried to drive—in fact, they drove right over the fence and into the sensor field. They caused such a jolt on the system that the operators thought they had an earthquake. They apprehended aliens and seized the three cars. There is a possibility that another car got away. The next morning they tried to go through the same area and we were successful that morning in catching another load. So the sensor system is not only good for catching illegal aliens, it is good for catching people who carry things in conveyances.

[The data referred to follows:]

#### ELECTRONIC INTRUSION DETECTION SYSTEMS, SOUTHWEST BORDER

As requested, the following is a sector-by-sector summary of the planning and implementation of electronic intrusion detection systems along the southwest border:

*Chula Vista Sector.*—65 miles of sector border. A military (surplus) system of predominantly seismic (geophone) detectors was installed in 1970 and updated with additional military equipment in 1971. The system covers ten miles of strategic areas, not more than two miles from the border. The equipment is expected to be replaced by commercial procurement in fiscal year 1976.

*El Centro Sector.*—81 miles of sector border. A preliminary military (surplus) system consisting of predominantly seismic devices was installed in 1973. This system covers one mile of strategic areas, not more than two miles from the border. The equipment is planned for replacement by commercial procurement in fiscal year 1976.

*Yuma Sector.*—118 miles of sector border. Under contract CO-6-73, a commercial intrusion system was purchased in March of this year. This system consists of seismic, magnetic, infrared and strain-sensitive line devices which will cover 15 miles of strategic areas, not more than five miles from the border. The equipment is planned for replacement in fiscal year 1979.

*Tucson Sector.*—265 miles of sector border. A preliminary military (surplus) system consisting of predominantly seismic devices was installed in the latter part of 1972. It covers three miles of strategic areas, not more than two miles from the border. The equipment is planned for replacement in fiscal year 1977.

*El Paso Sector.*—360 miles of sector border. Under contract CO-11-71, a commercial intrusion system was purchased and installed in 1971 and has never operated properly. The system consists of predominantly seismic devices. At the present time litigation is pending against Magnavox Corporation, the manufacturer, and a new system from commercial sources is expected to be procured this fiscal year which will cover 15 to 20 miles of strategic areas not more than ten miles from the border.

*Marfa Sector.*—365 miles of sector border. There is no intrusion equipment in this sector at the present time. A commercial system is planned for procurement

this fiscal year which will cover 15-20 miles of strategic areas not more than five miles from the border.

*Del Rio Sector.*—254 miles of sector border. Under contract CO-16-72, a commercial intrusion system was purchased and installed in 1973. It consists of seismic and magnetic devices and covers 12 to 14 miles of strategic areas not more than four miles from the border. The equipment is scheduled for replacement in fiscal year 1978.

*Laredo Sector.*—168 miles of sector border. Under contract CO-6-73, a commercial intrusion system was purchased in March of this year. This system consists of seismic, magnetic, infrared and strain-sensitive line devices which will cover 15 miles of strategic areas not more than five miles from the border. The equipment is scheduled for replacement in fiscal year 1979.

*McAllen Sector.*—269 miles of sector border. There is no intrusion equipment in this sector at the present time. A commercial system is planned for procurement this fiscal year which will cover 15-20 miles of strategic areas not more than five miles from the border.

#### ELECTRONIC INTRUSION DETECTION SYSTEMS, NORTHERN BORDER

As requested, the following is a sector-by-sector summary of the planning and implementation of electronic intrusion detection systems along the northern border. There are no intrusion systems of any consequences in any of these Sectors at the present time. A few vehicle (magnetic loop) detectors are used in roadways in the Swanton, Houlton and Ogdensburg Sectors.

*Blaine Sector.*—90 miles of sector border. A commercial system is planned for procurement in fiscal year 1977 which will cover 10-15 miles of strategic areas not more than five miles from the border.

*Spokane Sector.*—330 miles of sector border. A commercial system is planned for procurement in fiscal year 1978 which will cover 20-25 miles of strategic areas not more than five miles from the border.

*Havre Sector.*—456 miles of sector border. A commercial system is planned for procurement in fiscal year 1978 which will cover 20-25 miles of strategic areas not more than five miles from the border.

*Grand Forks Sector.*—856 miles of sector border. A commercial system is planned for procurement in fiscal year 1979 which will cover 40-50 miles of strategic areas not more than six miles from the border.

*Detroit Sector.*—866 miles of sector border. A commercial system is planned for procurement in fiscal year 1979 which will cover 5-10 miles of strategic areas not more than six miles from the border.

*Buffalo Sector.*—254 miles of sector border. A commercial system is planned for procurement in fiscal year 1977 which will cover 20-35 miles of strategic areas not more than five miles from the border.

*Ogdensburg Sector.*—200 miles of sector border. A commercial system is planned for procurement in fiscal year 1976 which will cover 15-20 miles of strategic areas not more than four miles from the border.

*Swanton Sector.*—208 miles of sector border. A commercial system is planned for procurement in fiscal year 1975 which will cover 10-15 miles of strategic areas not more than four miles from the border.

*Houlton Sector.*—585 miles of sector border. A commercial system is planned for procurement in fiscal year 1976 which will cover 25-30 miles of strategic areas not more than six miles from the border.

Mr. KEATING. What is the status of the efforts to develop a green card that is more foolproof?

Mr. GREENE. Well, we are making a major effort in this area. One of the Service's primary goals is to develop a substitute card for the I-151, which is an alien registration card issued to the aliens in the United States for permanent residence. It is also used as a border crossing card. I have asked for, as I reported to Chairman Randall's committee last Tuesday, \$13 million to reissue a new card to some four million resident aliens. At the present time, we have, as your committee developed, some 17 variations, legal variations, of that card in circulation today. It makes it extremely difficult for an officer to

look at a card and tell whether or not it was a valid card or whether it is a counterfeit because there are just too many variations.

What we are trying to do is, working with the other agencies in the U.S. Government, including the CIA, FBI, Bureau of Standards, and the Bureau of Engraving and Printing, develop a card which is as near counterfeit proof as we can possibly design. It will also have magnetic capabilities of being read through a device. We do not have the device as yet but we expect to before too many years to have the hardware that we can put the card into a slot and impregnate it with certain magnetic data and then at a given time it can be read off by placing it in a magnetic reader.

This is one of our major goals. As I say, we expect to develop the card this year and we are asking for money to go into issuance next year.

I was asked why the \$13 million. Certainly, the card does not cost that much. No, it does not cost that much but I want every file searched to make absolutely certain the person is entitled to have the card, particularly to have a new card. We have reason to believe there are people who live out of the country who come back only once a year or maybe not even that often. We do not know how many cards. We know we have 400,000 aliens registered, I think it is a must, and we are working toward that end and asking for the funds to put it into operation.

Mr. EILBERG. Will the gentleman yield at that point?

Mr. KEATING. Yes.

Mr. EILBERG. Is that 400,000 or 4 million?

Mr. GREENE. I am sorry.

Mr. EILBERG. What was the figure?

Mr. GREENE. The number of cards would be 4 million.

Mr. EILBERG. You mentioned \$13 million as the cost. What is your position with regard to whether or not a fee should be charged for a card?

Mr. GREENE. Mr. Chairman, I have not resolved that one. It troubles me because the law requires a person to have that or a document in lieu of it in his possession as evidence of his alien registration. To say you have got to have the card with you by law and then turn around and charge him for it. I think there may be an area of—what is the term we use when a person is—

Mr. GORDON. Duress?

Mr. GREENE. No. Does not have the money to purchase it.

Mr. GORDON. Pauper.

Mr. GREENE. It is a pauper status. If he has it he can claim it and possibly we can work out something there. It would be desirable certainly, from the Government's standpoint to charge the alien for those cards but if you are going to get them in and ask them to volunteer to get the card, we want them to have, there is going to be a trade-off, and I am just not sure in which direction we should go. That is part of the study. We have a study team working with the Visa Office. They wish to come out with a foolproof visa card. We are also working with the Passport Office. We hope to get the benefit of Miss Knight's recent study on a more secure passport.

Mr. KEATING. What has been the extent of criminal involvement by INS personnel that was revealed by the Justice Department investigation?

Mr. GREENE. This is one of the things I hate to admit but we have had several officers violate their trust of office. We had a man in the Port of San Ysidro who was selling documents, actually he and his wife and a person outside the Service. He actually was found before the so-called "Clean Sweep Operation" went into effect. That case led to the clean sweep operation. He has been convicted and I think he is now in prison.

There was a second officer in the Port of Calexico who was convicted of selling documents; they were in the form of parole documents. In that case the Border Patrol found the recipient of the document. He was turned over to the FBI and the clean sweep investigators.

There were two officers in the Port of San Ysidro who were arrested for passing marihuana on the line. That is a total of four actually involved in full scale criminal activities. There has been another man in the Port of San Luis, Ariz., who is under indictment and the sixth officer was indicted for moving a non-Government recipient on his travel orders which is illegal.

There was a man indicted down in the Lower Valley of Texas for violation of the Neutrality Act of taking arms and guns into—conveying them into Mexico. That charge was dropped recently.

That is the total that I know of.

Mr. KEATING. Out of how many men and women?

Mr. GREENE. We have 7,600 employees on the rolls. As I have said in public statements, some people would characterize the total of the Service as corrupt from top to bottom. I think in a period of 2 years they found seven. That is seven too many, however.

Mr. KEATING. One-tenth of 1 percent?

Mr. GREENE. It would be—

Mr. KEATING. Maybe even smaller than that.

Mr. GREENE. Smaller than that. But I will say this, and if you may give me permission to talk for a moment, I am absolutely convinced that the vast majority of our employees are honest, dedicated, hard-working officers. I think part of the problem that has led to some of these deviations have been these people are just grossly overworked. We have 600 more people on our field force than we had 15 years ago. That is 600—adjudications are now up, as I mentioned a while ago, to 1,400,000. Entries have gone up, now hitting 260 million. Apprehensions, going from 30,000 up to 600,000. The problem with the Service is that they just have not been staffed, have not been funded. People are expected to do miracles. I think it is fantastic that they have been able to keep their heads above water and answer the telephone.

Mr. KEATING. I just have two more questions. You mentioned the personnel increases. What are the increases that you are requesting for fiscal 1975?

Mr. GREENE. Well, Mr. Keating, I think I am somewhat under restrictions. This is still somewhere between the Department of Justice and OMB. But I can certainly say they are about three times higher than has been asked for in the last 4 or 5 years.

As you know, we had no additional employees last year and none the year before. I have a supplemental pending which has been pared down somewhat. We do not have enough. I think I testified before your committee one time, I think, that the Service could very effi-

ciently and economically use twice the force that we have in all of our field offices to service the public as we are supposed to be servicing them. We have people waiting 6 months for naturalization which is not necessarily a right but it is certainly something they are entitled to and they should not be held up.

We have cases where petitioners have reached age limits where they have lost benefits. They have reached 21, for example, before we were able to get the petition out of the mailroom. There is a backlog. So we are not servicing the people as they should be serviced and I think it is something that—

Mr. KEATING. I agree that you have a need for increased personnel and I think the members of the committee do also.

One final question. You spoke about the clean sweep operation which was the wrong terminology according to your Department. What did you call it, Mr. Gordon?

Mr. GORDON. Area control.

Mr. KEATING. Area Control. Why did you stop the Area Control operations?

Mr. GREENE. Money, primarily. We used to bring teams from the Border Patrol to assist investigators in, say, Los Angeles, Chicago, to a lesser extent New York, and with the per diem and the other expenses we just could not do it. We mounted the Area Control, I will call it, "Accelerated Area Control" to differentiate it from the regular day-to-day area control. My personal feeling is that I would rather have the officers on duty year round conducting an orderly, across-the-board pressure on these areas than to have these major pushes. It disrupts the community. They are difficult to supervise. The officers do not know the city as well. They do not know the field. For example, they got into Los Angeles last year and they did not realize, inasmuch as they had not been there for several years, that there would be a complete change in climate. We had aliens who, 3 or 4 years ago, would say, yes, I am here illegally or I came from Mexico. This time they took off. They ran. They did everything to avoid apprehension. This was quite a surprise to some of these Border Patrol men we brought in from the outlying areas. The city people knew it. So we ran a small detail in Chicago, as Mr. Gordon said, and in New York. That operation was run with the Service investigators just assigning more people to the operation.

Mr. KEATING. Mr. Chairman, I yield back.

Mr. EILBERG. Mr. Waldie, do you have any further questions at this time?

Mr. WALDIE. Yes, I do.

When the alien is—the illegal alien is apprehended in Chicago, under the Area Control operation, is that person generally an agricultural worker or an industrial worker?

Mr. GREENE. Industrial.

Mr. WALDIE. As an industrial worker, is his paycheck subject to withholding?

Mr. GREENE. Yes, sir.

Mr. WALDIE. Is he then turned over to the IRS if he has cash in his pocket?

Mr. GREENE. I would put it this way. The IRS is notified that he is in our office and how much money he has.

Mr. WALDIE. Well, why is that if his income taxes are withheld?

Mr. GREENE. Well, I think there have been instances where the alien has claimed more dependents than he is entitled to, to that he would not have as much deducted.

Mr. WALDIE. Are you aware of refunds that are given to him when he is deported, if he has had more moneys withheld than he owes?

Mr. GREENE. No, sir.

Mr. WALDIE. Is that part of the inquiry?

Mr. GREENE. I do not know what the Internal Revenue asks when they get hold of—

Mr. WALDIE. Well, to your knowledge, it is only to find out if he owes money, not to find out if we owe him money, is that correct?

Mr. GREENE. Mr. Waldie, I really do not know what procedure the IRS goes through when they approach the man.

Mr. WALDIE. Well, I may be the only one on the committee that is disturbed about the practice, and I do not know whether we have instructed, Mr. Chairman, a review of the practice to be made to me. If not, I will request it on my own.

Mr. EILBERG. We have requested that of Mr. Greene now.

Mr. WALDIE. Will you then in that inquiry further have them ascertain if the inquiry is whether we, the U.S. Government, owe the alien money, because of over withholding of income, and if in fact any have been paid, as well as how much we have collected. Can you find that out for us?

Mr. GREENE. Yes, sir.

Mr. EILBERG. Mr. Greene, in order to make certain Mr. Waldie gets the information he desires, will you also send a copy immediately to Mr. Waldie when you submit the report to the subcommittee staff?

Mr. GREENE. I will be pleased to.

Mr. WALDIE. Now, on the Area Control reference in your statement on page 4, I gather the 123,963 deportable aliens are the numbers to which Mr. Eilberg, the chairman, had reference when he asked you to provide the total number of aliens picked up by the Area Control operations?

Mr. GREENE. I did not interpret it that way. I interpreted it to mean that he wanted the data on all aliens we found. The 123,963 are those picked up by investigators. Sometimes they are assisted on details by Border Patrol men but primarily those are the investigator apprehensions.

Mr. WALDIE. Maybe I misunderstood.

Mr. EILBERG. You did misunderstand.

Mr. WALDIE. It is not just clean sweep?

Mr. EILBERG. I did not ask that specifically but, of course, you may request that information.

Mr. WALDIE. Then I am asking that question. Will you please provide the committee, then, if the Chair agrees, with the numbers of aliens that were picked up directly attributable to Area Control operations or clean sweep?

Mr. EILBERG. Would you do that, Mr. Greene?

Mr. GREENE. Yes, sir. Mr. Waldie, this clean sweep is the grand jury investigation in California. It has nothing to do with our office. I mean it has something to do with it but it is under the control of Justice. The words "clean sweep" got into it—it was used in California.

Mr. WALDIE. I understand that but it is an Area Control operation, right?

Mr. GREENE. Yes, sir.

Mr. WALDIE. And will you give me, then, the numbers that have been picked up under Area Control operations and where those numbers were picked up?

[The information referred to follows:]

DEPORTABLE ALIENS LOCATED BY AREA CONTROL BY DISTRICT—FISCAL YEAR 1973

| Districts:                | <i>Located by Area Control</i> |
|---------------------------|--------------------------------|
| U.S. total.....           | 123,963                        |
| Northeast Region.....     | 16,702                         |
| Boston, Mass.....         | 422                            |
| Buffalo, N.Y.....         | 211                            |
| Hartford, Conn.....       | 808                            |
| Newark, N.J.....          | 4,363                          |
| New York, N.Y.....        | 10,758                         |
| Portland, Me.....         | 131                            |
| St. Albans, Vt.....       | 9                              |
| Southeast Region.....     | 11,120                         |
| Atlanta, Ga.....          | 517                            |
| Baltimore, Md.....        | 745                            |
| Cleveland, Ohio.....      | 544                            |
| Miami, Fla.....           | 2,780                          |
| New Orleans, La.....      | 322                            |
| Philadelphia, Pa.....     | 1,130                          |
| San Juan, P.R.....        | 3,538                          |
| Washington, D.C.....      | 1,544                          |
| Northwest Region.....     | 18,148                         |
| Anchorage, Alaska.....    | 167                            |
| Chicago, Ill.....         | 12,061                         |
| Detroit, Mich.....        | 334                            |
| Helena, Mont.....         | 631                            |
| Kansas City, Mo.....      | 1,403                          |
| Omaha, Nebr.....          | 744                            |
| Portland, Ore.....        | 1,010                          |
| St. Paul, Minn.....       | 233                            |
| Seattle, Wash.....        | 1,565                          |
| Southwest Region.....     | 77,993                         |
| Denver, Colo.....         | 6,010                          |
| El Paso, Tex.....         | 7,084                          |
| Honolulu, Hawaii.....     | 258                            |
| Los Angeles, Calif.....   | 27,699                         |
| Phoenix, Ariz.....        | 4,195                          |
| Port Isabel, Tex.....     | 2,014                          |
| San Antonio, Tex.....     | 24,736                         |
| San Francisco, Calif..... | 5,997                          |

Mr. WALDIE. Now, in reference to that, can you tell me, on page 4, the figure 123,963—it says increased operations by Area Control forces resulted in the location of 123,963 deportable aliens last year. Is that all the aliens that were picked up by Area Control?

Mr. GREENE. Yes, sir.

Mr. WALDIE. And so that if that were broken down into areas, my question would then be answered, right?

Mr. GREENE. I think so.

Mr. WALDIE. And that was an increase of 26 percent over the record number located during the previous year?

Mr. GREENE. Yes, sir.

Mr. WALDIE. In the previous year were Area Control operations in effect?

Mr. GREENE. Yes, sir.

Mr. WALDIE. How long have you utilized Area Control operations?

Mr. GREENE. Using the term "Area Control," 4 or 5 years before that we called it "Search" and before that it was not as well defined but we had another term for it. So using investigators to locate illegal aliens is an ongoing operation.

Mr. WALDIE. I know, but I gather this is different than that. You bring a team into an urban area that is not even familiar with the area, right?

Mr. GREENE. That only happens on rare occasions like in California.

Mr. WALDIE. Oh, that is an Area Control?

Mr. GREENE. No, sir. Area Control is an ongoing operation, sometimes augmented by people—

Mr. WALDIE. I thought you said earlier that occasionally people call Area Control "clean sweep" but that is a mistake that it is Area Control, not clean sweep. Clean sweep is one operation, then?

Mr. GREENE. Clean sweep is an operation of a grand jury in San Diego, Calif., investigating the Service.

Mr. WALDIE. All right.

Mr. GREENE. It has nothing to do with—

Mr. GORDON. This is a type of area control but it is accelerated.

Mr. WALDIE. Then I was totally confused listening to the chairman's questions over clean sweep operations. I assumed clean sweep operations occurred in Chicago, San Diego, Los Angeles.

Mr. GORDON. Concentrated effort is really what it is, pursuing the type of operation which is conducted normally.

Mr. WALDIE. Is Area Control operation any different than this operation in Los Angeles that became known as "clean sweep"?

Mr. GREENE. It isn't known as "clean sweep" and never was. That is what I—

Mr. WALDIE. The grand jury called it that.

Mr. GREENE. No, sir. The grand jury is investigating malfeasance, misconduct, mismanagement, and nothing to do with the sweep. The confusion started. I would say, referred to—I tried to define it as Accelerated Area Control.

Mr. WALDIE. What happened in Los Angeles is not really the customary Area Control. It was accelerated.

Mr. GREENE. Accelerated Area Control—we brought in 50 additional officers just that one time.

Mr. WALDIE. Let me deal with that. Was that the only place in the area that you engaged in Accelerated Area Control?

Mr. GREENE. We had a smaller operation in Chicago.

Mr. WALDIE. And what—describe the difference between Area Control and Accelerated Area Control.

Mr. GREENE. Area Control is an ongoing program where we have certain investigators assigned to looking for, generally without leads, illegal aliens. They may have complaints, telephone calls. They may work those also. But without caseloads. They are not looking for individuals. They are looking for aliens in plants, construction jobs, et cetera.

Now, on occasion, as we did in Los Angeles, we brought in a detail of border patrolmen to assist the local Area Control officers. That, I would characterize as an Accelerated Area Control procedure.

Mr. WALDIE. How many were brought in?

Mr. GREENE. Fifty officers.

Mr. WALDIE. And where were they brought in from?

Mr. GREENE. All over the northern border, all over the country.

Mr. WALDIE. And that added to an information of what number?

Mr. GREENE. There were 25; made a total of about 75 officers.

Mr. WALDIE. So it did not augment it. It tripled the number that were there.

Mr. GREENE. Tripled.

Mr. WALDIE. And what were these officers? What were their titles?

Mr. GREENE. Border patrol agents, primarily.

Mr. WALDIE. And the 25 that were there were what?

Mr. GREENE. Investigators.

Mr. WALDIE. And how long did this Accelerated Area Control program go on?

Mr. GREENE. It lasted 20 working days.

Mr. WALDIE. And then the officers were dispersed?

Mr. GREENE. Yes, sir.

Mr. WALDIE. How many people did you pick up in that 20 working days?

Mr. GREENE. 11,500.

Mr. WALDIE. 11,500, normally in 20 working days, with 25 people, how many people would you have picked up?

Mr. GREENE. I do not have that answer.

Mr. WALDIE. Well, roughly.

Mr. GREENE. One hundred a day.

Mr. WALDIE. All right, 2,000? 2,000. So roughly, five times as many were picked up. How many were found to be illegal aliens?

Mr. GREENE. They were all illegal aliens.

Mr. WALDIE. Did you ever pick up any that were not? You mean your fellows were so accurate they only stopped and interrogated and detained illegal aliens?

Mr. GREENE. They talked to people who were not illegal aliens.

Mr. WALDIE. I mean, did they detain—

Mr. GREENE. There was an allegation, and that is what the litigation or the complaint is, that they were resident aliens. I think there were two, three—

Mr. GORDON. Very few.

Mr. GREENE. [continuing]—were taken into custody.

Mr. WALDIE. Very few.

Mr. GORDON. Hardly any.

Mr. GREENE. Two or three.

Mr. WALDIE. Two or three. So actually, of the 11,500 that were determined to be illegal aliens, there were only two or three above them that were mistaken targets. That is amazing. That is probably the best law enforcement record I suspect in the history of the United States.

Mr. GORDON. They are not apprehended until the officer is convinced that there is enough evidence that they are here illegally.

Mr. WALDIE. Are they detained at all during that period?

Mr. GORDON. Just the interrogation.

Mr. WALDIE. Yes, but according to you there is a right to detain the subject as a—

Mr. GORDON. Not to take him in to headquarters.

Mr. WALDIE. I am not talking about taking him in to headquarters. What is the length of detention that you consider to be consistent with interrogation?

Mr. GORDON. Just a few minutes.

Mr. EILBERG. Will you yield to Ms. Holtzman for a moment?

Mr. WALDIE. Yes. Well, let me finish this and then I will.

I yield to you.

Ms. HOLTZMAN. I think in the testimony that we had with respect to the roundup operations there was testimony in New York that they were 90-percent accurate. I do not know whether that means there were only two or three who were improperly detained.

Mr. GORDON. We are talking about California. It is a small number.

Mr. EILBERG. Ms. Holtzman, the record is complete on the hearings we had on these clean sweep operations and they should be available from the printer in the next few days.

Excuse me, Mr. Waldie.

Mr. WALDIE. Well, the only thing I am really staggered about, if you only had two or three people that were inconvenienced, because certainly the 11,500 were not inconvenienced, they were illegal aliens, but according to your testimony, two or three people were inconvenienced, why did I as a Congressman from California and authorities from California receive such a deluge of complaints about this accelerated operations? Surely not from those two or three people.

Mr. GREENE. No. There were many people questioned.

Mr. WALDIE. Well, stopped and—stopped and questioned?

Mr. GREENE. Yes, sir.

Mr. WALDIE. But not detained, and just in a matter of seconds they would be questioned, right?

Mr. GREENE. Right.

Mr. WALDIE. Is that right?

Mr. GORDON. Normally, yes. It might be a few minutes. It might be necessary to contact headquarters to check certain statements they make. That occasionally happened.

Mr. WALDIE. I gather you feel that the complaints given to us were totally unwarranted.

Mr. GORDON. Hardly any were warranted.

Mr. WALDIE. People were overly sensitive about being stopped and questioned.

Mr. GREENE. Right.

Mr. WALDIE. They are stopped and questioned, I gather, on an assumption or an assessment by the officer that stops them, one, the belief they are aliens and two, the belief they are illegally in the country. The fact that they look like a Mexican, Mexican ancestry, is that enough to establish a belief that they are an alien?

Mr. GORDON. I think you have to look at—we have discussed this. Ms. Holtzman had some question about that at the last hearing. This is a totality of circumstances. The officer has to assess the surrounding circumstances. First, the fact that illegal aliens are known to congre-

gate in this area. Second, that this particular person has certain characteristics which in the experience of the officer indicate to him and might lead to a belief that this fellow could be an illegal alien.

Now, the officer is experienced. He has seen hundreds of people who are illegals and he has—

Mr. WALDIE. OK. Then, the easy way to establish how accurate the officer was, was if you could provide me statistics with how many people did they inquire of on the belief that they were illegal aliens. I know that they picked up 11,500. How many did they inquire of, and they could only inquire of them if they believed they were illegal aliens and I assume we can make a judgment as to how accurate these officers' experience had been to make the totality judgment if I know how many they stopped and inquired of.

Mr. GORDON. I'm not sure we have such statistics.

Mr. WALDIE. Do we have any idea? Are there any records? There really are not, are there, of those they stopped and they immediately said, no, you are not?

Mr. GREENE. I do not think there are records on the number of persons questioned.

Mr. WALDIE. So we do not know how accurate those officers are, really, do we?

Mr. GREENE. Not in that context, no, sir.

Mr. WALDIE. That is the only context we could tell. The officer, if he did not believe I was an alien, he was violating the law to stop and inquire of me, would he not be? So to be in conformity with the law he has to have believed that the people he stopped were aliens.

Mr. GORDON. Right.

Mr. WALDIE. All right. So to find out how accurate these people were, I know they picked up 11,500, but it would be most important for me to know how many they stopped. The reason I say this to you, and I am sure you do not believe it at all, I not only received written complaints but I went down into the area and I tell you, there is no greater bone of contention in Los Angeles and in San Ysidro and in National City and in Chula Vista among Americans who are of Mexican descent than that operation, and they are being stopped all the time.

By the way, let me just go to one further point. Are other law enforcement officers entitled to stop and ask these same questions as to whether they are illegal aliens or just Immigration officers? Can port authorities of San Diego Port Authority ask these questions?

Mr. GREENE. This question. Mr. Waldie, has surfaced, shall I say, in the last year because of a matter involving taxicabs. It started in the county of San Diego. I think we are on the track, right? Then I will let Mr. Gordon follow up on this because there was another decision and still has been a third decision made within the last few weeks by the attorney general of the State of California.

The taxicab owners, I am informed, were concerned that some of their drivers were moving aliens and not reporting it to the taxicab, loss of funds for them. They were picking up some aliens shortly after they crossed the border east of town. The question was posed to the border patrol, "Are they in violation of the immigration law," and it was said under the smuggling statute if they are knowingly transporting an alien illegally in the country, they are in jeopardy, possibly violating the smuggling section. This got translated into a directive

down to the cabdrivers, "You shall not pick up any aliens," which got translated into, "Do not pick up anyone who looks like a Mexican." Naturally, the people got sensitive about it, a person standing on the corner trying to get a cab who looked like a Mexican did not get picked up. The blame was placed on the border patrol. It was alleged that we were in conspiracy, had some connection, with the cab company to get them to harass Mexican-Americans. The sheriff's department in the county of San Diego got into it because apparently it is the office in the county government that licenses or does something with the cab companies. The next thing we knew it is back to us again: that we are the ones, the moving factor in getting these people harassed by cabdrivers.

Nothing could be further from the truth. And the matter still has not been cleared up.

Now, since that time the U.S. Attorney asked the Department of Justice for a ruling as to whether a law officer, a peace officer—

Mr. WALDIE. That is really the question I had there, not the cabdrivers.

Mr. GREENE [continuing]. Could arrest an alien illegally in the country. I am going to let Mr. Gordon give you the legal—

Mr. GORDON. As far as the Federal law is concerned, there is no authority on the part of a State or local officer to enforce the Federal law with one exception. Section 274 of the statute which deals with smuggling generally and related activities says that local law enforcement officers can make arrests under that statute. But under the Federal statute there is no authority for a local officer to arrest for a Federal violation, a person entering illegally, for example.

Now, the question whether the State law authorizes State officers to make arrests for Federal violations is a matter to be determined by the State. The attorney general of California has issued an opinion which says that under State law a State officer can make an arrest for a violation of the Federal law. That is up to California. We do not authorize them to do this. It is up to them if they think they have the authority to arrest.

The next question is whether there is a violation for which they can arrest? That is another question. The violation for which they could arrest would be under section 275 of the statute which deals with persons who enter illegally, who commit a crime or who elude inspection which is another term of the statute.

The latter term, particularly in relation to San Diego, which is close to the border, might provide a handle for the local officers to make arrest. There might be a violation, since the arrested person might be in the process of eluding inspection. The U.S. Attorney at San Diego, Mr. Stewart, asked the Department of Justice about this and the Department of Justice advised him, first, if the officers have authority under State law to make arrests, that is up to them under their law.

Second, that there might be a violation for which an arrest can take place if the persons were in the process of eluding inspection. That is the way it stands now.

Mr. WALDIE. Well, the information I have for your information, and I heard it from numbers of people, in numbers of days, was that local law enforcement officials are seeking to deport people that they suspect of being illegal aliens and they succeed. But in the process of

succeeding they also stop a lot of American citizens of Mexican descent. People are very uptight in that area, very uptight with us, unhappily.

Mr. GORDON. There is one additional fact. They have no authority to deport. That is completely clear.

Mr. WALDIE. I know, but all I am saying is they stop a guy and the guy is illegal, they have authority to deport and he goes.

Mr. GORDON. No. They have no authority to deport.

Mr. WALDIE. I know, but he goes. Like the IRS. If he has cash in his pocket, they can take the cash.

Mr. GORDON. If the officer wants to turn them over to us the instruction from the Department of Justice is that they should do it expeditiously.

Mr. WALDIE. Just two further questions. I walked through Camp Pendleton. There was a gully out by highway 5, about half a mile long, full of weeds and overgrown grass. The military with me said, keep your eye out there; you might be able to see some Mexican or his family skulking through the weeds. They are illegals. We pick them up as soon as we find them.

Does the Army participate in picking up these people, too, or the Marines in this instance?

Mr. GREENE. Yes. The Marines do police the compound or the base there and if they find people on the base and they turn out to be aliens they turn them over to us.

Mr. WALDIE. OK. Now, then, the final question, Mr. Chairman. If it would be at all possible so I can make an evaluation as to how accurate these officers are in being able to make a totality judgment as was suggested is the case as to the two factors of the belief they are aliens, the belief they are illegal, I would like to know to the best of the information can be provided, in that 20 working days of accelerated effort in Los Angeles County where 11,500 were picked up, how many were interrogated under the law that says interrogation can occur when they believe they are aliens and believe they are illegal?

Mr. GORDON. Possibly the best we can give you is an estimate. We can question officers who participated.

Mr. WALDIE. I would like that if that is the best you can give us.

Mr. GORDON. We will make every effort to furnish the best information we can give you.

[The following information was submitted by INS:]

NUMBER OF PERSONS INTERROGATED DURING A CONCENTRATED AREA CONTROL OPERATION IN LOS ANGELES FROM MAY 23 THROUGH JUNE 20, 1973

Mr. Edward F. Egan, Assistant Regional Commissioner, Investigations, San Pedro, advises that the best estimate of the Los Angeles Investigations Branch is that 7,000 persons over and above the 11,500 illegal aliens apprehended were interrogated during the course of the operation. Of this number it is estimated that 1,750 were United States citizens and 5,250 were aliens lawfully in the United States.

Mr. Egan stated that the reason for the comparatively low figure of persons interrogated over and above those apprehended was because the area control operations were conducted in geographical areas where information had been received by the Los Angeles office that large concentrations of illegal aliens were located. For example, at one place of employment, 119 out of a total of 120 employees were found to be aliens illegally in the United States.

Mr. WALDIE. Just one final question. I gather, then, there is no record of the number of interrogations. The officer who makes an interrogation following this statute and finds he is wrong does not record that?

Mr. GORDON. There would not be time to record it.

Mr. WALDIE. Why would there not be time to record it?

Mr. GORDON. Because he is dealing with many people. Maybe 50, 100 people at a time. He is questioning them a few seconds in each instance. He cannot stop to write records.

Mr. WALDIE. You mean he makes those judgments that quickly?

Mr. GORDON. Very quickly.

Mr. WALDIE. All right.

Mr. EILBERG. Mr. Flowers.

Mr. FLOWERS. Thank you, Mr. Chairman.

One question which relates back to our 2-year long—I guess—inquiry into illegal aliens which has culminated in legislation from this committee, would you say, and I address it to both you gentlemen, that there is greater or lesser cooperation now between your service and other agencies of the Government?

Mr. GREENE. I would say there has been a major improvement.

Mr. FLOWERS. Particularly with Social Security.

Mr. GREENE. Particularly Social Security. For 20 years I have been trying to get the Social Security to give us information on illegal aliens, to tie into the records, and they fall back on section 290(c) and say you have to tell us the name of the alien, that he is an alien, pay \$1.38 or something of that nature and we will tell you what our records show.

Mr. FLOWERS. The one thing that absolutely astounded me as a member of this committee when I first became aware of the situation, was the total lack of interplay between your agency and the Social Security Administration. I am not blaming either one or both but if we get to the point where our Government is so complicated and diverse and strung out that all of us who are working for the same machine cannot communicate one with another, then we certainly are going to be inefficient at least and probably a whole lot worse things than that. So I would like to say that I am glad to see additional cooperation. I am glad to see a better spirit of cooperation between Government agencies. I hope it will continue.

Mr. GREENE. I do not wish to downgrade what we are getting, but I still am not completely satisfied with the cooperation we are getting today because there are many, many thousands of illegal aliens walking around with social security account numbers in their possession. I think if we are really going to make this law effective, we should pick those up. Even if there has to be a hearing or has to be some determination made. We deport people with social security account numbers in their possession. This law is going to come on the books, H.R. 982 will change this drastically because the employer will have to ask for the immigration document, I say that because the INS will be the agency that will document aliens as to their right to work. Not give them the right, but documents whether they have or do not have the right to work. We have the machinery and we are ready to do it. The public and employers ask for social security account numbers of job accounts. This has been going on for years. They say "this is the document which says they can work; it is issued by the U.S. Govern-

ment." All it says is the man has a social security account number.

Mr. FLOWERS. It seems kind of naive to me that the Social Security Administration would hide behind the fact that the social security number was not supposed to be a work permit. Anybody can agree with that by reading the law. But de facto that is what it has become, not just to the illegal alien but to every employer across the land, too. The Social Security Administration, in my judgment, is not recognizing the facts as they are when they claimed that. So this member at least wants to continue to encourage them to do their job better and you people, too, because we are protecting American citizens' jobs when we deny jobs to illegal aliens, and I would like to see that tightened up as much as possible.

I have no further questions, Mr. Chairman. I thank you.

Mr. EILBERG. Mr. Railsback, do you have any questions?

Mr. RAILSBACK. No questions.

Mr. EILBERG. Ms. Holtzman?

Ms. HOLTZMAN. Thank you, Mr. Chairman.

During the hearings we had on these roundup or dragnet proceedings, it came to my attention that there are no written procedures for the conduct of such proceedings or written procedures to the agents going out rounding people up. The reason I was concerned about that is because from what I would gather, without guidelines we were coming very close to stopping people solely on the basis of appearance, racial characteristics, national characteristics, and so forth, which by the way, may be unconstitutional and certainly raises a serious question of constitutionality. Have you since that time begun to work on any written procedures for the conduct of such dragnet or roundup operations or area control, accelerated area control, as you call it?

Mr. GREENE. Ms. Holtzman, as I testified at that time, the same basic rules should govern the conduct of an officer whether he is in an accelerated procedure or nonaccelerated procedure. He has got to make a determination that the person is an alien, he is here illegally, and he is going to abscond before he takes him into custody. That is actually bringing him in. This question about this area, when he stops, when he goes through this initial question, we developed that at some degree. I know Mr. Marks, who was with us that day, our district director in New York, issued some instructions but they had to do more with the logistics of the matter, in other words, what do you do with aliens and where do you take them, et cetera, but the actual area of your concern should be so basic and well defined that it should not be restricted to accelerated procedure. It has got to be the same procedure which we use all the time because it is just as much a violation if one investigator meets an illegal alien out here on the corner as 50 in Los Angeles.

Ms. HOLTZMAN. But would you not agree that in terms of having somebody stopped by an agent solely on the basis whether or not he looks like an Italian or Irish or Mexican than on the basis of a reasonable probability such as a report from somebody that a person is an illegal alien? That there is a greater possibility of abuse in those roundup operations? Would it not, therefore, be more desirable in such circumstances to have written procedures for the conduct of such questions?

Mr. GREENE. I guess we are—I am finding difficulty going along with you. I do not think it is any more important to have it for a day-to-day operation than it is an accelerated operation. The idea of having instructions is excellent, yes. I think there should be instructions to narrow down and make very definitive what he can or cannot do, but I do not think it should be related to an accelerated operation. I think a single officer should conduct himself the same with one alien as he does in Los Angeles with a group of 50 officers working on accelerated operations. As I said before, really, I think my preference is not to have accelerated operations. I would rather have it on a day-to-day basis and have the men conduct themselves as they should conduct themselves 24 hours a day, round the clock, year in and year out rather than get this push which does lead the public to getting upset because of the traumatic effect on these people coming into the community in large numbers and surrounding plants, that sort of thing. That is what is dangerous. But no question about it. If a person, an officer, violates the rule by saying I am only going to talk to people that look like Italians or Mexicans, he is getting far afield, yes, indeed.

Ms. HOLTZMAN. Well, but we discovered in the hearings that we conducted a short time ago that in these roundup operations, basically the criteria for stopping somebody were, one, some information that, in a particular area there were large numbers of illegal aliens, and two, the appearance, racial, national, ethnic appearance of the person. Those were the two criteria that were followed and it would seem to me, therefore, that when we are getting that close to stopping a person solely on the basis of his or her appearance, racial or ethnic characteristics, we ought to be very careful in assuring we do not violate basic constitutional provisions and basic provisions of fairness in this country.

I would ask the chairman at this point that I would certainly be pleased to see that this Department develop procedures to insure that we are at least following the boundaries of the Constitution in this regard.

Mr. EILBERG. I think there was some testimony at the earlier hearings that there was a guidebook and upon reflection after the hearing it was not clear to us that that guidebook adequately described procedures in these accelerated drives. After considering the testimony that you previously offered, my impression was that you did have a guidebook with instructions, et cetera, but that that guidebook did not describe these powers during these accelerated drives.

Now, I wonder if you would comment on that.

Mr. GREENE. Yes, sir. I think perhaps it was my fault. I confused things the last time when I talked about our instructions and I believe Ms. Holtzman asked me about instructions. I inferred they were instructions about accelerated area control and what I was saying, and I have since furnished the committee the basic instructions we have given to officers in the conducting of questioning on the street which develops into area control, that is what we use for the—

Mr. EILBERG. But Ms. Holtzman's question is, as I understand it, with these special circumstances, these special drives that you have, should there not be regulations that guide the officers in the proper implementation of the law in those special drives? Or are these ade-

quately covered under the guidebook regulations that you presently have?

Mr. GREENE. I firmly believe, and I would certainly welcome any constructive criticism as to whether the rules that we furnished the committee are not adequate, there is no additional authority just because I bring in 50 officers. They do not have any more authority than the one man. So the same rules should relate to the one man as it does to the large group.

Mr. EILBERG. Mr. Greene, I am going to suggest if you do not mind, that you provide another copy to Ms. Holtzman. If, after Ms. Holtzman's review and that of our staff, there is any further discussion, we will press that matter further.

Ms. HOLTZMAN. Thank you very much. I have two other questions. I notice that you have an Internal Corruption Investigation Unit. Is that the unit basically monitoring integrity and conduct on the part of the Agency?

Mr. GREENE. Yes, ma'am.

Ms. HOLTZMAN. Was that unit involved at all in locating the people who were subsequently indicted under the Clean Sweep grand jury investigation?

Mr. GREENE. No, ma'am. I set that unit up. It went into operation approximately a month and a half ago. It was set up after I was appointed Acting Commissioner. I had talked to the U.S. Attorney and the Department of Justice attorneys who were running the so-called Clean Sweep. It was readily apparent that something needed to be done to install a system for people who wished to report misconduct on their supervisor's part, and to investigate reports of misconduct. I established this unit and I intend to enlarge it and not only answer complaints that come to us but also have it operate on an intelligence basis so they go out and take samplings and talk to the people in the community. I want to develop an officer integrity unit that would be as near foolproof as we can make it. We have lost a lot of confidence on the part of the public because of that incident in California, small as it may be, and I do not know how we are going to get it back until we attack this problem head on.

Ms. HOLTZMAN. I am certainly pleased to hear that. I hope the second stage you are talking about will be started some time in the near future. Do you expect that?

Mr. GREENE. I have already started it to a degree. As you see in the chart, we have a field inspection group. Normally they go out and count the backlogs and look into some of the day-to-day problems they have in an office. I have instructed them and they have started it, to make themselves available to the personnel who would like to talk to them in confidence. We are already getting some feedback on this which is rather startling, to say the least. And I want that as a part of the whole package so that people will feel there is a communication with the top man, not the many layers that we were going through before.

Ms. HOLTZMAN. And that unit reports directly to you.

Mr. GREENE. Absolutely. Direct to the top.

Ms. HOLTZMAN. I think that is a very important development and I commend you on it. I appreciate it.

Mr. GREENE. Thank you.

Ms. HOLTZMAN. Finally, just one question I wanted to ask you that occurred to me during our last hearing and I did not get a chance to follow it up. You mentioned during the large scale roundup in the Los Angeles or California area that many of the illegal aliens were deported on buses and airlines. Is that correct?

Mr. GREENE. Into Mexico, interior Mexico?

Ms. HOLTZMAN. Yes.

Mr. GREENE. Yes.

Ms. HOLTZMAN. And the INS arranged with the airlines to take these people to Mexico?

Mr. GREENE. No. There is a little refinement there.

Ms. HOLTZMAN. Please explain it to me.

Mr. GREENE. I have to start back a bit. Through cooperation with the officials in Mexico we have an arrangement with a Mexican—one Mexican airline whereby their agents come to our staging center in Chula Vista and sell tickets to Mexicans who desire to go to the interior of Mexico. Now, the ones that they offer the ticket sales to are from the interior of Mexico. Leon Guanajato is the area we are talking about. The alien is then conveyed by a U.S.-owned bus to a gate in the fence which is very close to the new Tijuana airport which is right adjacent to the border. At that point they are turned over to the Mexican immigration authorities. A list of all the passengers or all the detainees is handed over. They are marched off and put on the airplane. The airplane takes off and flies south. When they arrive in Leon, a list is given to another Mexican immigration official who meets the airplane. I think they give them something like 15 pesos and a ticket onward. That is the air operation.

We do not use the bus operation out of Tijuana because too many were getting off between Tijuana and Mexicali, so they are taken across the mountain over to the town of Calexico and there they are taken again to Mexican immigration and then put on a Mexican bus in Mexico to start south.

We have an operation out of El Paso. The Mexican Government operates a train out of a town called Ojinaga, which is adjacent to the Port of Presidio in Texas and there is another bus operation out of Del Rio.

Ms. HOLTZMAN. I was not sure I understood part of your answer with respect to this airline. Is this something that the United States contracts for or something the Mexicans arrange for?

Mr. GREENE. In a sense it is not a contract. That is misleading. We do not have a contract with them. We have located an airline that will sell these tickets to them on a contractual, more like a charter, basis, very low rate, and the sale of the ticket is between the alien and airline. The one thing that has been questioned, although we hold it is a legal transaction, is the ticket being sold in the United States. This was looked into. I think the Clean Sweep investigators looked into it. The gain to the U.S. Government, of course, is that the alien is removed from the border.

Now, Ms. Holtzman, you may have seen some publicity that was in the New York Times that these planes took off and then there was an agreement between the pilot or the crew that they will come back and land at the port and everybody gets off the airplane. Well, that just does not happen.

Ms. HOLTZMAN. The question, though, that I was concerned about was with respect to locating this airline. Does locating the airline go under any sort of competitive bidding process or how is an airline selected and what controls does your Agency have to assure that favors are not given out, and so forth, in this connection, especially since tickets are being sold in the United States?

Mr. GREENE. The actual mechanics of locating this airline I cannot give you. They can be obtained. There were Mexican officials involved in it. I do not think there was more than one airline that was interested in this business. At one time we entered into contracts and the U.S. Government paid to send these aliens to the interior of Mexico. We abandoned that.

The one now where we make available the alien to this airline that sells tickets, I do not think there is a normal arrangement bidding contract.

Mr. GORDON. May I add something to that? I was involved in this operation. My opinion was asked. And the representation was made by our officials that there was only one airline that was interested in transporting people at that rate. I suggested to them even if this was their conclusion they nevertheless should advertise, give everybody an opportunity to compete, and I think they are going to do that in the future.

Ms. HOLTZMAN. That was not done in this past circumstance?

Mr. GORDON. The statement was made that there was nobody else interested and they found only one that would transport. But there was a possibility that if they made it known, others might come in and I suggested that be done.

Ms. HOLTZMAN. And that will be done?

Mr. GORDON. Oh, yes.

Ms. HOLTZMAN. Thank you, Mr. Chairman. I have no further questions.

Mr. RAILSBACK. I have no questions.

Mr. EILBERG. We will not be able to cover in the remaining minutes the many areas and questions we would like to. However, I am submitting to you now a number of questions given to me by Congressman Seiberling, a member of this subcommittee, which deals with the circumstances in California. Would you please submit your response to us in writing. I anticipate we will be calling you again. We have a few more questions we can ask now but I can give them to you and perhaps you can answer these and provide a copy to Mr. Seiberling. [Mr. Seiberling's questions and the INS responses are in app. 1 at p. 155.]

Now, can you provide 1973 figures on voluntary departures and deportations?

Mr. GREENE. Absolutely.

## ALIENS DEPORTED AND REQUIRED TO DEPART BY DISTRICT FISCAL YEAR 1973

| Districts                 | Total deported and required to depart | Deported | Required to depart |
|---------------------------|---------------------------------------|----------|--------------------|
| U.S. total.....           | 584,847                               | 16,842   | 568,005            |
| Northeast Region.....     | 23,140                                | 2,010    | 21,130             |
| Boston, Mass.....         | 1,386                                 | 176      | 1,210              |
| Buffalo, N.Y.....         | 4,701                                 | 306      | 4,395              |
| Hartford, Conn.....       | 595                                   | 78       | 517                |
| Newark, N.J.....          | 3,209                                 | 302      | 2,907              |
| New York, N.Y.....        | 11,212                                | 1,121    | 10,091             |
| Portland, Maine.....      | 843                                   | 25       | 818                |
| St. Albans, Vt.....       | 1,194                                 | 2        | 1,192              |
| Southeast Region.....     | 18,870                                | 1,691    | 17,179             |
| Atlanta, Ga.....          | 794                                   | 103      | 691                |
| Baltimore, Md.....        | 1,660                                 | 74       | 1,586              |
| Cleveland, Ohio.....      | 382                                   | 107      | 275                |
| Miami, Fla.....           | 5,538                                 | 494      | 5,044              |
| New Orleans, La.....      | 2,975                                 | 322      | 2,653              |
| Philadelphia, Pa.....     | 1,219                                 | 118      | 1,108              |
| San Juan, P.R.....        | 4,514                                 | 256      | 4,251              |
| Washington, D.C.....      | 1,788                                 | 217      | 1,571              |
| Northwest Region.....     | 10,546                                | 881      | 9,665              |
| Anchorage, Alaska.....    | 160                                   | 1        | 159                |
| Chicago, Ill.....         | 3,821                                 | 333      | 3,488              |
| Detroit, Mich.....        | 1,938                                 | 196      | 1,742              |
| Helena, Mont.....         | 487                                   | 12       | 475                |
| Kansas City, Mo.....      | 565                                   | 27       | 538                |
| Omaha, Neb.....           | 183                                   | 5        | 178                |
| Portland, Oreg.....       | 274                                   | 45       | 229                |
| St. Paul, Minn.....       | 1,211                                 | 80       | 1,131              |
| Seattle, Wash.....        | 1,907                                 | 182      | 1,725              |
| Southwest Region.....     | 532,291                               | 12,260   | 520,031            |
| Denver, Colo.....         | 833                                   | 18       | 815                |
| El Paso, Tex.....         | 91,239                                | 2,593    | 88,644             |
| Honolulu, Hawaii.....     | 1,035                                 | 49       | 986                |
| Los Angeles, Calif.....   | 233,649                               | 6,539    | 227,110            |
| Phoenix, Tex.....         | 70,561                                | 24       | 70,537             |
| Port Isabel, Tex.....     | 34,258                                | 2,331    | 31,927             |
| San Antonio, Tex.....     | 96,659                                | 379      | 96,280             |
| San Francisco, Calif..... | 4,057                                 | 325      | 3,732              |

Mr. EILBERG. We would like a further breakdown on voluntary departures, that is, departures verified and departures not verified.

Mr. GORDON. Did you say voluntary departures and deportations?

Mr. EILBERG. Right. Will you be able to submit that information?

Mr. GREENE. Yes. I think we can. I want to make sure I have got the question clear. We have those covered with a document they turn in and we have the escorted voluntary departures. The nonverified, presumably those would be those who were granted voluntary departure and so far as we know, we did not get a check out?

Mr. EILBERG. Right.

Mr. GREENE. Right.

At the close of 1973 fiscal year there were 23,458 cases of unverified required departures under investigation.

Mr. EILBERG. What procedure does the INS use to verify that an illegal alien departs on his own recognizance after being granted voluntary departure? In other words, how do you know that the fellow given voluntary departure actually departs voluntarily?

Mr. GREENE. Well, there is no question about it. Not having departure control officers this is an area of difficulty. We have a procedure

where the man is given a form which he is required to turn in at the time of departure. There always is a possibility that someone else will turn the form in for him.

Mr. EILBERG. Is that the I-94?

Mr. GREENE. Plus a form I-210. That is a voluntary—authorization to depart voluntarily.

Mr. EILBERG. Do you not need a better system? In other words, most of your departures are voluntary departures and yet you do not know?

Mr. GREENE. Most of our voluntary departures are escorted. They are in our custody when they go out. That is the vast majority of these people. The other breakdown is the custodial voluntary departures.

Mr. EILBERG. What percentage of the departures are unescorted?

Mr. GREENE. Fairly small when you compare it to the large number of Mexicans. Of course, the deportations are actually picked up and removed.

Mr. EILBERG. But you are not prepared at this point to indicate numbers or percents as they are not verified?

Mr. GREENE. No, sir. I do not know. We do know this is a problem where they have been granted the voluntary departure and we get no feedback, no record of their actually having departed. They have absconded.

Mr. EILBERG. I am suggesting do you not need some kind of record or system?

Mr. GREENE. We have the record. I mean, in our followup we find instances where it has not been clear that departure actually took place, ergo, we assume that they have not gone out and the matter is referred to the investigators for an abscondee investigation.

Mr. EILBERG. Are you following through on those investigations?

Mr. GREENE. Yes, but it is part of the major backlog.

Mr. EILBERG. Do you have enough personnel to follow through on those investigations?

Mr. GREENE. No, sir.

Mr. EILBERG. You do not have numbers now as far as the size of the backlog?

Mr. GREENE. No, sir.

Mr. EILBERG. You can provide them, though.

Mr. GREENE. I think we can. It ties in with the last question. The number of nonverified departures.

Mr. EILBERG. Right. What procedure does the INS use to verify that an illegal alien departed on his own recognizance like that?

The next question is: Are repeaters granted voluntary departure?

Mr. GREENE. Many repeaters are, but two things develop here. Sometimes, particularly with regard to Mexicans, we have difficulty in ascertaining whether he is a repeater. The second time around we frequently take the alien before a special inquiry officer or judge and at that time he is given an alternate order which is voluntary departure or deportation if he does not depart within 30 days. So if he goes out within 30 days he goes out voluntarily and that is a second time around voluntary departure.

Mr. EILBERG. Well, do you not think we need a better system, a stronger system, in the case of repeaters? I am not clear that you are

treating repeaters any differently than those illegals who enter the country for the first time.

Mr. GREENE. Mr. Chairman, I think as I said earlier today, I have to separate in my mind this vast mass of humanity coming in across the Mexican border as against the more difficult to control illegal alien that we are getting from Central and South America and some from Europe. On the non-Mexican, because he has probably gained more than the Mexican, we just picked up and carried home—I think generally, the second time around he gets taken before a special inquiry officer. The Mexican, it may be two or three times. We have had them in two or three times in the same day.

Mr. RAILSBACK. Mr. Chairman, I wonder if I could just ask one question.

Mr. EILBERG. Mr. Railsback.

Mr. RAILSBACK. We have heard from time to time, in talking to consular officers, people in the visa sections, that they think the intent of the law is being frustrated by adjustment of status. I know this is not following the line of questioning that our chairman has been engaged in. I am, however, getting some material on this adjustment of status and I would like to know the position of the Justice Department on this particular question. Frankly, I have talked to several people that would like to eliminate adjustment of status altogether. I want to know your views on it.

Mr. GREENE. Well, I think we supported the changes that have been suggested, including the change in H.R. 982, which would permit the adjustment of status in the United States of even Western Hemisphere providing they had not violated the law. I think that is a good change. In other words, if they violate a law they—taking work, for example—they should not be permitted to adjust.

Mr. RAILSBACK. In other words, you are going the other direction. You are favoring liberalization of the adjustment.

Mr. GREENE. Only if they have not worked. The problem is they come and go to work and then come in for adjustment. If they could not do that I think it would be a major improvement in the current system and that is what is provided in your bill. We got into this previously, about not adjusting someone in the United States. I think to require everybody to go back to their native countries to become an immigrant is highly objectionable for many reasons.

Mr. GORDON. Could I add something to that? From my own standpoint, too, and I certainly support the Acting Commissioner on that, it seems to me it would be a mistake to go back to the conditions before 1952 when we did not have adjustment of status. The reason adjustment of status was adopted was that hardships had developed over the years and nobody could do anything about them and the administrative authorities had to fashion a device without clear legal sanction which was known as preexamination whereby they approved people to go to Canada and then come back. This was an operation which did not have any meaning. And it was the judgment of Congress at that time, it seems to me a sound judgment, that it did not make sense to require people to go overseas if they were presently qualified for immigration.

Now, it is true, as you say, that there have been abuses. It seems to me that the way to deal with the situation is not to eliminate what is

obviously a desirable remedy but rather to try to deal with the abuses and stop the opportunities for violating the law.

Mr. RAILSBACK. Well, then, maybe we ought to ask you for your recommendations about how to correct the abuses. We were advised recently that there are serious abuses where people, depending on the circumstances, are successfully coming over as visitors then applying for adjustment of status, thereby frustrating the law and actually displacing people on the waiting list.

Mr. GORDON. We have made recommendations and, of course, one is adopted in the committee's bill H.R. 982. Our feeling is that if that bill is enacted, it might go a long way to eliminating the incentive to come here with the ostensible purpose of being here temporarily but really with the idea of coming here to work. If they cannot work then they will not be coming and they will not be desiring the adjustment of status, developing family situations, and so forth.

A second remedy that we propose, which is also in H.R. 982, is to deny adjustment of status to people who have violated their status by working. We think that is the way to approach it. It seems to me it would be a mistake to eliminate what is a very desirable remedy.

Ms. HOLTZMAN. Mr. Chairman, I just want to ask one very brief question along that line.

If someone comes into this country on a tourist visa, is there a computer that records the entry of that person?

Mr. GREENE. There is now.

Ms. HOLTZMAN. Does that computer record or printout when the period of tourist visa has expired and shows that a person overstayed?

Mr. GREENE. If we ask it to, in the terminology of computerism. In other words, you have to—

Ms. HOLTZMAN. You do not get an automatic printout with respect to the person who comes in?

Mr. GREENE. We do in certain categories.

Ms. HOLTZMAN. Do you think that information might go some way to help alleviate the problem of people who overstay the tourist visa?

Mr. GREENE. The problem, and I know I sound like a broken record, is that we could turn that computer up and it could come out with pieces of paper with thousands of names of illegal aliens. There is no one to go out to look for them. The aliens are not going to be standing at the address they gave us. That is why you can find these who overstay without using the piece of paper to look for them through area control. Now, we use both systems. We are sending out the parolee, the waiver cases, Iron Curtain cases and the crewman cases. They are going out automatically. And we would like to start selecting, not by nationality group but by age groups, for example, people between 25 and 35, high potential for working. If we start getting Social Security referrals we are going to have a real difficult time of servicing those and they should be serviced right away. As soon as the Social Security says somebody is applying for a card and does not have a record we should be out in the street looking for that man. It is a vicious merry-go-round.

Mr. EILBERG. Mr. Greene, we have a great many important questions and we anticipate calling you back again.

Mr. GREENE. At your convenience. I will be traveling for the next week or two.

Mr. EILBERG. I do not know how much more time we have in the session. The subcommittee has a great deal more work to do. We may submit written statements to you but at this time we anticipate having further oversight hearings as there is so much ground we have not covered. [Questions submitted and responses appear in app. 4 at p. 236.]

Thank you very much.

Mr. KEATING. How many days have you testified this week up on the Hill?

Mr. GREENE. Well, this is my second time this week. The day before yesterday I was up and now today.

Mr. KEATING. I thought—somehow I had the impression it was three times.

Mr. GREENE. Well, I came up on Monday because I wanted to listen to the testimony of my two subordinates so I could in a sense defend myself on the second day. It is not too bad.

Mr. KEATING. Have you been coming with that frequency of late?

Mr. GREENE. Yes.

Mr. EILBERG. We will adjourn, subject to the call of the Chair.

[Whereupon, at 12:05 p.m., the hearing was adjourned, subject to the call of the Chair.]

## APPENDIXES

### APPENDIX 1

[The following answers were received from the Immigration and Naturalization Service, Department of Justice, upon request from Hon. John F. Seiberling, subsequent to the end of the hearings:]

*Q. 1. Would you describe the nature and magnitude of the problems you are facing over strikebreaking in the California farm workers' disputes, as well as the steps the Service has taken or will take to remedy the situation?*

A. For some time now there has existed a jurisdictional dispute between the Teamsters and United Farm Workers unions in their effort to organize laborers employed in the grape harvest in Arizona and California. A number of growers who previously contracted with the United Farm Workers have since let the contracts expire and the United Farm Workers union has been picketing these farms. A number of the growers have signed contracts with the Teamsters union upon the expiration of their contracts with the United Farm Workers union.

During this same period, there has been a considerable increase in the number of illegal aliens found employed in agriculture in the areas where the disputes are in progress, but not necessarily on the farms involved. Besides illegal aliens, many of the workers engaged in agriculture are noncitizens, including resident aliens and commuters, who have a right to work anywhere.

An intensive law enforcement program is being carried out to prevent illegal aliens from working in the area. The major thrusts of this effort are directed toward preventing the illegal entry of aliens across the international border, the interception of aliens illegally in the United States destined to the interior, and the detection of illegal aliens working or seeking employment.

It is the policy of this Service that any allegation from a responsible source alleging the presence of illegal aliens will be investigated expeditiously. Service representatives have arranged with union leaders for close liaison on the local level regarding union complaints about illegal aliens in the fields. We have been called upon, by the growers and union representatives alike, to investigate repeatedly the immigration status of the opponents' workers. We have scrupulously avoided becoming involved as partisans in the many disputes. We have refrained from interviewing field workers or pickets oftener than we consider justified in the particular circumstances.

Apparently through an organized effort, we have received telegrams and letters from many individuals and organizations, including a good number through Members of Congress, expressing concern over the dispute in which the United Farm Workers are involved. These communications indicated illegal aliens were being used as strikebreakers and, in some instances, specific labor contractors were reported to be smuggling, transporting, and harboring illegal aliens. Many of the reports received were exaggerated, causing the Service to waste available manpower which could have been employed to better effect for apprehending illegal aliens. One such report was a telegram from Cesar Chavez, Director, United Farm Workers union, to Attorney General Richardson. A copy of this telegram is attached. An inquiry into that portion relating to illegal aliens was made and results of those efforts are also attached.

There is a Service regulation (8 CFR 211.1(b) last sentence) popularly referred to as the "strikebreakers" regulation, which provides that when the Secretary of Labor announces that a labor dispute is in progress at a particular place, Form I-151 shall be invalid for admission when presented by an alien commuter who seeks reentry with intention of accepting employment there. The regulation has not been enforced in California since the middle of 1972 because a decision of the United States Court of Appeals, Ninth Circuit (whose jurisdiction includes California) declared it illegal because beyond the rulemaking

authority of the Attorney General under the immigration laws. *Sam Andrews' Sons v. Mitchell*, 457 F.2d 745. The Service does not concede that the decision is correct and continues to enforce the regulation outside of the Ninth Circuit.

Attachments.

Regarding allegations by Cesar Chavez in a telegram to the Attorney General July 5, 1973, the Southwest Regional Office reported as follows:

| <i>Livermore Sector—Fresno</i> |                |
|--------------------------------|----------------|
| <i>Date Checked</i>            | <i>Results</i> |
| <i>ITO Farms:</i>              |                |
| May 2.....                     | 5              |
| May 23.....                    | 12             |
| May 31.....                    | 0              |
| June 5.....                    | 1              |
| June 7.....                    | 0              |
| June 16.....                   | 2              |
| June 28.....                   | 0              |
| <i>Hamilton Farms:</i>         |                |
| May 18.....                    | 11             |
| May 23.....                    | 10             |
| May 24.....                    | 7              |
| June 7.....                    | 0              |
| June 28.....                   | 0              |
| <i>Glannini Farms:</i>         |                |
| May 14.....                    | 1              |
| May 31.....                    | 1              |
| June 4.....                    | 1              |
| June 7.....                    | 0              |
| June 18.....                   | 0              |
| June 28.....                   | 0              |

Under Livingston—A. Gallo, no such farm in Livingston. There are two Gallo ranches in the Livingston area. The E. and J. Gallo Co. who are the operators of the largest winery in the United States. The Border Patrol has had no contact with this company since checking their vineyards during the pruning season last December through March. There is little activity in the vineyard at this time. The grape harvest will begin about August 1. The E. & J. Gallo Co. have never worked illegal aliens to the knowledge of the Service. The other Gallo rancher in the Livingston Area is Joe Gallo. His ranch was checked on the following dates with the results noted.

| <i>Date Checked</i>    | <i>Results</i> |
|------------------------|----------------|
| <i>Gallo Ranch:</i>    |                |
| December 26, 1972..... | 3              |
| January 14, 1973.....  | 1              |
| January 17, 1973.....  | 6              |
| February 9, 1973.....  | 1              |
| February 23, 1973..... | 6              |

#### ROUTINE CHECKS

In regard to Mr. Chavez's allegation that the Service alerts growers that they are coming, this is untrue. Growers are not notified before their fields are checked. In accordance with Service policy, officers do notify the foreman on arrival at the field. In regard to Chavez's statement that complaints are answered by saying that there are no patrolmen working today or that there is only one person in the office and he can't check a ranch, there are times when officers have received calls when they have completed the shift. The caller is informed that there are no officers on duty but that the information will be worked as soon as possible. Calls received on weekends by a duty officer get the same response. No one has ever told anyone that we can't work their information.

## El Centro—Indio Area

| <i>Date Checked</i>                | <i>Results</i> |
|------------------------------------|----------------|
| Carranza Ranch:                    |                |
| May 3 -----                        | 0              |
| May 5 -----                        | 3              |
| May 6 -----                        | 3              |
| June 20 -----                      | 2              |
| June 28 -----                      | 4              |
| July 12 -----                      | 1              |
| Navarro Camp:                      |                |
| May 20 -----                       | 6              |
| May 24 -----                       | 4              |
| June 11 -----                      | 4              |
| June 14 -----                      | 5              |
| June 20 -----                      | 1              |
| June 29 -----                      | 4              |
| Moreno Ranch:                      |                |
| June 21 -----                      | 1              |
| June 25 -----                      | 1              |
| June 26 -----                      | 1              |
| July 10 -----                      | 0              |
| July 12 -----                      | 3              |
| Karahadian:                        |                |
| May 5 -----                        | 0              |
| June 8 -----                       | 0              |
| June 21 -----                      | 0              |
| June 26 -----                      | 0              |
| Chuchian Ranch:                    |                |
| June 20 -----                      | 1              |
| Bagdarsarian Ranch:                |                |
| June 19 -----                      | 2              |
| June 21 -----                      | 5              |
| July 11 -----                      | 0              |
| C.I.D. Camp (80 percent Filipino): |                |
| May 3 -----                        | 0              |
| May 20 -----                       | 0              |
| June 21 -----                      | 0              |
| July 6 -----                       | 0              |
| July 11 -----                      | 0              |
| July 12 -----                      | 3              |

Complaints have never been told that no one was working. The Indio Office has always responded to UFW information the same day or the following day at the latest. Officers never give advance notice to growers. When entering a field, an attempt is made by one officer to notify the foreman.

## Tucson

| <i>Date Checked</i>  | <i>Results</i> |
|--|----------------|
| Matorio Bros:  |                |
| June 7 -----   | 9              |
| June 10 -----  | 3              |
| June 23 -----  | 28             |
| June 30 -----  | 1              |
| July 1 -----   | 3              |
| July 7 -----   | 1              |
| Arrowhead Ranch (Goldman Ranch Bob Goldwater and Matorio Bros.): |                |
| June 10 -----  | 1              |
| June 26 -----  | 13             |
| June 30 -----  | 1              |
| July 1 -----   | 1              |
| July 7 -----   | 5              |
| July 12 -----  | 13             |

| <i>Date Checked</i>                                      | <i>Results</i> |
|--|----------------|
| El Dorado Ranch:   |                |
| June 25 -----  | 22             |
| July 7 -----   | 1              |
| Boswell Ranch (Cactus Lane Ranch): July 7 -----          | 1              |
| Bodine: July 7 -----                                     | 1              |
| Macchirolli: July 1 -----                                | 7              |
| Centennial Farms:  |                |
| June 25 -----  | 0              |
| June 29 -----  | 0              |
| Mr. Chavez listed several independent labor contractors. |                |
| Jose Rodriguez:  |                |
| June 8 -----   | 1              |
| June 11 -----  | 1              |
| June 18 -----  | 1              |
| June 19 -----  | 1              |
| June 22 -----  | 15             |
| June 23 -----  | 7              |
| July 1 -----   | 2              |
| Made in camps and field crews—Lolo Casas:                |                |
| June 3 -----   | 1              |
| June 20 -----  | 2              |
| June 26 -----  | 3              |
| June 27 -----  | 2              |
| June 28 -----  | 2              |
| July 5 -----   | 1              |

Pedro Sanchez—shown as labor contractor by Chavez is not a laborer. He is the foreman of the Arrowhead Ranch.

Angie Espinoza-Martinez is a foreman for the El Dorado Ranch. One of her crew was checked on June 15—10 apprehensions.

Carlos Cabrera and Ruben Garza, both unknown to Phoenix.

The Phoenix Border Patrol Sector uses a telephone answering service. The girl at the answering service can state that no Border Patrol agents are on duty but takes phone numbers for officers to call back. There are times when only one officer is on duty at the station and other officers are worked in distant locations such as Flagstaff and Prescott.

We have been unable to identify the Security Farms.

There were 11 aliens apprehended on July 2 at the Vidol Gormez Farm Phoenix. The apprehending officers McQuaid and Harrington are not presently available, however, neither officer would leave illegal aliens in the field.

#### CHULA VISTA

There has been a matron employed in our San Luis Obispo Station since November 1972. There was one period—Mar. 1973, to Apr. 9, 1973, when there was no matron employed however, the station utilized and continues to utilize the services of a female San Luis Obispo County Deputy Sheriff.

No one in the San Luis Obispo Station has refused union information.

Office on outskirts of town cooperate very closely with investigations.

Assistant Chief Patrol Agent Owen reported that a reliable informant, who had worked in the Coachella area, reported that Cesar Chavez has backed off the Safeway Stores boycott and is concentrating on discrediting the Border Patrol and Immigration Service. He is sending 20 men to Salinas, 20 to Delano and 10 to Bakersfield to seek out information or cause incidents through which the Service will be discredited.

*Q. 2. Would you describe briefly the enforcement powers you have and those that you use in this type of situation?*

A. Service officers have the responsibility to inspect every alien seeking to enter the United States and to determine whether he is admissible. Act, §§ 235(a), 236; 8 U.S.C. 1225(a), 1226. An alien whose documents entitle him to admission only as a border crossing temporary visitor is not authorized to take employment, and if there is reason to believe that he is coming to work, whether or not as a strikebreaker, he will not be admitted. However, an alien who has been

admitted for lawful permanent residence who is returning from a temporary absence abroad for the primary purpose of resuming residence and incidentally may take work as a strikebreaker is not subject to exclusion. It is the view of the Service that an alien commuter, as distinguished from an actual lawful permanent resident, may be prohibited by regulation from coming to work as a strikebreaker. However, see the decision in the *Sam Andrews' Sons* case above.

It is a violation of both the criminal law and the deportation law for an alien to enter the United States surreptitiously or by fraudulent representations. Act, §§ 212(a) (19), 241(a) (1) and (2), 275; 8 U.S.C. 1182(a) (19), 1251(a) (1) and (2), 1325. Moreover, it is a crime to induce to enter, bring in, transport or harbor an illegal alien. Act, § 274; 8 U.S.C. 1324.

The Service patrols the borders to prevent entry of illegal aliens. It also acts to apprehend quickly those who succeed in slipping through. The technique of apprehension include various investigative devices, including traffic checks, tracking in wild areas and making extensive inquiries at places where there is reason to believe that illegal aliens may be congregating or may be employed. The Immigration and Nationality Act gives immigration officers powers to question persons suspected of being illegal aliens, to make arrests without warrants and incidentally to enter on lands and make vehicle searches near the border. Act, §§ 235(a), 287; 8 U.S.C. 1225(a), 1357.

The Service maintains liaison with State and local police authorities and with other Federal and State agencies with a view to improved enforcement of the laws against illegal entry and presence of aliens.

*Q. 3. What division of responsibility and degree of cooperation exists between the Service and the Labor Department in this case?*

A. Prior to the *Sam Andrews' Sons* decision, supra, the U.S. Department of Labor and the Service cooperated in the enforcement in California of the latter's "strikebreaker" regulation, 8 CFR 211.1(b) (1). Under that procedure the Secretary of Labor certified to the Service the existing of a labor dispute at a stated place of employment and the Service enforced the regulation by preventing alien commuters from entering the United States to take employment at that place as strikebreakers. In July 1972 the Labor Department cancelled all certifications pertaining to places of employment within the Ninth Circuit. Since then there has been no relevant cooperation in California between the two agencies.

However, outside the Ninth Circuit, and especially in Texas (Fifth Circuit), the Labor Department and the Service continue to cooperate in the administration and enforcement of the "strikebreaker" regulation.

*Q. 4. How much of the problem can be resolved through additional manpower available to the Service? What other solutions would you recommend?*

A. As previously noted, the number of illegal aliens located on struck farms has been no big problem and they have been removed as soon as possible after we have learned of their presence. In other areas, however, the presence of illegal aliens has steadily increased over the past number of years and additional manpower would significantly add to the enforcement capability of this Service. An increase of 100 percent in the present force of 468 officers assigned to the Border Patrol in California would place the Service in a much more tenable position to control entry without inspection at the border.

At the ports of entry an increase in the number of immigration inspectors would enhance the potential for a more thorough inspection and training of the current interagency inspection force.

In addition to the increased personnel mentioned above, the passage of H.R. 982, now pending in the Senate, would discourage the employment of illegal aliens, which in turn, would remove the attraction for Mexican laborers to seek employment in the United States.

*Q. 5. How many daily border crossers would you estimate work illegally on American farms and vineyards? Are the solutions different for daily border crossers than for illegal aliens (wetbacks)? Are there any changes in the border procedures which would reduce the use of illegal strikebreakers?*

A. We are unable to furnish a figure. We believe the number to be insignificantly small, for the reasons stated below.

The term "border crossers" is applicable to two classes of aliens that enter the United States. One is the alien who is admitted as a nonimmigrant with Form I-186, Nonresident Alien Mexican Border Crossing Card. Generally, his entry is for 72 hours or less on each occasion and is limited to a distance of 25 miles from the border. He may not work while in the United States. Literally, thousands of this class enter each day but very few have been found employed in

agriculture. The other class is more often referred to as a commuter or "green carder". He is an alien who has been admitted to the United States for permanent residence, has not taken up residence, but continues to reside in contiguous territory and works lawfully in the United States. He crosses daily or if employed in seasonal work, remains for several months at a time. The entry document he presents is Form I-151, Alien Registration Receipt Card. The only condition of maintenance of commuter status is that he must have been employed in the United States during each 6 months period.

Since the provision of 8 CFR 211.1 (b) relating to commuters was held invalid by the Ninth Circuit Court of Appeals, no restrictions have been imposed on entry of commuters for agricultural employment. However, a court has ruled that it is illegal to admit "seasonal commuters" (even in the absence of a labor dispute) upon presentation of Form I-151. *Bustos v. Mitchell*, 481 F. 2d 479 (D.C. Cir. 1973). The Government has asked the Supreme Court to reverse this ruling. Service statistics show approximately 8,000 seasonal commuters. However, under an interpretation suggested by the court in the *Bustos* case many thousands more could be affected by the decision if it should be left undisturbed.

There is very little correlation between the problems relating to border crossers and illegal aliens. In the first instance, the problems relating to the border crossers are very minimal. The nonimmigrant who enters presenting Form I-186, may not work lawfully in the United States and in order to go beyond the 25 mile limit, he must first secure permission from the admitting official at which time he is issued a special form. On each occasion that he is questioned by an immigration officer he must present his entry document and if found working he is amenable to deportation proceedings. The commuter also presents himself for inspection on occasion of each entry. When questioned at his place of employment, he must present an identification card. We have found that the commuter is very knowledgeable and careful regarding maintenance of status.

The illegal alien or "wetback" is something else. He enters the United States surreptitiously, usually under cover of darkness. He employs the assistance of smugglers if he has the funds, and has nothing to lose if he is apprehended unless it can be established that he is an aggravated violator, in which instance he might be prosecuted for illegal entry. It means little to him if he is held for a hearing and ordered deported because he feels there is little likelihood that he will ever be an applicant for lawful admission.

*Q. 6. What effect will passage of illegal Alien Act have on the situation?*

A. As noted in answer to question 4, the passage of H.R. 982 should serve eventually to reduce the number of aliens entering the United States illegally in search of employment and economic opportunity. It should also have an effect on nonresident border crossers who seek employment.

## APPENDIX 2

### REPORT OF THE CONSULAR OFFICERS' ASSOCIATION

October, 1973

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## Chapter 1

## INTRODUCTION

This paper is a first distillation of the views of the Consular Officers' Association (COA) concerning problems seriously affecting the consular officer. Specific focus is on measures which should be taken to improve the consular career and the present state of consular work being performed by the State Department.

COA is an informal association of Foreign Service consular specialists (FSO/FSS/FSRU/FSR) organized in January 1973 and presently numbering almost one half of the entire consular cone. Since its conception, COA has had five general membership meetings and nine specialized committee meetings, in addition to seventeen meetings of the seven-member executive board. Most of the recent meetings have been concerned with the preparation of this basic working paper, to be used as a springboard for further action through the American Foreign Service Association (AFSA).

General comments were solicited from every consular officer in March, and many of their suggestions are reflected in this paper. As time and expense permitted, COA has tried to gather the widest range of consular opinion for the paper and to keep the membership at home and abroad informed of its content. The paper is neither foolproof nor a final document. Various chapters are the handiwork of a number of COA members. There has been little attempt to make stylistic changes in order to produce more priceless prose. Emphasis has rather been centered on the difficult problem areas. Through all our efforts, we hope to have gathered the most accurate and informed opinion on the current state of consular affairs and of the direction in which those most immediately involved wish the consular specialty to move. Note that this paper reflects only the opinion of the Consular Officers' Association, an unofficial organization, and does not necessarily reflect the views of the Department of State or any office thereof. The paper should be restricted to U.S. Government employees and is not to be given out to the general public.

NOTE: The text is arranged in chapters with the pages numbered by chapter, thus: 1-1, 2-1, 2-2, 2-3, etc. The tables referred to in each chapter are found just at the end of that particular chapter and are lettered by chapter, thus: Table 1-A, 1-B, 2-A, etc. The source materials include the Department of State Newsletter, the Foreign Service List, the Biographic Register and the State Department Requirement/Skill inventories.

## Chapter 2

## RECOMMENDATIONS

Our first review of the present state of the consular function and career has resulted in the following set of initial recommendations, which have been discussed and accepted by a majority of those members attending COA general meetings.

- (1.) The position of Chief of Consular Section at each post should be equal in rank with other section chiefs, unless not warranted by workload.
- (2.) The principal officerships of the 36 ( or 35) constituent posts designated as having a primary consular function should all be occupied by consular cone officers no later than June 30, 1976.
- (3.) Up to 250 consular cone positions should be added by June 30, 1976, to improve the quality of consular work being performed and to cover past and anticipated increases in consular workloads.
- (4.) Current State Department actions downgrading Foreign Service positions should not further exacerbate the consular cone's present disparity in rank structure with other cones.
- (5.) The access of consular officers to jobs in Washington and out-of-cone assignments must be substantially increased in order that a much greater percentage than the present 5% of consular officers will be serving in the United States. Assignments in PPT, S/S, L, M, SCA, INS and country desks are particularly needed. The COA strongly supports current efforts to label more Department positions as "interfunctional", provided these positions are equally filled by personnel from all cones.
- (6.) Non-consular rating officers of consular personnel abroad should be given special written instructions concerning performance to be expected from consular sections and qualities to look for in consular officers.

(7.) Consular FSSO's should be assured by the Department of their continuing eligibility for promotion if they do not choose by December 31, 1973 to convert to FSO status or if they try to and fail.

(8.) To maintain an adequate standard of consular performance, the present trend of closing small constituent posts must be reversed.

(9.) The number of consular officers in the Inspection Corps should be increased from 0 to 4 and all but the smallest consular sections should be inspected by competent consular specialists.

(10.) The current system of recruiting the large majority of new consular officers through the BEX examination process should be continued. As an emergency reaction to shortages of consular officers, there should be no recruitment of large numbers of new officers through any system other than the BEX exam.

(11.) BEX should make every effort to test for the qualities specifically required of officers of each cone and encourage action now being taken to revise the examination system to better identify those candidates suited for each cone. However, because of the importance of "core skills," the exam should also continue to concentrate on testing for those skills.

(12.) COA fully supports the Department's efforts in recruitment of women and minorities and in its upward mobility (Mustang) programs. However, the meaning of equal opportunity includes the concept of an equal chance to rise to the highest positions in any particular career field, and not merely to enter the career. The Department's Equal Employment Opportunity guidelines, therefore, should require that minority and "Mustang" and women candidates be recruited equally into all cones and not urged to apply primarily in the consular or administrative cone, since the consular cone has only limited access to high positions within the Foreign Service.

(13.) The basic consular course should be revised to make it a meaningful, instructive introduction to consular work and a professional course development firm should be specifically contracted for this purpose.

(14.) A mid-career consular course should be established.

(15.) Consultation for consular officers should include discussions with INS, either in Washington or at port of entry, whichever is more convenient for the officer.

(16.) Overseas consular officers should be provided with advance information on the scheduling of management seminars in Washington, so that they may arrange their itineraries to attend such seminars during consultation. Similar seminars should also be held abroad for the benefit of consular officers, who have very few Washington assignments.

(17.) With only one university training slot currently available to consular officers, more long-term training positions, especially in the areas of comparative and international law and administration must be provided for consular officers.

(18.) More consular officers must be included in training at the war colleges and in the senior seminar.

## Chapter 3

## THE CAREER PROBLEM

Of all the officers in the Foreign Service, consular officers face the dimmest promotion prospects. The FSO or FSSO\* in the consular specialty is operating in a career cone that is not the shape of a cone at all; it is a three-step staircase. In round numbers, there are 130 officers at both the FSO 7/8 and the FSO-6 level, 110 each at FSO-6 and 5, 62 at FSO-3, 16 at FSO-2 and 4 at FSO-1 (as of 6/30/73). The consular career is thus literally a process of trying to go "up the down staircase", with little expectation or opportunity for anyone to advance beyond FSO-3. (Tables 3-A, 3-B)

Seen another way, in the five-year period 1967-72, consular officers experienced the lowest promotion rate in three of the years and were next to the last in the other two in terms of percentage promoted by class at the levels FSO-2 to FSO-5. (Table 3-C) Only in 1973 did the situation improve, and the consular cone ranked second among the four cones.

Consular work is considered by the Foreign Service to be narrow and stultifying, offering inadequate scope for an officer to prepare for senior positions of responsibility. There has been only one ambassador chosen from the consular "cone" and in recent memory there has only been one consular DCM. The consular cone is regarded as having people of less academic training and a greater proportion of superannuated people at lowly and middle ranks than the other cones. Many in the Foreign Service feel that the work can be done by anyone and, as a result, many people with minimal qualifications have been made consular officers without taking the Foreign Service Examination or having to undergo any language probation. These same officers and others already in the "cone"

\* In this paper FSO's and FSSO's are treated together because (a) they compete for the same positions; (b) for three years they have been evaluated without differentiation by the same selection boards; (c) while staff officers cannot go above the O-3 level, consular FSO's as a practical matter cannot either; (d) large numbers of FSSO's are being or have converted to FSO's.

process many times more people's cases than were processed in previous years and their working conditions, morale and image in the eyes of the US and foreign public and the Foreign Service have suffered accordingly.

The consular cone is the smallest in the Foreign Service, forming only 11% of all FSO's. (Table 3-D) There are approximately 100 fewer consular officers abroad than overseas consular positions, so at any time that many officers from other career specialties are performing consular work. Due to the pressure of work to be done and the shortage of specialists to do it, it is almost impossible for a consular officer to break out of a succession of consular positions for an assignment in other specialties. This leaves the consular officer underqualified for an assignment or promotion in program direction which virtually requires a history of interfunctional assignments.

Table 3-A

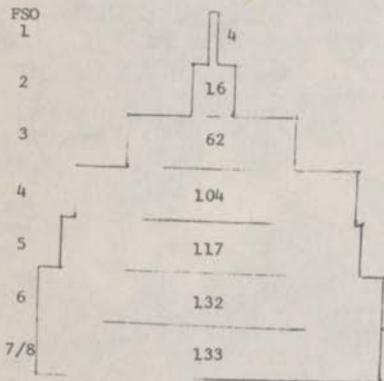
FSOs, FSRs, and FSSOs IN THE CONSULAR CONE, by rank (June 30, 1973)

| GRADE         | <u>FSOs</u> | <u>FSRs</u> | <u>FSSOs</u> | <u>TOTAL</u> |
|---------------|-------------|-------------|--------------|--------------|
| FSO-1         | 4           | -           | -            | 4            |
| FSO-2         | 16          | -           | -            | 16           |
| FSO-3 (S-1)   | 54          | -           | 8            | 62           |
| FSO-4 (S-2)   | 77          | 5           | 22           | 104          |
| FSO-5 (S-3)   | 87          | 6           | 24           | 117          |
| FSO-6 (S-4)   | 68          | 28          | 36           | 132          |
| FSO-7 (S-5/6) | 46          | 23          | 42           | 111          |
| FSO-8 (S-7)   | 16          | 2           | 4            | 22           |
|               | 368         | 64          | 136          | 568          |

Table 3-B

CONSULAR CONE OUTLINE (June 30, 1973)

AS A MOUND WITH A  
FLAGPOLE ON TOP



AS A DOWN  
STAIRCASE

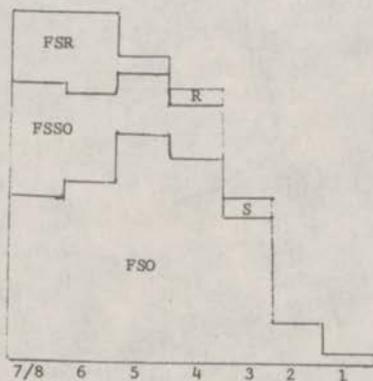


Table 3-C

PERCENTAGE OF FSO's PROMOTED IN EACH CONE  
(Promotion to FSO-1, 2, 3, and 4)

| <u>YEAR OF PROMOTION</u> | <u>POL</u> | <u>ECON</u> | <u>CONS</u> | <u>ADM</u> | <u>AVERAGE</u> |
|--------------------------|------------|-------------|-------------|------------|----------------|
| 1968                     | 12%        | 12%         | 9%          | 9%         | 11%            |
| 1969                     | 15%        | 15%         | 11%         | 13%        | 14%            |
| 1970                     | 16%        | 15%         | 12%         | 16%        | 15%            |
| 1971                     | 8%         | 15%         | 11%         | 13%        | 11%            |
| 1972                     | 9%         | 13%         | 9%          | 14%        | 11%            |
| 1973                     | 10%        | 12%         | 13%         | 15%        | 12%            |

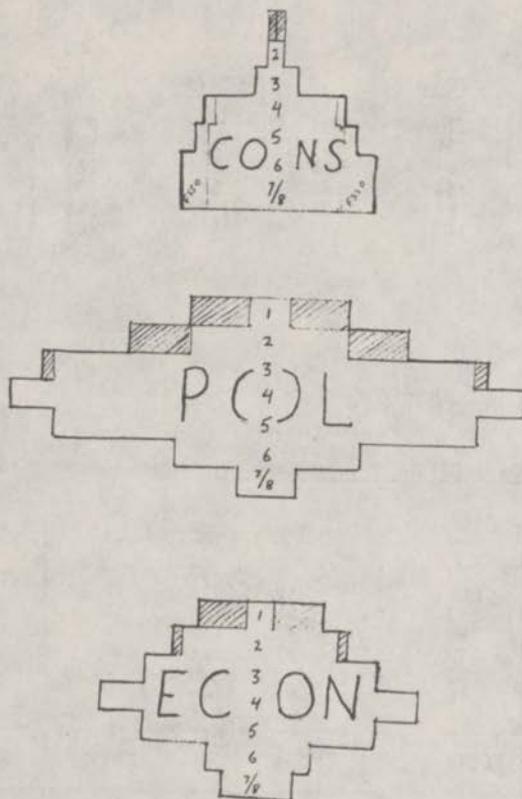
Table 3-D

NUMBERS OF FSO's, by rank and cone (June 30, 1973)

| <u>GRADE</u> | <u>POL</u> | <u>ECON</u> | <u>CONS</u> | <u>ADMN</u> | <u>P.D.*</u> | <u>TOTAL</u> |
|--------------|------------|-------------|-------------|-------------|--------------|--------------|
| O-1          | 26         | 19          | 4           | 13          | 179          | 241          |
| O-2          | 113        | 109         | 16          | 51          | 98           | 387          |
| O-3          | 289        | 163         | 54          | 108         | 17           | 631          |
| O-4          | 359        | 222         | 77          | 117         | -            | 775          |
| O-5          | 295        | 166         | 87          | 115         | -            | 663          |
| O-6          | 135        | 69          | 68          | 90          | -            | 362          |
| O-7          | 36         | 40          | 46          | 44          | -            | 166          |
| O-8          | 4          | 8           | 16          | 8           | -            | 36           |
|              | 1257       | 796         | 368         | 546         | 294          | 3261         |
| PERCENT      | 39%        | 24%         | 11%         | 17%         | 9%           | 100%         |

\* Program Direction. The O-1 figure includes 12 Career Ministers.

Table 3-E  
 CONE COMPARISONS (June 30, 1973)



The cross-hatchings ascribe "program direction" cone officers back to their respective cones of origin. About 90 % of these 294 O-1s, 2s, and 3s were former political and economic cone officers. Their inclusion, of course, accentuates the career limitations of the consular cone.

## Chapter 4

## NO ROOM AT THE TOP

"The achievement of the objectives of this chapter requires increasing numbers of Foreign Service Officers to acquire functional and geographic area specializations and to pursue such specializations for a substantial part of their careers. Such specialization shall not in any way inhibit or prejudice the orderly advancement through Class 1 of any such officer of the Foreign Service."

--U.S. Code, Title 22, Section 996,  
Chapter 14 (Foreign Service)

In the past five years (1969-73), a total of 1351 FSO's in classes 2 through 5 have been promoted to the next higher grade. Of these, 103 (7.6%) were in the consular cone. 8.5% of all officers promoted to O-1 through O-4 in the period 1967-72 were in the consular field.\* The great drawback to analyses of this nature, however, is that by treating promotions to the top four grades as a whole, they obfuscate a significant falloff in consular promotions above the O-3 level. The following chart provides a grade-by-grade and cone-by-cone breakdown, in percentage terms, of the 1351 promotees mentioned above:

|        | POL | ECON | CONS | ADMN | TOTAL |
|--------|-----|------|------|------|-------|
| to O-1 | 59% | 25%  | 3%   | 13%  | 100%  |
| to O-2 | 45  | 32   | 5    | 18   | 100   |
| to O-3 | 45  | 30   | 10   | 15   | 100   |
| to O-4 | 47  | 33   | 9    | 11   | 100   |

During the past five years, precisely five consular officers reached the O-1 level and 14 reached the O-2 level. It is only

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For fuller statistics, see -

\*Department of State Newsletter, Nov. 1972, page 2

at the O-3 level, where 35 out of 368 promotees were consular, that a point is reached at which the ratio of consular promotees approximates the ratio between consular FSOs and all FSOs. Promotions are, of course, a reflection of the needs of the Service for officers to fill positions of greater responsibility, and the lack of job opportunities for consular officers in the senior grades is a major factor which determines the relative lack of consular O-1's and O-2's.

Opportunities at that level involve both positions within the functional areas themselves and, additionally, the so-called "program direction" jobs. Program direction positions in the field consist essentially of principal officerships at constituent posts, DCM assignments at diplomatic missions and in-cone assignments at senior levels. With respect to these three basic types of jobs at the top of the career ladder overseas, we see as of January 1973:

|                                    | POL | ECON | CON | ADMN | INFO | TOTAL |
|------------------------------------|-----|------|-----|------|------|-------|
| 1. DCM                             | 94  | 17   | 1   | 1    | 1    | 114   |
| 2. Principal Officer               | 75  | 17   | 18  | 5    | 1    | 116   |
| 3. O-1 and O-2 in functional areas | 105 | 89   | 13  | 43   | -    | 250   |

In none of these three groups have consular officers fared well. The likelihood of a consular officer's becoming a DCM is about as little as his becoming an ambassador, and there is no reason to believe that any change in this fact is about to occur. On the other hand, the recent designation of 36 constituent posts as having a primarily consular raison d'etre should, if properly implemented, double the number of consular cone principal officers. We recognize that a significant number of senior level consular officers is not immediately available to fill these assignments at the present time. Nevertheless, since the volume of promotions is determined by the needs of the Service for officers at higher levels, this deficiency should be overcome in a few years. (For further discussion, see Chapter 7.)

#### Position Classification and Reclassification

With respect to senior level assignments within the functional areas, opportunities for consular officers are extremely limited. Part of the fault lies in the position-classification process, which can only be described as reflecting the view that the consular

cone, in contrast to all other cones, is a body which does not need a head. While not everyone, obviously, can be a chief, it would be difficult to find any other foreign affairs organization having so many Indians and so few chiefs as illustrated by the consular cone.

As indicated above, there are presently 13 consular positions abroad graded at the O-1 and O-2 level. These assignments represent 2.2% of all consular positions overseas. The current number of O-1 and O-2 positions overseas in the political, economic and administrative cones represent 15%, 13.6% and 7.5%, respectively, of all overseas FSO positions in those functional areas.

We are aware that the general subject of position classification is now under review, and it is clear that the intent of this project, insofar as senior-level positions is concerned, is to reduce their number. Given the all-too-obvious disparity between the consular and other cones, with respect to senior-level position classification, it would only be reasonable to expect that a general downgrading effort would, if nothing else, at least improve the relative status of the consular field in this sphere. Amazingly enough, even this dubious benefit does not appear to be in the offing. Although complete details of the reclassification project are not yet available, it has been announced that O-1 and O-2 positions as a whole are to be reduced by 23%.\* The number of O-1 and O-2 consular positions overseas would drop from 13 to 8, a reduction of 38%. While it may be true that there would be more O-4 through O-7 positions in the consular field than heretofore, the present deficiency in positions at those levels represents a workload, rather than a career, problem. We object to any reclassification effort which does not improve the relative, to say nothing of absolute, number of job opportunities available to consular officers at the senior level. The number of O-1 and O-2 consular officer assignments abroad should stand somewhere between 15 and 20, but precise recommendations on this score will be possible only after all the details of the present reclassification program are available. Furthermore, senior-level consular assignments should unquestionably be filled by consular personnel. The practice of placing non-consular officers in some of the few O-1 consular positions that do exist is as damaging to the consular cone as the practice of appointing non-career ambassadors is to the Foreign Service as a whole.

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\*Department of State Newsletter, May 1973, p. 15, contains a discussion of this still-tentative plan

## Chapter 5

## THE NATURE OF CONSULAR WORK

Consular work as it has become today differs markedly from the work in other cones not only in content, but also in style and manner. We do not cultivate any foreigners on a personal, unhurried, and repeated basis, as other sections do. Instead we deal with the populace, alien and American, in a rushed and impersonal manner often on a one-time basis and sometimes across a counter or through a window like that of a ticket seller.

To call consular work "meeting people" is usually a travesty both because of the fleeting nature of the relationship and the unequal quality of the interchange. In many cases it is only the people who are refused a service whom the consular officer sees a second time. Furthermore, the consul has the power to withhold a service which the client desperately needs, and under the pressure of work, many exchanges boil down to an interrogation, no matter how deftly done.

Other members of the post, noting the seemingly endless herds of people milling in the consular waiting room conclude that consular work is *infra dig* and they instinctively stay away. How often do you find the Ambassador visiting the consular section as opposed to stepping around the corner to his political section?

It should be noted that the "fond recollections" of FSO's in other specialties about their own consular experiences of a decade or more ago are largely irrelevant to the type and quantity of work being done by consular officers today. Not only is the work significantly greater in sheer numbers of consular services performed but also in terms of the difficulty in many individual cases affected by the adolescent travel explosion, drug abuse increase, the 1965 visa legislation, and heightened Congressional interest in individual cases. The work in the fields of visas, citizenship, and protection has shifted into geographic areas where the incidence of fraud is higher, spurious documents more easily come by, and the physical and mental stamina of the consular officer so confronted more severely tested.

Consular work, as it is now performed, is limited in that two of its three branches usually consist of variations on certain stock situations. Visa work primarily involves ascertaining whether a given person wishing to go to the US has no ineligibilities and has an intent or likelihood of returning, or a certain skill or relationship with someone in the U.S. Passport and citizenship work can essentially be reduced to establishing identity and parentage or place of birth. In dealing with these stock situations as done now inside an often overrun and abysmal office with no time for research, investigation, or reflection, the consular officer justly deserves the reputation of a "narrow specialist". Under the pressures of time and space, consular officers are often reduced to performing almost identical jobs standing at counters, giving them the professional cachet of shop clerks in the eyes of the public and of their other Foreign Service colleagues.

Note that of the 530-odd consular officers working abroad in mid-1972, 60 % were serving in consular sections of four or more officers and 36 % in sections of eight or more. This unfortunate concentration of personnel has been accentuated by the continuing elimination of the small constituent posts with a resultant drop in performance and morale.

Albeit part of consular work consists of stock situations, the work would involve much more intellectual responsibility if the consular officer were to have the time and capability to research into and deal with the facts surrounding each client's case more adequately & to apply the consular laws with more precision than is presently possible. Furthermore, it would provide the consular officer with the opportunity of making a contribution to other mission objectives apart from mere consular workload statistics.

It does the U.S. no credit to have its consular officers look like fools for being taken in by stories which only a little research could clarify; neither does it enhance our reputation for nicety and fairness when posts have to retreat into simplistic across-the-board visa policies of (e.g.) "no NIV's for single women below twenty-one" simply because the consular officer or consular local employee has no time to conduct even the semblance of an investigation. The ability to interview and field research its passport and visa cases adequately would go a long way to making the consular section that source of grass-roots information that so many studies would have us believe it is today.

A serious effort by the Department to promote consular work beyond the present stage of ticket-seller existence with a three-minute-per-client rule would give the consular section some of the credibility, force and image with the Embassy and the public that it so sadly lacks under current conditions.

## Chapter 6

## THE EFFECT OF RISING WORKLOADS

"Thousands of illegal aliens come into this country every year because consular officials are making only cursory investigations of visa applicants. This is not the fault of the men in the consulates, but of the State Department, which refuses to send enough trained personnel abroad to do this kind of work. As a result thousands of aliens are entering the country under false pretenses or with counterfeit documents.... It is ridiculous for our government to spend millions to promote travel by foreigners in this country while it refuses to spend the money required for adequate investigations of the people who want to come here."

Rep. Joshua Eilberg, Chairman of the House  
Immigration Subcommittee Sept. 12, 1973

The trend in consular work during the past ten years has been in the direction of more work with less people. Between 1962 and 1972, the number of consular services performed more than doubled while the number of consular officers abroad declined by 8%. Each consular officer is now handling 2.3 times as many cases as a decade ago.

CONSULAR SERVICES AND CONSULAR PERSONNEL, 1962 and 1972<sup>†</sup>

| <u>YEAR</u> | <u>NIV's<br/>Issued*</u> | <u>IV's<br/>Issued</u> | <u>PPT &amp; CIT.<br/>Services**</u> | <u>Special<br/>Consular<br/>Services</u> | <u>TOTAL</u> | <u>Consular<br/>Officers<br/>Abroad</u> |
|-------------|--------------------------|------------------------|--------------------------------------|--|--------------|---|
| 1962        | 775,027                  | 273,190                | 443,868                              | 450,000***                               | 1,941,903    | 536                                     |
| 1972        | 2,290,576                | 293,966                | 613,246                              | 929,068                                  | 4,126,856    | 494                                     |

\* excluding revalidations, crew list visas and border crossing cards  
\*\*fee services only      \*\*\* estimated

<sup>†</sup>For an official view, see U.S. Foreign Policy, 1972 - A Report of the Secretary of State, - pp 215-221

If workload is the only criterion, then consular officers are producing twice as fast. It is equally clear, however, that the quality of work has declined since this two-fold increase in production could not just be the result of more efficient operations. Furthermore, as noted elsewhere in this report, the decline in work quality has been accompanied by worsening work conditions creating an intolerable state of affairs.

The conditions of work for the consular officer and his clients have come to resemble those on a production line. In some posts the consular waiting room is justifiably dubbed the "bull pen" and the visa waiting line is called the "cattle chute". Such conditions are degrading to officer and client alike.\* However, all too often the reaction has been to remove the offending (and offensive) consular section into other buildings or parts of the city out of sight of the Ambassador and other sections of the mission, further accentuating the feeling of consular officers that theirs is a stepsister service. It is not surprising to find the picture repeated in Washington with PPT and VO in separate buildings and SCS in the basement. Thus the conditions of work on the one hand and service received on the other have both coalesced into an increasingly intolerable state of affairs that cries out for remedy.

Needed: More Consular Officers and More Consular Positions

Given the need to improve the quality of consular performance and match increasing workloads, there is only one logical answer: increase resource and manpower allocation for consular work. As numerous letters, airgrams and telegrams attest, there is a voracious demand from the field for additional consular personnel which, at best, has been handled on a too little, too late basis.

An increase in Foreign Service local personnel would obviously provide some relief. All overseas posts should be urged to investigate this possibility since they are in the

\* At one Embassy 3 locals, 4 vice consuls, file cabinets and an automated visa look-out system terminal are jammed into a 20 square yard room. The officers, shoulder to shoulder, interview visa applicants through a hole made in the side of the building. The applicants, who wait from 3:30 in the morning in a line stretching half a city block are herded through a dim passageway by police and approach consular officers through electrically operated turnstiles for interviews of about 6 minutes in length. Most are refused.

best position to asses such a question. As for consular officers, our findings show that up to 250 new consular positions should be created, approximately 160 to be filled by new junior level consular officers either recruited through The Foreign Service Examination or reconed and some 90 to be filled by officers from other cones serving a one tour "excursion" in consular jobs.

All of these positions should be overseas where consular officers face the most serious workload pressures. This would raise the number of Foreign Service consular positions worldwide from the present 731 to 981 and the number of consular cone officers from 568 to 768, representing only about 18 % of the manpower of the four cones, still a modest enough slice.

If this addition is made over the next four years, we will only be running in place in terms of workload per officer. It is therefore imperative that the increase take place by June 30, 1976 and later increases be maintained as workloads continue to increase. Only with additional positions can consular officers be allowed a modicum of extra time per case to acquit themselves in a professional manner. Only with additional officers will consular personnel be able to surmount production-line work and avail themselves of opportunities for training and out-of-cone assignments.

## Chapter 7

## FAIR RATING OF OVERSEAS POSITIONS

There are four areas of concern to consular officers in seeing that their positions are rated and filled equitably with other Foreign Service positions.

First is the fact that consular section chief position levels are lower than those of other mission section chiefs.

Second is the assignment of consular principal officers to the 36 posts newly designated as being primarily consular in function.

Third is the possibility of unorthodox reconing of other officers into the consular cone at senior levels.

Last is the recently-undertaken general downgrading of senior Foreign Service positions, which has particularly ominous implications for the consular cone.

Parity with Other Section Chiefs

Consular positions are rated lower than those in other specialties, further slowing promotion in the "cone". Particularly egregious is the low ranking of the head of the Consular Section vis-a-vis the other section chiefs. The clearest example is the fact that of the 28 posts having POL, ECON, and ADMIN section chief positions rated all O-1 or all O-2, only 8 have a CONS section chief position of equal rank -- in all the other 20 his position is ranked lower. Without even approaching the subject of consular officers aspiring to reach DCM or Ambassador, it does seem reasonable that consular sections should be headed by officers of rank equal to the other section chiefs where workload and management requirements warrant it.

One of the problems for the consular cone seems to be the notion that the rank of consular officers is quite irrelevant to the functioning of the mission as a whole, but that the other sections require numerous officers of first secretary level to function well. Tearing away the mystique of the "substantive officer" may thus be as important as explaining the consular role in any attempt to achieve parity in overseas rank.

The New Principal Officerships

In January, 1973 the Department announced that principal officerships at 36 named constituent posts would be set aside for consular officers. (Table 7-A) In 15 of these cases the incumbent already was a consular officer, so the proposal actually amounted to an addition of 21 reasonably important positions to the cone. If the incumbents were to be replaced by consuls of equal rank, it would have meant one CM, seven O-1s, four O-2s, four O-3s, two O-4s, and an O-5.

It is a matter of concern to note that for the consular posts (unlike for the simultaneously-announced economic posts) the Department hedged its commitment, saying only that it would "try to select those who have a primary consular skill, or failing that, officers with considerable experience in consular work"\* Aside from the fact that one of the Department's first acts following

\* footnote on following page

the announcement was to abolish one of the posts, the results to date have been good. Twelve principal officers have been selected for these posts since the announcement, and nine of them have been in the consular cone. In one of the other three cases (Sapporo), a political officer is being given an interim one-year assignment while a consular officer receives Japanese language training. The other two assignments were based on commitments made well before the announcement. According to PER, within the next few months 20 of the 35 posts will be headed by consular-cone officers.

It is also a heartening sign that a consular officer was recently selected to head a non-"consular" post (Nuevo Laredo). By June 30, 1976 all of the 35 consular-designated principal officerships should be occupied by officers having a primary consular skill code.

#### Unorthodox Reconciling

The fact that 21 principal officerships are being transferred from the political and economic realms to the consular specialty, added to the disappearance of senior level positions in the downgrading plan (see below), will put strong pressure on the Department's personnel system to find positions for people from the large and topheavy political and economic cones. The Department's limp definition of a consular officer in connection with the 36 principal officerships gives rise to fears on this score. It may be necessary in the short run to let the Department's definition of "consular officer" stand in staffing these positions, since our cone is short on officers of senior rank. However, to allow the hasty retreading of other cone officers as "consular" officers simply because they are occupying one of these positions would be a gross prostitution of the rationale for designating these posts as consular-oriented in the first place.

#### Downgrading of Senior Positions

The recent "reclassification" proposal of the Department has already been mentioned in Chapter 4 as boding particular ill for the consular cone. Coupled with the announcement of the 36 posts, it represented a raising and subsequent dashing of hopes. Table 7-B shows that before a reclassification the consular cone would realistically expect 30 FSO-1 and 2 section chief and principal officer positions abroad. Were it to take place, that figure would be 17. The only bright side of the downgrading, is that it would virtually always be possible to find a consular officer of the appropriate grade to fill a principal officer or section chief slot, since most are at the O-3 and 4 level. However, from the career point of view, if the situation of consular officers was bad before the reclassification of positions, it is terrible now.

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\* For the full announcement, see the Department of State Newsletter, Feb., 1973, p.19.

Table 7-A

36 CONSTITUENT POSTS SLATED FOR CONSULAR PRINCIPAL OFFICERS,  
by rank and cone of incumbent at the time of the announcement

| BUREAU | POST      | RANK     | CONE | BUREAU | POST       | RANK | CONE | BUREAU | POST        | RANK     | CONE    |
|--------|-----------|----------|------|--------|------------|------|------|--------|-------------|----------|---------|
| EUR    | Liverpool | 1        | CON  | EUR    | Genoa      | S-1  | CON  | ARA    | C. Juarez   | S-1      | CON     |
|        | Edinburgh | 2        | POL  |        | Munich     | 1    | ECON |        | Guadalajara | 2        | CON     |
| (20)   | Hamilton  | 1        | ADM  |        | Frankfurt  | 1    | ECON | (12)   | Hermosillo  | 3        | CON     |
|        | Bilbao    | 3        | CON  |        | St. John's | 3    | CON  |        | Matamoros   | 3        | POL     |
|        | Seville   | 4        | POL  |        | Halifax    | 2    | CON  |        | Mazatlan    | S-3      | GON     |
|        | Oporto    | 4        | n.r. |        | Montreal   | 1    | POL  |        | Merida      | 2        | GON     |
|        | Azores    | 4        | CON  |        | Toronto    | 1    | CON  | *      | Mexicali    | 4        | CON     |
|        | Nice      | 5        | ?    |        | Winnipeg   | 2    | POL  |        | Monterrey   | 1        | ADM     |
|        | Salzburg  | new post |      | AF     | Durban     | 2    | POL  |        | Tijuana     | 2        | CON     |
|        | Palermo   | 1        | POL  | (2)    | Tangier    | 3    | POL  |        | Guayaquil   | 2        | POL     |
|        | Florence  | 1        | POL  | EA     | Brisbane   | 3    | POL  |        | Maracaibo   | new post |         |
|        | Naples    | CM       | POL  | (2)    | Sapporo    | 4    | CON  |        | Calif       | 3        | POI/Lab |

\* post was closed on June 30, 1973

Table 7-A

36 CONSTITUENT POSTS SLATED FOR CONSULAR PRINCIPAL OFFICERS,  
by rank and cone of incumbent at time of the announcement

| Position<br>Level | Consular<br>Section Chiefs |         | 35 Consular Cone<br>Principal Officers |         | T O T A L |         |
|-------------------|----------------------------|---------|--|---------|-----------|---------|
|                   | FORMER                     | PLANNED | FORMER                                 | PLANNED | FORMER    | PLANNED |
| FSO-1             | 4                          | 4       | 8                                      | 4       | 12        | 8       |
| FSO-2             | 8                          | 4       | 10                                     | 5       | 18        | 9       |
| FSO-3             | 24                         | 18      | 10                                     | 14 *    | 34        | 32 *    |
| FSO-4             | 28                         | 26      | 5                                      | 12 #    | 33        | 38 #    |

\* includes one newly-opened post (Salzburg)

# includes one newly-opened post (Maracaibo)

## Chapter 8

## WASHINGTON AND OUT-OF-CONE ASSIGNMENTS

It is generally felt that "out-of-cone" assignments are necessary to enable all officers to broaden their outlook, diversify their experience and become competitive for senior-level positions, but consular officers have fared poorly in obtaining such assignments. At the beginning of 1973, only 40 out of 495 consular skill-coded personnel serving abroad were in non-consular-officer slots. Moreover, 13 of these were filling program direction jobs (i.e., "above" rather than "out-of" cone) and 3 were working as secretaries. This left a total of 24 persons overseas performing substantive work in other functional areas, and half of these were officers (FSRs) whose identification with the consular cone is tenuous at best.

Within the Department, 76 out of 127 consular personnel were in non-consular skill-code assignments, but this encouraging figure is deceptive. Of these 76 officers, 39 were in various training and junior officer assignments, 5 in over-compliment positions, 6 on reassignment and 2 on TDY. Three were in consular program direction slots and 1 was a consular training officer at FSI. This leaves 18 properly "out-of-cone" assignments stateside.

This dismal situation must be improved, both in the Department and overseas. As noted elsewhere, there are approximately 100 fewer consular officers doing consular work abroad than there are consular positions. This continuing gap is filled by officers from other specialties, principally junior political and economic officers. To argue that consular work can be done more easily by non-consular officers than political or economic work can be done by consular officers not only defines the consular track as the blue-collar portion of the Foreign Service but also ignores the considerable abilities and experience of consular officers.

This argument contravenes present recruiting policy and reinforces prejudicial thinking that makes consular work appear to be a dumping ground. Excursion assignments overseas should not be a one-way street - from other areas into the consular field - as is true at present. The negative balance

between consular officers and consular positions vs. the positive balance between pol/econ officers and pol/econ positions should be brought into closer alignment so that "out-of-cone" opportunities will be available in both directions.

Consular officers are heavily concentrated in overseas positions, at an approximate ratio of 6 to 1, and this fact has an obvious appeal to FSOs who enjoy living abroad. However, if one is interested in development within the wider Foreign Service and in gaining necessary stateside perspective, it is important to serve in Washington, and in appropriate positions.

In the Department, greater access to service in geographic bureaus, to IO, to INR, and to the Secretariat should be provided for consular officers. Interfunctional positions that are now classified as the preserve of particular cones should be properly redesignated as interfunctional for personnel purposes, so that consular, as well as other, officers may compete for them. The inspection corps, in particular, should receive a consular input. We note, for example, that the consular portion of many post inspection reports at present reflects an inability to distinguish between a visa and a Greyhound bus ticket, and cannot provide any indication of whether or not the consular section is functioning properly.

More opportunities should also exist in the U.S. for officers to perform consular-related activity than is presently afforded. That there are no Foreign Service Officers serving in the Passport Office defies reason, since the work of that office is ostensibly part of the consular domain. We also recommend that consular officers be assigned to tours of duty with INS and that they serve within the SCA section of L.

None of these views is motivated by a desire to take work away from other personnel or specialties. We are believers in the cone system and feel that there is no inherent reason why an econ officer should want to serve as a GSO, or an admin officer to issue visas, or a consular officer to analyze political trends. However, since interfunctional experience is considered to be a requisite for assignment to positions of executive responsibility, it is felt that the personnel process must not deny consular officers access to such broadening assignments.

## Chapter #9

## RECRUITMENT

A system of recruitment which seeks excellence in new officers has always been viewed as essential for the continuation of a strong career Foreign Service. If the consular cone is to form a strong segment of the Foreign Service and if the consular function is to be performed in the best possible manner, excellence must also be sought in new officers recruited into the consular specialty. If consular officers are to have successful careers within the Foreign Service as a whole, they must be recruited on the same basis as other officers.

The possibility that a consular officer will advance in the Foreign Service is based on the intelligence, capabilities and education he brings with him when he first enters the Service as a junior officer. A career dedicated to the performance of consular work, which requires management skills, decision-making capabilities, and the ability to deal effectively with people and their problems, among other qualities and skills demanded of all Foreign Service Officers, leads to the further development of those traits required for program direction positions in the Foreign Service. Theoretically, if consular officers entering the service are as highly qualified as their colleagues in other areas, they should be competitive for senior level positions as their careers progress.

The Consular Officers Association fully supports the recruitment of the best possible consular officers. Only if new recruits are fully competitive with those officers entering in the other specialties will the consular cone be the professional equal of the other three cones.

New consular officers are currently brought into the Foreign Service through three separate systems of recruitment: 1) the Board of Examiners (BEX) examination process, 2) the minority recruitment program, and 3) the Mustang program. Consular personnel also are eligible for lateral entry as FSOs from the FSSO corps. However, since FSSOs are members of the consular cone whether they choose to convert to FSO or not, the lateral entry program does not properly fall into the category of recruitment.

Regarding the minority recruitment and Mustang programs, we consider both desirable with the caveat that FSOs so recruited be assigned equally to all four specialties and not concentrated into only the consular and admin cones as is now the case.\*

The majority of new entrants to the consular cone are recruited through the BEX system. Since the inception of functional specialization in the Foreign Service, BEX has structured the FSO exam in order to be able to bring in new recruits by cone. Applicants are asked to select a cone when registering for the examination.

For the past three years, applicants in all three cones have taken the same written examination, which has been a test of general knowledge, aptitude and ability. Determination of a candidate's ability to perform the work of the particular cone in which he applied was made at the time of the oral examination. The desired number of entrants in each cone was determined prior to the examination and passing scores on the written examination were set by cone

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\* see the Department of State Newsletter, July, 1972, p.17.

to qualify the desired number of applicants to take the oral exam in each cone. Contrary to the popular misconception that the consular cone has been "the easiest to join," political and consular officers have received the highest scores on the written examination.

In an attempt to refine the written examination to test more precisely an applicant's ability to perform in his chosen cone, a new exam is now being prepared by ETS. This written examination will include a section with questions prepared specifically to relate to the work of an applicant's chosen specialty as well as other sections testing general knowledge and ability.

New entrants brought into the Foreign Service by the BEX Exam in the past two fiscal years can be divided by cone as follows:

|                              | FY 72 | FY 73 | Projected<br>FY-74 |
|------------------------------|-------|-------|--------------------|
| Total                        | 80    | 130   | 200                |
| Consular                     | 30    | 29    | 50                 |
| Consular as percent of total | 35%   | 22%   | 25%                |

Budgetary and ceiling limitations have reduced the number of incoming officers in recent years, and there is no way to predict future limitations of this nature. However, it should be noted that consular officers compose a much higher proportion of each year's incoming class than of the Foreign Service as a whole. The number of Consular Officers who will be retiring over the next ten years totals approximately 40% of the total number of consular officers. BEX should take these future retirements into account in its recruiting projections.

The COA is strongly in favor of bringing in the vast majority of new officers through the BEX exam and also encourages all efforts to develop appropriate means of testing for those skills required to perform the work of each cone as long as the majority of the exam continues to test for the general skills needed in the Foreign Service. It should be recognized, however, that bringing in highly qualified, ambitious FSOs as consular officers must be accompanied by a resolution of the problems currently obstructing the careers of consular officers, as enumerated elsewhere in this paper. If these problems cannot be corrected, a serious morale problem and viable grievance actions will result as the newest of consular officers begin to appreciate their situation.

The recruitment literature distributed by BEX does not mention, and quite appropriately so if the aim is to recruit good people, the fact that there are virtually no consular officer positions above the FSO-3 level. Nor does the phrase "substantive work," which has been employed in a discriminatory fashion to distinguish between consular and admin functions and those of the political and economic cones, appear in the recruiting literature. A candidate for the Foreign Service makes a career choice based on information which contains no hint of the career problems faced by consular officers.

The COA does not believe that new consular officers are over-qualified for the jobs they will be asked to perform. Rather, the jobs held by consular officers are under-ranked and under-esteemed by the Foreign Service as a whole, and the talents consular officers possess have never been fully utilized. The recruitment of consular officers is not one of the problems which need to be corrected; rather, it is one of the few sources for optimism for the future of the consular field.

## Chapter 10

## CONSULAR AND OTHER TRAINING

Officers in the consular cone have been short-changed on training, both in cone and out. Far less money and man-years are spent in consular training than in that for the other functional specialties, and the pattern is repeated for consular officers seeking training in areas outside of strict cone training.

At present consular officers are given a four-week basic course on passports and citizenship, visas, and special consular services just before being sent out to their first consular assignment, and with that, for all intents and purposes, their foreign service training ends for the rest of their career. Unlike political science, economics, and business management, there is no academic discipline which can be defined as quintessentially consular. It is perhaps because of this that consular specialists must apply for training in areas designed for one of the three other specialties if they are to receive any training at all. To justify their applications for such training, consular officers have had to try to establish a relationship between political, economic, or administrative training and consular work. When training resources are scarce (as they usually are), the natural response to such requests is that "consular officers don't need outside training for their jobs." This type of remark is wholly unjustified in a system that spends more on the wives course than for the consular course.

Consular officers do need training for their jobs, but not necessarily that which has been designed for officers in other cones. At a time when the Department is stressing functional specialization, it should examine the specific ways in which consular skills can be improved and assure that training beyond the basic consular course be developed for officers in the cone.

Professional training for consular officers needs attention from start to finish. The basic consular officers' course has in the past been far too much of a dry classroom and lecture affair. We recognize the recent initiatives of the Foreign Service Institute in getting the basic classes out to visit a port-of-entry operation (at Dulles Airport) and over to see the Immigration and Naturalization Service on its own turf. We feel, however, that beyond simply using departmental staff and resources, special funds should be budgeted for a professional educational contractor to research the operation of some typical consular sections and devise a curriculum which would result in a meaningful and realistic introduction to consular work.

We also strongly support the Foreign Service Institute's current efforts to establish a mid-career consular course of several weeks' duration. At present a two-week course has been budgeted for March and suggestions for its content solicited and received

from consular officers at home and abroad. It constitutes a very hopeful departure by FSI, and there is little fresh advice that can be added to that they have already received.

Additionally, either as part of the mid-career course or as a series of shorter courses, instruction should be given consular officers on interpersonal negotiating in visas and protection work, on dealing with drug addiction, on assisting Americans and aliens living abroad in their US income tax problems, on protecting American-owned businesses, and on improving consular drafting of communications with the Department (and vice versa). Particularly important would be the familiarization of consular officers with the current philosophy, problems, and procedures of the Immigration and Naturalization Service.

Over the past year the single university training slot allocated to a consular officer has faced an uncertain future. The legitimacy of giving consular officers such higher training should finally be recognized and, indeed, a larger number of consular officers in the midcareer grades be given the opportunity thus to acquire out-of-cone expertise or to deepen their own understanding of comparative law, management, or sociology.

Finally, every effort should be made to increase participation by consular officers in existing courses of language study, area training, and special courses like the senior seminar.

## Chapter 11

## RATING OF CONSULAR OFFICERS

About a quarter of the consular officers overseas are chiefs of section and as such are rated by DCM's or Consuls General who almost always come from outside of the cone and lack current, detailed knowledge of consular work. The criteria on which these latter base efficiency reports should be of a uniform standard to make competition between rated officers more realistically comparable for the functional Selection Boards, which now contain a number of consular specialists.

In the long run increased "excursions" of officers from the other cones into the consular cone could bridge part of the gap as the "excursionists" become DCM's or Consuls General. In the meantime, however, we should provide such officers with a checklist of points to look for in rating consular officers and consular sections - such as that the Foreign Service Inspectors already use. Professional criteria on which to base their opinions should help change the essentially negative and uninformed outlook of some POL and ECON Cone DCM's regarding the consular section chief - that the highest accolade is the section chief's ability to keep consular problems out of the principal officer's hair and the newspapers.

## Chapter 12

## OVERSEAS INSPECTIONS

Consular officers should serve in the Inspection Corps in greater numbers than at present. In June, 1973, among 26 inspectors there was none whose primary or secondary skill code was consular, while 20 had political and 5 administrative skill codes. Under these circumstances, inspections in the field are carried out by officers who know neither the basic consular work nor most disturbingly, the current regulations and practices. Inspection results for both consular officers and that function are too often shallow or wide of the mark.

The present inspectors know virtually nothing of the dynamics of visa and SCA services. Instead of being able to give useful advice on streamlining possibilities in the consular section, they usually must be shepherded through the various files and operations. Most would be unable to ask the relevant questions without their inspector's check sheets.

S/IG management claims that successful inspectors need not be expert in any of the Foreign Service functions. We believe, however, that such lack of expertise is reserved for consular work alone. We cannot envisage any inspection of a class A embassy without officers expert in the conduct of political or economic work. The rating officer's unfamiliarity with and consequent lack of sympathy for consular operations has led, in our opinion, to lower ratings for consular officers and little if any guidance for consular sections.

The inspection function is potentially a powerful tool in assisting the consular sections to maintain uniformity in interpretation of the law, but as practiced today it is far too superficial and fails to provide welcome assistance. Accordingly, the number of consular officers in the Inspection Corps should be raised to four.

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## APPENDIX 3

### FOREIGN SERVICE OFFICER EXAMINATION STATISTICS, 1969-72

Tabular statistics are attached showing the results of examinations for Foreign Service officer candidates (Foreign Service Officers and Foreign Service Information Officer) for each of the last four years, no examination being given in 1968. The separation of the examination, assessment, and appointment processes by functional field of specialization within the Department of State is relatively recent. Such statistics by field of specialization have been kept only since 1970, the first examination year in which candidates were specifically assessed according to field of specialization.

The statistics only cover those new officers appointed as a result of the competitive written and oral examinations under the auspices of the Board of Examiners for the Foreign Service. In each year 20 additional junior officers were given career-conditional appointments as Reserve Officers under the Department of State's Equal Employment Opportunity Program for ethnic minorities. Such officers did not take the written examination, but were subjected to an oral examination. Following three or four years of professional job experience in the Foreign Service they must appear for a further examination and evaluation of their work before being offered FSO commissions. All further comment below, however, relates only to the officers and candidates evaluated and appointed under Board of Examiners auspices and tabulated in the attached tables. Numbers cited refer to the line numbers on the tables.

In recent years, the written examination for Foreign Service Officer careers has been given only once annually, in early December. All candidacies are dated according to the date of the written examination, whenever they may be eventually appointed.

The first significant figure is the number who actually take the written examination (line 2) since the submission of an application (only a simple post card until 1973) often has not been followed upon by the applicant actually appearing at the designated location and sitting for the examination. Only an infinitesimal number of applications were rejected (for non-citizenship or underage) and even this initial screening has been eliminated in 1973, the burden having been placed on the applicant to be sure that he or she is technically eligible before going to the effort to take the examination.

The passing rate for each functional field of competition is determined by the Board of Examiners, taking into consideration the number of eligible candidates already certified and awaiting appointment, the anticipated hiring needs during the following fiscal year, and known parameters concerning candidate attrition as described below. When the number to be passed is confirmed by comparing the proposed pass rate with the technical aspects of the distribution of examination results, a precise pass line is determined and all scores are computed relevant to that defined passing point of 70. Thus the competition is a straight peer group competitiveness, influenced by the number of candidates competing, the relative quality of candidates competing, and the projected hiring needs of the Department or Agency. There is no predetermined raw examination score which is acceptable or not acceptable.

The attrition between those who pass the written exam (line 3) and those who take the oral examination (line 5) is candidate self-attrition and has remained relatively constant over several years, despite efforts to follow-up on and motivate candidates to pursue their candidacies.

Of those candidates who appear for the oral examination, between 24% and 33% are recommended by the examining panels. Within that range, some adjustment may be made on a gross basis to match anticipated Service needs, but the 1 in 3 to 1 in 4 range appears to be the outer limits on the basis of the experience of examining panels in recent years.

There is an additional 20% attrition of candidates who are recommended by the oral examining panels but never get on the Register certified as eligible for appointment. Most of this is self-attrition by the candidates—they either withdraw or do not submit the necessary documentation to enable the conduct of the background investigation required by law. A few candidates are disqualified because of medical reasons. After being certified as eligible for appointment and the entry of the candidate's name on the rank order register for the appropriate functional field of specialization, another 15% withdraw or decline appointments when offered.

An analysis of candidacies for State Department appointments in the 1970, 1971 and 1972 examination years reveals that the Board of Examiners needs to pass at least seven candidates on the written examination for every officer to be appointed. An extrapolation of this data for a hypothetical intake of 45 officers in one functional field of specialization during a fiscal year follows. The attrition columns all represent candidate self-attrition except for a small number included in column V who are disqualified for medical reasons or fail to receive security clearances.

I. Pass Written, 314; II. Attrition, 30%; III. Take Oral, 220; IV. Pass Oral, 66 (30%); V. Attrition, 20%; VI. Enter on Register, 53; VII. Attrition, 15%; and VIII. Appointed, 45.

Levels of appointment given in Line 8 on the attached tables show the numbers appointed in the fiscal year following the fiscal year in which the written examination is given. These figures are more meaningful than appointment statistics related exactly to the examination year, since appointment figures for the 1971 and 1972 exam years are still incomplete. Successful candidates remain eligible for appointment for up to 30 months after the date of the written examination. Many candidates actually defer their availability dates until late in their eligibility period. However, the bulk (about 70% of the appointees) in any fiscal year are drawn from the group which took the written exam the December before (i.e. December before the fiscal year beginning the following July 1). The pipeline disgorges perhaps 5% of the appointees prior to this and about 25% are appointed a year later. For meaningful planning or comparison purposes, however, the number of appointments made or anticipated in a particular fiscal year may be related to the previous December written examination.

## DECEMBER 1972 EXAM

|   | Grand total | Admin. | Consular | Econ./ Com. | Pol.  | State total | USIA total |
|---|-------------|--------|----------|-------------|-------|-------------|------------|
| 1. Applied .....                            | 16,758      | 1,816  | 4,013    | 1,722       | 4,469 | 12,020      | 4,738      |
| 2. Took written .....                       | 10,384      | 1,256  | 2,679    | 822         | 2,712 | 7,469       | 2,915      |
| 3. Passed written .....                     | 1,656       | 400    | 328      | 300         | 223   | 1,251       | 405        |
| 4. Percentage passed written .....          | 16          | 32     | 12       | 36          | 8     | 17          | 14         |
| 5. Took oral (as of June 30, 1973) .....    | 1,043       | 236    | 213      | 181         | 140   | 770         | 273        |
| 6. Passed oral (as of June 30, 1973) .....  | 304         | 73     | 69       | 49          | 46    | 237         | 67         |
| 7. Percentage passed oral .....             | 29          | 31     | 32       | 27          | 33    | 31          | 25         |
| 8. Hired fiscal year 1974 (projected) ..... | 165         | 36     | 27       | 51          | 49    | 155         | 10         |

## DECEMBER 1971 WRITTEN EXAM

|                                    | Grand total | Admin. | Consular | Econ./ Com. | Pol.  | State total | USIA total |
|------------------------------------|-------------|--------|----------|-------------|-------|-------------|------------|
| 1. Applied .....                   | 18,987      | 2,893  | 2,245    | 5,282       | 4,566 | 14,986      | 4,001      |
| 2. Took written .....              | 11,118      | 1,783  | 3,294    | 981         | 2,697 | 8,755       | 2,362      |
| 3. Passed written .....            | 1,758       | 336    | 367      | 307         | 329   | 1,334       | 424        |
| 4. Percentage passed written ..... | 15.8        | 19     | 11       | 31          | 12    | 15          | 18         |
| 5. Took oral .....                 | 1,258       | 218    | 306      | 223         | 245   | 992         | 266        |
| 6. Passed oral .....               | 300         | 55     | 58       | 63          | 59    | 235         | 65         |
| 7. Percentage passed oral .....    | 24          | 25     | 19       | 28          | 24    | 24          | 24         |
| 8. Hired fiscal year 1973 .....    | 165         | 38     | 40       | 38          | 36    | 152         | 13         |

## DECEMBER 1970 WRITTEN EXAM

|                                   | Grand total | Admin. | Consular | Econ./ Com. | Pol.  | State total | USIA total |
|-----------------------------------|-------------|--------|----------|-------------|-------|-------------|------------|
| 1. Applied.....                   | 10,294      | (1)    | (1)      | (1)         | (1)   | 8,326       | 1,968      |
| 2. Took written.....              | 6,664       | 872    | 2,050    | 470         | 2,000 | 5,392       | 1,272      |
| 3. Passed written.....            | 1,556       | 266    | 349      | 189         | 321   | 1,125       | 431        |
| 4. Percentage passed written..... | 23          | 31     | 17       | 40          | 11    | 21          | 34         |
| 5. Took oral.....                 | 1,051       | 166    | 251      | 111         | 231   | 769         | 282        |
| 6. Passed oral.....               | 303         | 62     | 58       | 46          | 67    | 233         | 70         |
| 7. Percentage passed oral.....    | 29          | 37     | 23       | 41          | 29    | 29          | 25         |
| 8. Hired fiscal year 1972.....    | 121         | 22     | 30       | 17          | 16    | 85          | 36         |

<sup>1</sup> Not available.

## MAY AND DECEMBER 1969 WRITTEN EXAM

|                                   | Grand total      | Admin. | Consular | Econ./ Com. | Pol. | State total | USIA total | December | May   |
|-----------------------------------|------------------|--------|----------|-------------|------|-------------|------------|----------|-------|
| 1. Applied.....                   | 13,111           | (1)    | (1)      | (1)         | (1)  | 6,734       | 6,377      | 2,582    | 3,795 |
| 2. Took written.....              | (9,316)<br>7,106 |        |          |             |      | 3,887       | 3,269      | 1,379    | 1,840 |
| 3. Passed written.....            | (5,266)<br>3,341 |        |          |             |      | 2,170       | 1,071      | 459      | 612   |
| 4. Percentage passed written..... | (2,629)<br>47    |        |          |             |      | 58          |            | 33       | 33    |
| 5. Took oral.....                 | 2,060            |        |          |             |      | 1,400       | 660        | 285      | 375   |
| 6. Passed oral.....               | (1,685)<br>481   |        |          |             |      | 220         | 261        | 88       | 173   |
| 7. Percentage passed oral.....    | (308)<br>23      |        |          |             |      | 16          |            | 31       | 46    |
| 8. Hired fiscal year 1971.....    | 160              | 24     | 22       | 28          | 43   | 117         | 43         |          |       |

<sup>1</sup> Not available.

Note.—USIA gave a separate exam in May 1969.

## THE WRITTEN EXAMINATION FOR FOREIGN SERVICE OFFICER CAREERS

The enclosed booklet entitled "1973 Examination for Foreign Service Officer Careers" describes the examination and assessment process in detail. Representative questions and answers appear on pp. 15-23. A description of the special examination for consular cone candidates appears on page 22. This should be read together with the description of the Consular career field on pp. 7-8 to note the primary information available to every candidate regarding choice of career function.

The written examination itself is the copyright property of the Educational Testing Service (ETS) of Princeton, N.J., the Department of State's prime contractor for development of this year's written examination. Because of contract and copyright relationships, copies of the actual examination are not distributed in any context. Every effort is made to ensure that the description and sample questions in the announcement book are representative of the actual examination. Work is still underway on the 1973 examination and the final text is not yet complete.

Heretofore, the written examination has consisted only of general components and the task of distinguishing a candidate's qualifications and suitability for as well as commitment to a particular field of functional specialization has fallen almost exclusively to the oral examining panels. As a result, a considerable portion of the oral examination in the past two years has been devoted to assessment of the professional qualifications and potential of the candidate in the chosen field of functional specialization (cone).

The new examination to be administered in December 1973, however, will attempt directly to assess aptitude, knowledge, and skills relevant to the particular functional field of specialization for which the applicant is a candidate. These "cone" examinations (which will comprise one-third of the overall written examination—see announcement booklet) have been developed over the period of the last eight months through a process of study and dialogue with Foreign Service professionals.

Following a review of the literature, guidelines, and precepts for consular work in the Foreign Service, and study of a carefully selected group of position descriptions covering different functions, settings, and levels of responsibility.

ETS researchers met with committees of Consular Cone officers in the Foreign Service. These "job analysis committees" were specifically selected to bring together highly competent officers with varied types of background and experience in consular affairs. The committees carried on a dialogue with ETS researchers over the period of about four months.

First there was the refinement of the definition of the job, the actual tasks to be performed by the consular officers in the Foreign Service. Next came detailed analysis of the knowledge, skills, aptitudes, and personal characteristics required to do these tasks well. A delineation was made of the degree to which these characteristics were expected or desired at the FSO entry level, and a determination reached of which of the elements were amenable to testing on the written examination and which must be assessed through other steps such as biographic data, oral examination, and background investigation. Working from this study together with the job analysis committees, job related examinations are being developed by ETS for each of the five major functional fields of specialization.

Reflecting this new component of the written examination, the oral examination for successful candidates during the coming year will be devoted more fully to other qualities expected of the first-rate Foreign Service officer, whatever the field of specialization. In addition, there will be a clear awareness of those factors which have not been assessed by the written exam and which require attention by the oral examining panel.







**1973  
EXAMINATIONS  
FOR  
FOREIGN  
SERVICE  
OFFICER  
CAREERS**



## Career Appointments

A competitive written examination will be offered on December 8, 1973, to candidates for career appointments as Foreign Service officers of the Department of State or as Foreign Service Information officers of the United States Information Agency (USIA).

While the majority of candidates traditionally have been college students or recent college graduates, men and women with professional and vocational experience outside of college also are encouraged to take the examination. The Foreign Service wishes to have as broad a recruitment base as possible. For the past 2 years, in fact, the average age of newly appointed officers has been 27, and about 60 percent have had graduate degrees beyond the baccalaureate. Many have had extensive professional experience. Two successful candidates, however, had no formal college education. In addition, the Department of State and USIA wish to emphasize their policy of providing equal employment opportunity to everyone regardless of race, sex, marital status, religion, or ethnic background.

Upon completion of the examination and selection process, successful candidates are appointed by the President, by and with the consent of the Senate. Most new officers are promptly assigned abroad after required preparatory training in Washington. Usually

officers serve two initial tours abroad, with home leave at government expense in between, and then have a Washington assignment. (A normal tour lasts 2 years, but may be longer or shorter depending on conditions at the post and the needs of the Service.) Officers are expected to be available for worldwide service, as are their families. Anyone who is prepared to serve only at specific posts or in specified countries or regions will not be appointed.

Depending on their qualifications, successful candidates are appointed at Class 8 (\$9,520 to \$11,422) or Class 7 (\$11,109 to \$13,329). New officers serve in probationary status until their first promotion. Promotions may lead to salaries ranging up to \$36,000 for officers who reach Class 1. While officers are abroad, their salaries may be supplemented by quarters allowances, cost-of-living allowances, hardship post differentials, and educational allowances for children, depending on local conditions.

Although the examination for those desiring to serve in either agency is administered jointly, applicants must indicate whether they wish to be examined for service in one of four functional specializations in the Department of State (administrative, consular, economic/commercial, or political) or in the information/cultural specialty leading to appointment with the U.S. Information Agency. Competition for appointment as a Foreign Service officer will be conducted sep-

arately within each of these five categories. For further information regarding the duties and responsibilities of officers in the Department of State and USIA, please see pages 5-11. The same appointment procedures apply to everyone, regardless of specialization.

A total of 150 to 200 officers are appointed each year from the several thousand candidates who take the annual written examination. Approximately equal numbers of candidates are appointed in each of the functional specialties. Every effort is made to assure that the Foreign Service is representative of the population and way of life of the United States.

## Eligibility Requirements

Applicants must be at least 21 years of age by the date of the written examination. (Exception: a person 20 years of age as of that date may be examined if the junior year of college has been successfully completed.) There was formerly an upper age limit, but for the 1973 examination the only upper age limit is the requirement that a newly appointed officer be able to serve at least one complete tour abroad before reaching the mandatory retirement age of 60 years. (Regardless of age and/or experience, no one will be appointed at a level higher than FSO-7, for which the maximum salary is now \$13,329 a year.) Applicants must also be citizens of the United States. At the time of

appointment, a candidate must be at least 21 years of age and a citizen of the United States. If the candidate is married, his or her spouse must be a citizen at the time of appointment, although this is not necessary at the time of examination.

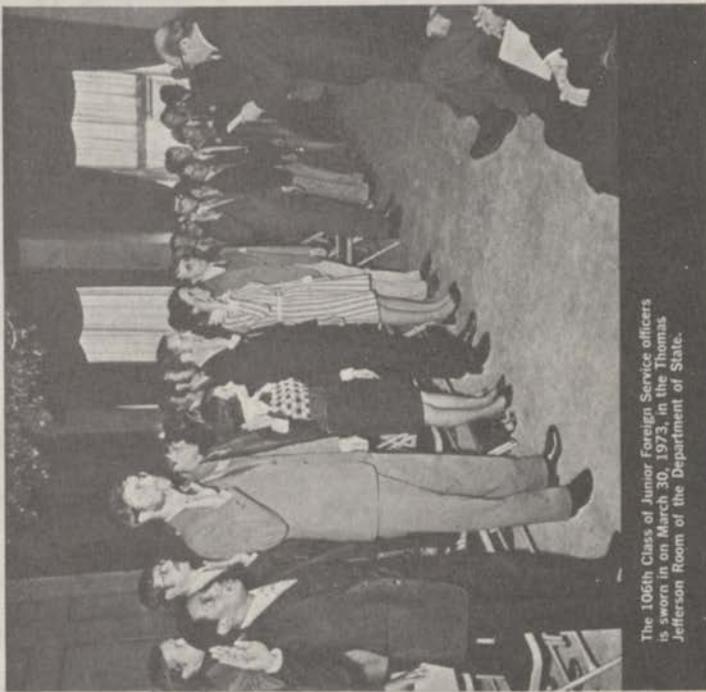
## Procedure for Applying

Application to take the Foreign Service officer examination for service with the U.S. Information Agency or the Department of State should be made by completing the tear-out application in this announcement. This form, properly filled out, must be received no later than October 31, 1973. About 3 weeks before the examination date, candidates whose applications are accepted will be sent an Examination Admission Card informing them of the address of the examining site.

## Qualifying for Appointment

The examination and selection process consists of five distinct stages:

1. **A written examination.** In 1973, this will be given on Saturday, December 8, in the cities listed on pages 30-31 of this announcement and at any American diplomatic or consular post

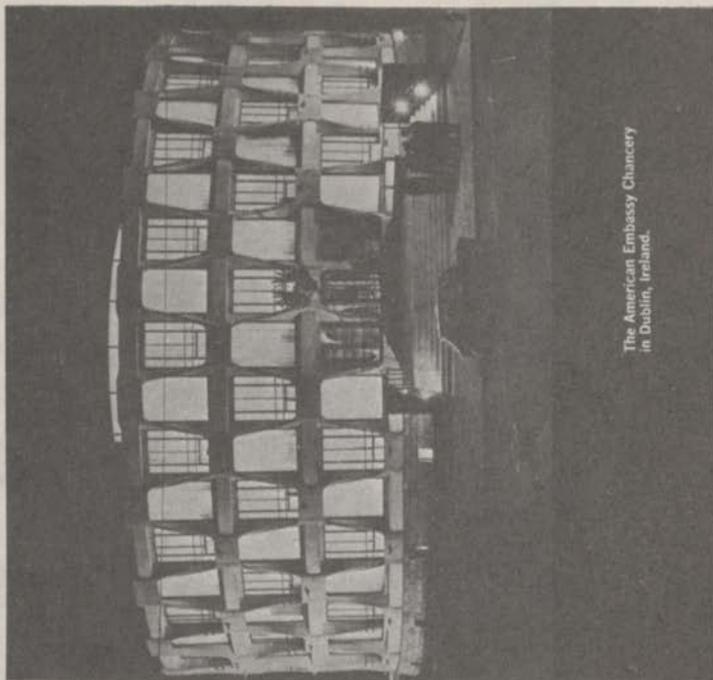


The 106th Class of Junior Foreign Service officers is sworn in on March 30, 1973, in the Thomas Jefferson Room of the Department of State.

abroad requested by applicants. Candidates should specify their choice of examination site on the tear-out form in this booklet.\*

2. An oral examination for those candidates who have passed the written examination. Panels will conduct these examinations in Washington and also in as many other cities of the United States as budgetary considerations permit. If a candidate is not orally examined within 9 months after the written examination, the candidacy will automatically terminate. However, a reasonable extension may be granted by the Board of Examiners if the candidate is continuously outside the United States for reasons acceptable to the Board during the entire 9-month period.

\* No other examination, such as the Graduate Record Examination (GRE) or the Federal Service Entrance Examination (FSEE), can be substituted for the Foreign Service written examination nor can the examination requirement be waived. The examination is given only once a year. "Make up" examinations cannot be authorized for those who are unable to appear on the specified examination date, except that certain arrangements may be made for candidates whose religious beliefs preclude taking an examination on Saturday. Anyone in this situation should correspond directly with the Board of Examiners.



The American Embassy Chancery  
in Dublin, Ireland.

specialization in fields such as medicine, science, or electronics.

There are four basic areas of specialization (often called "cones" or "tracks") for FSOs: administrative, consular, economic/commercial, and political. FSO candidates must specify the functional field in which they wish to specialize when they apply for entry into the Service and once appointed will spend most of their time as junior and mid-career officers in that field. The functional approach is also followed for promotions, and during much of their career, officers are considered for advancement within their respective fields. Upon reaching senior level (Foreign Service officer Class 2 and Class 1), officers compete for further advancement with all others at their particular rank, without regard to specialty. Regardless of specialization, officers should be knowledgeable about American history, government, and culture; be well informed regarding foreign and domestic affairs; and be able to speak and write effectively. In all functions officers should be interested in people and have the ability to move easily in business, government, and professional circles. The principal duties in each functional specialty follow.

#### ADMINISTRATION:

Under the general guidance of the Ambassador and the Deputy Chief of Mission or Principal Officer, administrative officers are responsible for the management and ad-

ministrative category. Establishing eligibility is not a guarantee of employment. Appointments depend on the personnel needs and the budgetary limits of the Foreign Service.

Any candidate not appointed within 30 months after the date of the written examination will be dropped from the register. However, time spent in civilian government service abroad (to a maximum of 2 years), in required active military service, or alternative service, after completing the fifth stage of the selection process will not be counted in the 30-month period.

## Career Responsibilities in the Dept. of State

The Department of State is responsible for conducting relations with foreign powers and international organizations; for protecting and advancing political, economic/commercial, and other interests of the United States overseas; and for rendering a variety of services to individual Americans abroad and to foreign nationals traveling to the United States. Much of this work is carried out by Foreign Service officers (FSOs) who, when abroad, serve as diplomatic and consular officers and who, when in Washington, fill most of the more responsible positions in the Department, aside from those requiring a high degree of technical or professional

3. **A medical examination** for each candidate who passes the oral examination and for any dependents who will accompany the candidate abroad if appointed. General medical requirements for appointment are described on page 14 of this announcement.

4. **A background investigation** of each candidate who passes the oral examination.

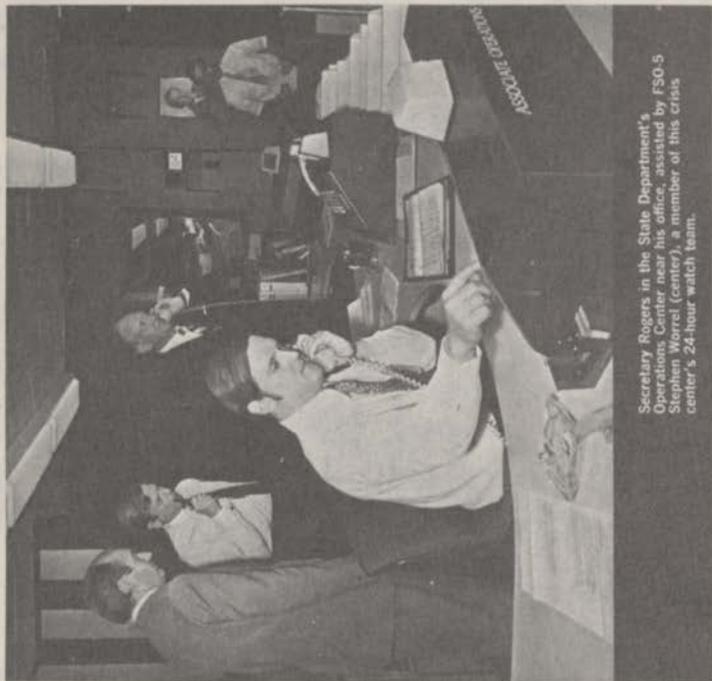
5. **A final evaluation** of all available information concerning the qualifications of the candidate in relation to those of other candidates competing in the same functional specialty.

At that time a final decision is made whether to place the candidate's name on the pertinent rank-order register.

## Appointment

When a candidate establishes eligibility status through successful completion of the entire examination and selection process, the name is placed on the appropriate register maintained by the Board of Examiners for USA candidates and for each of the functional specialization categories of the Department of State—administrative, consular, economic/commercial, or political. Each candidate will be considered for appointment in the order of his or her standing on the register maintained for the relevant function-

ministration of diplomatic and consular posts abroad. The administrative officer is the highest ranking officer at a post abroad who is exclusively concerned with management functions. Five broad categories of work are embraced under the general heading of "administration." **Budget and Fiscal** involves preparing the post's budget and financial plans, allocating funds and controlling expenditures, and negotiating reimbursement agreements with other U.S. Government agencies, who, in addition to the Department of State, rely on the Embassy administrative unit for administrative support of their program activities. **General Services** includes office management, supply, procurement, negotiating leases and contracts and real estate management, negotiating agreements with host governments covering importation of official supplies and employees' personal effects, travel, transportation and shipping, maintenance of government property, motor pool operations, and arrangements for meetings and conferences. The general services officer oversees the spending of the largest portion of the administrative budget. **Personnel** includes recruiting, selecting and placing local nationals the post employs, determining their wage scales and fringe benefits, classifying their positions and a range of employee benefits and services programs for both American and local national employees. **Communications and Records and Security** functions are performed by technical specialists, spe-



Secretary Rogers in the State Department's Operations Center near his office, assisted by FS0-5 Stephen Worrel (center), a member of this crisis center's 24-hour watch team.

cially employed for such work under the general supervision of the post's administrative officer. Administrative responsibilities for mid-career and senior officers involve program analysis and resource allocation and often include supervising multimillion dollar programs; managing hundreds of government-owned or leased houses and apartments, as well as substantial office buildings; and for personnel services for a thousand or more employees. Officers in the administrative function usually have a good deal of supervisory responsibility overseeing virtually from the beginning of their Foreign Service career, the work of relatively large staffs of local nationals.

Those possessing graduate degrees in business and public administration will find that the Department has an evergrowing need for officers familiar with modern management tools (including but not limited to accounting, finance, data processing, systems analysis, operations research, and the behavioral sciences) who can integrate these tools, their staffs, and Department resources into an efficient and effective administrative mechanism. In the Department and at some of our larger posts abroad a significant shift toward automation is underway, involving computerized data and information systems. In addition to these abilities, one should also be familiar with American history, government, and culture and with foreign and domestic affairs.

#### CONSULAR:

Consular work comprises services provided to Americans and foreigners abroad. Services performed on behalf of Americans are quite varied. The largest single activity comes under the heading of **Protection and Welfare**. This includes helping Americans involved in serious accidents or emergencies; visiting detained Americans in jail and giving them advice and assistance; locating lost relatives; and, where practicable, helping destitute Americans return to the United States. A second category of services to Americans falls under the heading of **Federal Benefits**. This entails such things as obtaining authorization for treatment and hospitalization of veterans abroad; distributing treasury checks; and performing investigative and other services on behalf of the Social Security Administration (this applies also to foreign beneficiaries). A third category of services to Americans is what is generally known as **Passport and Citizenship work**. This involves determinations based on applicable laws and court decisions of a person's eligibility to be documented as an American citizen. The documentation itself might be accomplished through the issuance of a passport, report of birth or death of an American citizen, or a certificate of registration as an American citizen. Finally consular officers are empowered to perform notarial services and

to exercise other procedural functions in connection with such matters as taking testimony abroad for use in courts in the United States.

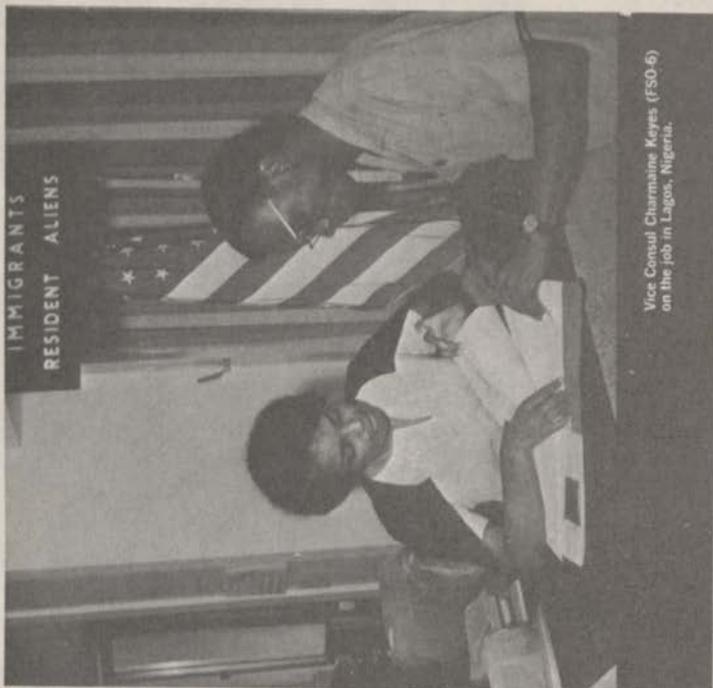
Services to foreigners are primarily in the field of Visas. A visa is a document representing a preliminary finding that an alien is entitled to enter the United States either as a visitor or as an immigrant. The finding, of course, could result in either the issuance or refusal of the visa. Visa work requires an intimate knowledge of the Immigration and Nationality Act and the voluminous applicable regulations. The law and regulations are quite complex, especially as they pertain to immigration visas. Visa work also requires that consular officers display skill and tact in dealing with foreigners. Junior officers, in particular, should be prepared to spend long hours interviewing large numbers of applicants, often for only a few minutes each, while maintaining an equitable disposition throughout the day.

Consular services are performed both at Embassies in the national capitals and at Consulates and Consulates General in important provincial cities. Some non-consular functions (i.e., political, economic, administrative) are also performed at Consular posts, usually, but not always, by non-consular officers. Opportunities for assignment to Consulates and Consulates General, as distinct from Embassies, are greater for consular of-

ficers than for others in other functional specializations.

Consular officers should be service oriented, and should enjoy dealing with people and performing "case work." Both in respect to specific cases and to general situations affecting consular matters, officers may often need to communicate and meet with host country officials at the national and local levels. They should also be prepared to assume supervisory and, eventually, managerial responsibilities. At the junior level, they often supervise several clerks and at mid-career can look forward to managing relatively large sections processing tens of thousands of consular services a year. As they reach the senior levels, they can expect to be given broad management functions across the spectrum of Foreign Service activities.

While consular officers are primarily concerned with providing services to the public, they are often called upon to perform other functions, including those involving official and social contacts with host country officials, businessmen, students and civic groups. Therefore, they should be well informed about American history, government, and culture and about current domestic affairs and foreign policy issues in order to serve as articulate and knowledgeable spokesmen for the United States.



Vice Consul Charmaine Keyes (FSO-6) on the job in Lagos, Nigeria.

#### ECONOMIC/COMMERCIAL:

Economic and commercial officers analyze and forecast business, trade, and other economic developments. They observe and report on changes in government policies, legislation, and public attitudes in foreign countries in order to inform and advise the U.S. Government and American businessmen. They negotiate with representatives of foreign governments and international organizations in order to protect and advance U.S. economic and commercial interests and U.S. trade and investment.

Officers do both economic and commercial work throughout their careers, although specific job assignments may involve varying proportions of analysis and advice intended for the government or for American business. Thus economic officers concentrate on understanding financial and economic developments and policy; and regulatory actions likely to affect U.S. interests. Officers doing commercial work are more concerned with developments in markets to which U.S. businessmen sell their products, and changes in laws, regulations, or circumstances affecting the competitive position of American business. They keep abreast of trade and marketing arrangements and the people involved in them, and of trade and investment opportunities in order to serve American businessmen.

In developing countries economic officers also take part in policy decisions regarding economic assistance and may be called upon to recommend cooperative measures to improve economic conditions and economic growth. At smaller posts officers do both economic and commercial work. In larger posts they specialize, but most assignments involve both aspects of their work. Officers are expected to understand and be able to explain U.S. policies and to relate commercial and economic developments to policy development and to U.S. interests. Although there are no formal educational requirements, the most successful candidates have acquired capabilities in economic and commercial analysis (such as stem from university programs in economics and business or from prior professional experience), since work assignments can at times require application of advanced analytic techniques.

Officers can expect to serve a large part of their careers in Washington in the Departments of State and Commerce. While in these assignments, they will help formulate U.S. policies; prepare instructions for Embassies and U.S. delegations to international negotiations; and facilitate the dissemination of economic and commercial information and advice about foreign countries to the American business community.

Economic and commercial officers must be objective, have the ability to separate the

significant from the insignificant, and possess an analytical frame of mind. Other essential attributes are a broad general knowledge in order to better understand other viewpoints and cultures; patience and a capability for waiting to achieve long-sought results; and an ability to communicate one's views logically, lucidly, and concisely, both orally and in writing.

#### POLITICAL:

The work of political officers, more than that of other FSOs, corresponds to the duties traditionally associated with diplomats. They are responsible when overseas for keeping our government informed of political and related developments which affect this country; for conveying the views of our government to the host government on subjects of concern to us; and for negotiating agreements between the two governments should circumstances so require.

To carry out their responsibilities abroad, political officers must maintain close contact with foreign officials, political and labor leaders and other influential personalities; represent clearly and consistently the position of our government; interpret and report accurately on local developments and on reactions to American policy; and forecast changes in local attitudes or leadership and assess their effect on American interests. In Washington political officers analyze the information received from abroad and assess



FSIO's Betsy Fitzgerald (Assistant Cultural Affairs Officer), Al Ball (Director, Osaka-American Cultural Center) and Sandy Rosenblum (Labor Exchanges Officer) help conduct a conference in Osaka on U.S.-Japanese Economic and Trade Problems. They are flanked on the left by Mr. Tanaka, President of the Osaka Textile Workers Union and, on the right, by Mr. Horii, former President of SOHYO, Japan's largest labor federation.

its likely impact on the United States; prepare background material for senior officials of the Department and the White House to keep them fully apprised of developments abroad; recommend and develop changes in American policy whenever necessary; and coordinate the execution abroad of policies determined in Washington.

Political officers must be objective, have the ability to separate the significant from the insignificant, and possess an analytical mind. Other essential attributes are a broad background knowledge to better understand other viewpoints and cultures; perseverance to achieve long-sought results; and an ability to communicate one's views lucidly and concisely, both orally and in writing.

## Career Responsibilities in the United States Information Agency

The Agency is responsible for advancing the interests of the United States abroad by providing information about significant events in this country and about our foreign and domestic policies; for sponsoring films, lectures, exhibitions, etc., which will increase foreign understanding of and respect for our culture and institutions; and for countering

## Written Examination

The written examination consists of the following tests given during one day, starting at 8:30 a.m.:

### 1. ENGLISH EXPRESSION

This tests ability to recognize and use correct, effective, and well-organized written English. This test lasts 45 minutes.

### 2. GENERAL BACKGROUND

This tests understanding of the ideas and concepts basic to the development of the United States as well as of other countries. It examines the individual's general education and is designed to assess his or her knowledge and understanding of the United States and of the world. There will be questions on a broad range of the social sciences, natural sciences, humanities, and fine arts. This test lasts 1 hour.

### 3. FUNCTIONAL FIELD OF SPECIALIZATION

This part of the examination is new. It is designed to test professional and technical knowledge and competence in the functional field of specialization you chose. Individual tests in the administrative, consular, economic/commercial, political and information/cul-

English teaching programs, and youth activities, all of which are intended to increase understanding abroad of our culture and institutions. They also maintain extensive contacts with universities and leaders in cultural-intellectual activities. Besides serving in capital cities, Foreign Service Information officers serve in branch posts in other cities where, in addition to conducting informational and cultural programs complementing those of the mission, they often are responsible for overseeing relatively large programs for teaching English.

FSIOs have a wide variety of personalities, educational and work backgrounds. Some come into the Agency with strong media experience, while others learn these skills in the Agency. Others are skilled in the field of personal communication and in carrying out cultural and informational programs in a foreign environment. As a generalization, a USA officer should be genuinely interested in learning the languages and cultural values of other people; like working with people; be politically and culturally sensitive to his or her environment; and be action oriented. All officers should have an excellent knowledge of the United States, its history, its institutions, and its culture, as well as of foreign and domestic affairs. Knowledge is essential for anyone who is to be an effective and articulate spokesman for the United States abroad.

misinformation about the United States and its actions. It also advises the President, the Department of State, and our Ambassadors abroad on the implications of foreign public opinion for American policies.

The work of the Agency is traditionally divided into two main areas: cultural programs and information programs, both comprehended in the term "public affairs." There is considerable flexibility in assignments between the two programs, and many assignments cover both. Promotions within USA are based upon competition across the board within each class, not within functional fields.

FSIOs serve overseas at all American diplomatic missions where they perform a variety of informational and cultural functions. Each mission has a United States Information Agency unit directed by a Public Affairs officer (the senior FSIO) who supervises Information and Cultural Affairs officers. Information officers concern themselves with the "fast" media—press, periodicals, radio, television, and motion pictures. They maintain personal contact with local media representatives to provide information about the United States and to help distribute material produced both in Washington and overseas, such as press releases, background articles, etc. Cultural Affairs officers arrange and oversee educational and cultural exchanges, book translations, libraries, exhibits, lectures,



FSO Mary Roberts Jones (left) meets with Mrs. Hanna Tschy, a native and resident of the Republic of Argentina, during a meeting at the USA Foreign Press Center in Washington, D.C.

tural areas will be administered. Each candidate must be tested in one of the options listed, corresponding to the specialization for which application for appointment is being made. Each candidate is tested in only one functional specialty. The tests each last 1 hour.

#### 4. WRITTEN ESSAY

Each candidate will be required to write a 45-minute essay on one of three essay questions provided. The essays will not affect the written score. However, essays prepared by candidates who pass the written examination will be subsequently reviewed by the Board of Examiners for effectiveness of expression and taken into consideration by the oral examining panel.

Sample questions typical of those asked in the first two parts of the test are to be found on pages 15-21. A general description of the functional examination begins on page 22.

Throughout the examination and selection process described above, candidates are competed and evaluated against their peers applying for the same functional field of specialization. While two-thirds of the examination will be common to all candidates, scoring will be based on performance relative to candidates within each functional field.

Moreover, the specialized portions of the examination are different for each field. Thus it is important to consider carefully which functional field of specialization you desire before applying. This choice should be made on the basis of your experience and training, and your wishes for career responsibilities. Candidates who attempt to gamble their choice on presumed appointment prospects are typically unsuccessful, whereas those who carefully analyze their strengths, abilities, and interests are more likely both to choose a compatible career field and to be successful in the successive examination and selection steps.

## Educational Preparation

There are no specific educational requirements for appointment to the Foreign Service. However, the written and oral examinations are difficult, and a broad general knowledge is needed to pass them. Moreover, to be an effective representative of the United States abroad, an officer must possess a sound knowledge of the history, government, and culture of the American people; be familiar with foreign and domestic affairs; and be informed regarding current events. The ability to write and speak effectively is also essential, as a large part of

the work of the Service involves communications: explaining American positions on a wide range of issues to all manner of people abroad; reporting to Washington about foreign developments; and preparing policy or program papers, as well as correspondence of all kinds.

Regardless of the field in which they wish to specialize, candidates should have a broad background in other foreign affairs areas, as well as detailed knowledge in their own field. The best preparation for a Foreign Service career is a good general education, combined with specialization in a chosen field of service. Such an education may, with application, be obtained at any good school and might well include courses in history, government, literature, economics, and a foreign language, as well as more advanced courses in economics, international relations, journalism, or business administration/management, depending on one's intended career specialization. These courses should be supplemented by selective reading of books, newspapers, and magazines concerned with current events and foreign affairs. No official reading list is published as an aid in preparation for the written and oral examinations.

Neither the Department of State nor USIA recommends any university, college, or professional school as providing the type of courses most suitable for service abroad.

Present-day FSOs and FSOs have, among them, attended hundreds of different schools, in every part of the United States. While language, area, and other training are provided at government expense at the State Department's Foreign Service Institute after appointment, no training, financial aid, or scholarships of any kind are provided beforehand for students and others wishing to prepare themselves for careers in the Foreign Service. Foreign Service Institute courses are available only to persons already employed by the government.

## Language Requirement

Knowledge of a foreign language is not a requirement for appointment to the Foreign Service. After appointment, however, officers are expected to acquire an acceptable level of proficiency in at least one foreign language, and junior officers are limited to no more than one promotion until they do so. New officers are given language tests after they enter on duty. Those who pass a speaking and reading test in one of 30 or more foreign languages end their language probation and may in some instances become eligible to receive a higher salary in their officer class. Full-time language training is provided at government expense as necessary.

## Medical Requirements

Any defect or disease which prevents a candidate from following a useful vocation in the United States would be a cause for rejection. Largely because of unfavorable conditions at many posts, certain disorders which do not seriously interfere with activities in the United States may be disqualifying for the Foreign Service. In general, any impairment which causes marked disfigurement, requires special diet, frequent observation or prolonged treatment, or which prevents assignment to remote and unhealthy places, threatens the function of a vital organ or may result in premature retirement is disqualifying. For instance, a disorder of the eye which is a potential danger to continuity of vision, regardless of the degree of visual acuity, is disqualifying, although color blindness is not. Further examples of disqualifying conditions include diabetes, chronic colitis, recurrent allergic disorders, chronic sinusitis, arthritis, obesity, certain tumors, marked speech defects, and damaging habits and weaknesses. An information sheet listing specific physical standards for appointment is available and should be requested by any prospective candidate who has any reason to believe that he or she and/or accompanying dependents might not be able to meet the relatively strict medical requirements.

## Additional Information About the Foreign Service

Candidates wishing additional information regarding the Foreign Service may find helpful one or more of the books listed below.

The first publication gives a brief introduction to the work of the Foreign Service and the professional responsibilities it entails. The second publication is a series of internal task force recommendations for a program of management reform for the Department of State. The next four books are concerned primarily with the Department of State Foreign Service, the following two with USA, and the last with both organizations.

*Foreign Service of the Seventies*; Department of State Publication 8535, Department and Foreign Service Series 142. (U.S. Government Printing Office, Washington, D.C., 1970.)

*Diplomacy for the 70's*; Department of State Publication 8551, Department and Foreign Service Series 143. (U.S. Government Printing Office, Washington, D.C., 1970.)

**BARNES, William** and **HEATH-MORGAN, John**. *The Foreign Service of the United States: Origins, Development and Functions*; Office of Public Affairs, Department of State, 1961. (No longer in print, but available in many libraries.)

**BLANCKE, W. Wendell**. *The Foreign Service of the United States*, (New York, Praeger, 1969)

**LEACOCOS, John**. *Fires in the In-Basket*, (New York, World, 1968)

**HARR, John E.** *The Professional Diplomat*, (Princeton, Princeton University Press, 1969)

**FRANKEL, Charles**. *The Neglected Aspect of Foreign Affairs: American Educational and Cultural Policy Abroad*, (Washington, D.C., The Brookings Institution, 1966)

**HENDERSON, John W.** *The United States Information Agency*, (New York, Praeger, 1969)

**BRASTED, Paul J. Ed.**, *Cultural Affairs and Foreign Policy*. American Assembly, (Washington, Columbia Books, rev. ed., 1968)

## Sample Questions

The following are typical of the questions asked on the written examination.

## English Expression

45 minutes—80 questions

The test of English expression is designed to measure the ability of a candidate to express himself clearly and effectively in standard written English. The test contains three sets of multiple-choice questions. The first kind of multiple-choice question asks the candidate to select from the underlined words and phrases in a sentence the one part, if any, that should be revised in order to make the entire sentence correct. The second requires the candidate to select from among five versions of a particular part of a sentence the one version that expresses the idea of the sentence most clearly, effectively, and accurately. For the third kind of question, the candidate must revise a sentence according to the directions provided for that sentence and choose the word or phrase that will appear in the best revision.

Samples of the various kinds of questions used to test writing ability follow.

## ENGLISH EXPRESSION

## Sample Test

(6 questions)

## SECTION I

Directions: The following sentences contain problems in grammar, usage, diction (choice of words), and idiom.

Some sentences are correct.

No sentence contains more than one error.

You will find that the error, if there is one, is underlined and lettered. Assume that all other elements of the sentence are correct and cannot be changed. In choosing answers, follow the requirements of standard written English. If there is an error, select the one underlined part that must be changed in order to make the sentence correct. If there is no error, mark answer space E.

1. Observation of the oceans of the earth and the so-called seas of the moon indicate that they are similar enough to warrant investigation of the possibility of comparable origins.

A B C D No error E

2. The appearance of the beggar was in one respect similar to the elegant gentleman, for the beggar, too, walked with dignity.

A B C D No error E

## SECTION II

Directions: In each of the following sentences some part of the sentence or the entire sentence is underlined. The underlined part presents a problem in the appropriate use of language. Beneath each sentence you will find five ways of writing the underlined part. The first of these repeats the original, but the other four are all different. If you think the original sentence is better than any of the suggested changes, you should choose answer A; otherwise, you should mark one of the other choices. Select the best answer and blacken the corresponding space on the answer sheet.

This is a test of correctness and effectiveness of expression. In choosing answers, follow the requirements of standard written English; that is, pay attention to acceptable usage in grammar, diction (choice of words), sentence construction, and punctuation. Choose the answer that produces the most effective sentence—clear and exact, without awkwardness or ambiguity. Do not make a choice that changes the meaning of the original sentence.

**EXAMPLES:**

I. Sentence: Coming to the city as a young man, he found a job as a newspaper reporter.  
 Directions: Substitute He came for Coming.  
 (A) and so he found  
 (B) and found  
 (C) and there he had found  
 (D) and then finding  
 (E) and had found

Your rephrased sentence will probably read: "He came to the city as a young man and found a job as a newspaper reporter." This sentence contains the correct answer: (B) and found. A sentence which used one of the alternate phrases would change the meaning or intention of the original sentence, would be a poorly written sentence, or would be less effective than another possible revision.

II. Sentence: Owing to her wealth, Sarah had many suitors.  
 Directions: Begin with Many men courted.  
 (A) so  
 (B) while  
 (C) although  
 (D) because  
 (E) and

Your rephrased sentence will probably read: "Many men courted Sarah because she was wealthy." This new sentence contains only choice D, which is the correct answer. None of the other choices will fit into an effective, correct sentence that retains the original meaning.

3. Desiring to insure the continuity of their knowledge, magical lore is transmitted by the chiefs to their descendants.  
 (A) magical lore is transmitted by the chiefs  
 (B) transmission of magical lore is made by the chiefs  
 (C) the chiefs' magical lore is transmitted  
 (D) the chiefs transmit magical lore  
 (E) the chiefs make transmission of magical lore
4. As Malcolm walks quickly and confident into the pursar's office, the rest of the crew wondered whether he would be charged with the theft.  
 (A) As Malcolm walks quickly and confident  
 (B) As Malcolm was walking quick and confident  
 (C) As Malcolm walked quickly and confident  
 (D) As Malcolm walked quickly and confidently  
 (E) As Malcolm walks quickly and confidently

## SECTION III

Directions: Revise each of the following sentences according to the directions which follow it. Rephrase the sentence mentally to save time, making notes in your test book if you wish. Although the directions may at times require you to change the relationship between parts of the sentence or to make slight changes in other ways, make only those changes that the directions require.

Below each sentence and its directions are listed words or phrases that may occur in your revised sentence. When you have thought out a good sentence, look in the choices A through E for the word or entire phrase that is included in your revised sentence and block in the corresponding space on the answer sheet.

Of course, a number of different sentences can be obtained if the sentence is revised according to directions, and not all of these possibilities can be included in only five choices. If you think of a sentence that contains none of the words listed in the choices, rephrase the sentence again to include a word or phrase that is listed.

5. The large business which first recognized the need to develop low-cost housing in that city of two million and then proceeded to secure financial backing necessary to build such housing was an insurance company.

Begin with An insurance company.

- (A) to recognize
- (B) recognizing first
- (C) had recognized first
- (D) first for recognizing
- (E) having been recognized

6. That the speaker frequently and angrily alludes to the prejudice he has seen white men show to him and his fellow black men proves how great a part such injustices have played in shaping his militancy.

Begin with The speaker's.

- (A) serves as proof of
- (B) proves how
- (C) have proved
- (D) are to prove
- (E) prove

### General Background

1 hour—120 questions

This test is designed to measure a candidate's breadth of understanding of the institutions and concepts that are basic in the development of the United States and of other countries and regions. He should be familiar with forms of government, with political practices, especially those of the United States, and with major economic concepts and practices. He should be aware of social patterns in the United States and elsewhere in the world. He should know something of geography, particularly that of the United States, and of international problems. He should have some understanding of the literary, artistic, and philosophical heritage of the United States and an appreciation of the heritage of other peoples. He should be aware of current trends and developments in the arts and in philosophy. He should understand basic scientific principles, their significance in modern life, and the interrelationships of the various sciences.

A candidate is not expected to prepare himself for this test by any set program of college courses. A good general education, however obtained, should constitute adequate preparation. Also, although few candidates can be expected to show a high degree of proficiency in all of these areas of understanding, to be successful a candidate should demonstrate a familiarity with most of them and show a basic understanding of the institutions and concepts involved in these areas, particularly those pertaining to the United States. A large number of the questions in the General Background Test are concerned with the United States.

Following are samples of various kinds of questions used in the General Background Test.

### GENERAL BACKGROUND

Sample Test  
(16 questions)

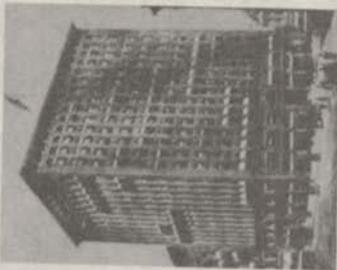
Directions: Each of the questions or incomplete statements below is followed by five suggested answers or completions. Select the one which is best in each case.

1. Which of the following has contributed most to the increase in real wages in the United States since 1900?
  - (A) Rising prices
  - (B) Increasing productivity
  - (C) Increasing strength of labor unions
  - (D) Increasing use of the corporate form of business organization
  - (E) Increasing legislation favorable to labor
  
2. During the 1930's, an important reason for friction between the United States and Mexico was Mexico's
  - (A) alignment with Germany
  - (B) support for neutralism
  - (C) expropriation of foreign mineral concessions
  - (D) trade expansion in South America
  - (E) opposition to reciprocal trade agreements



3. Which of the following statements is typically associated with Hobbes?
- (A) Men require government for civil peace.
  - (B) Government should be limited by certain constitutional safeguards.
  - (C) The best protection for individual liberty is freedom of private associations.
  - (D) Government is a trust that may be revoked by the governed whenever those who govern violate it.
  - (E) Political conflict results from competition among economic forces in society.
4. What was thy pity's recompense?  
A silent suffering, and intense;  
The rock, the vulture, and the chain,  
All that the proud can feel of pain.  
These lines allude to the fate of
- (A) Lucco
  - (B) Cassandra
  - (C) Tantalus
  - (D) Prometheus
  - (E) Atlas
5. Political boundaries in Africa at the mid-twentieth century were determined primarily by
- (A) geographic realities
  - (B) economic factors
  - (C) tribal organization
  - (D) nineteenth-century European power politics
  - (E) nationalist sentiments
6. The artist most closely associated with works such as the one following is:
- (A) Picasso
  - (B) Calder
  - (C) Braque
  - (D) Dali
  - (E) Brancusi

7. The number of voters participating in the 1920 United States presidential election increased relatively more than the total population increased from 1916-1920 primarily because
- the increase in the urban population made it relatively easy for a larger percent to vote
  - improvements in educational methods increased popular interests in politics
  - the Nineteenth Amendment was ratified in 1920
  - voters turned out in large numbers to vote against the League of Nations
  - Harding waged a vigorous campaign for the presidency
8. The structural system used in this building is
- load-bearing masonry
  - prestressed concrete
  - cast-iron panels
  - steel frame
  - thin-shell concrete



9. "He sees the drama in functional terms as a social instrument to help organize and motivate black communities. He wants the black theater not only to be entertaining and artful, but also to reflect, interpret, teach, chronicle, take part in, and, in a sense, lead a black revolution."

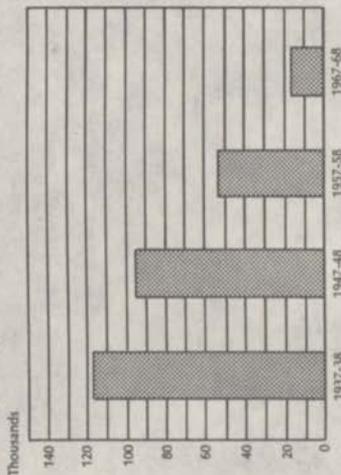
The dramatist described above is

- Marc Connelly
- LeRoi Jones (Imuri Baraka)
- Edward Albee
- Arthur Miller
- Tennessee Williams

10. Which of the following best characterizes the situation of the European powers during the 10 years before the First World War?
- Relations were fluid, with few indications of final alignments.
  - Major alignments were maintained without change as crises decreased in number and intensity.
  - The status quo was maintained in a period of relative calm.
  - The absence of serious clashes facilitated the formulation of new alignments.
  - Major alignments were completed while crises accelerated.
11. Which of the following has had the greatest effect on the rate of population change in the less developed of the developing nations?
- Increases in the average age at marriage
  - Modern medicine and pesticides
  - Rises in the net reproduction rate
  - Improvements in birth-control techniques
  - Sterilization and abortion programs
12. Which of the following is the best criterion for objectively determining an individual's social class in the United States?
- Income
  - Ancestry
  - Religious belief
  - Political belief
  - Interests

13. The figures in the graph below pertain to the United States. They are figures for the number of

(A) cities  
(B) counties  
(C) towns  
(D) school districts  
(E) townships



15. Which of the following is the most important argument for laws straghtly controlling the use of DDT?
- (A) It is responsible for the near extinction of the whooping crane.  
(B) Its use has resulted in the extermination of some insect species.  
(C) It becomes concentrated in certain body tissues of organisms high in food chains.  
(D) It has resulted in the starvation of the songbirds that commonly winter in the northern states.  
(E) Chemically it has a long half-life.

16. "Cities often grow up in locations near bulky raw materials, if power and markets are fairly accessible."

The factors above influenced the development of all of the following cities EXCEPT

(A) Birmingham, Alabama  
(B) Wilmington, Delaware  
(C) Duluth, Minnesota  
(D) Des Moines, Iowa  
(E) Oklahoma City, Oklahoma

SAMPLE FOREIGN SERVICE EXAMINATION—KEY

| ENGLISH EXPRESSION | GENERAL BACKGROUND |      |       |
|--------------------|--------------------|------|-------|
| 1. A               | 4. D               | 1. B | 9. B  |
| 2. B               | 5. A               | 2. C | 10. E |
| 3. D               | 6. E               | 3. A | 11. B |
|                    |                    | 4. D | 12. A |
|                    |                    | 5. D | 13. D |
|                    |                    | 6. B | 14. B |
|                    |                    | 7. C | 15. C |
|                    |                    | 8. D | 16. B |

14. A musical program devoted solely to major compositions by Mahler, Beethoven, and Shostakovich would most likely be

(A) a piano recital  
(B) a symphony orchestra concert  
(C) a string quartet recital  
(D) an organ recital  
(E) a song recital

## Functional Field Tests

All applicants will be required to take a sixty-minute, multiple-choice examination in the functional field for which they are applying—Administrative, Consular, Economic/Commercial, Political, or Information/Cultural Affairs. Brief, summary descriptions of those tests, of which the applicant takes one, follow.

### Administrative Test

The Administrative test is designed for applicants who are interested in working in the administrative career field in the Foreign Service. It is expected that applicants choosing to take this examination probably have some background in public administration or business administration, either through education at the undergraduate or graduate level, or practical professional experience.

The applicant must demonstrate mastery of administrative concepts and procedures in the areas related to budget and fiscal operations, personnel management, contracting, procurement and supply, property management, and general supervisory responsibilities. Wherever possible, case study and problem-solving formats will be used to test, additionally, the applicant's ability to apply knowledge of administrative procedures or theory to the analysis and evaluation of specific situations. For example, one question based on a case study (provided in the form of a reading passage) might test the applicant's ability to identify cross-cultural influences that are likely to affect the impact of administrative decisions, whereas another might require the applicant to identify a course of action for implementing a decision that would be most congruent with the tenets of behavioral theory as they apply to administration. Some questions will test the applicant's ability to formulate and evaluate alternative solutions to problems and the consequences of each alternative.

Knowledge of data processing, operations analysis, accounting practices, and other tools of quantitative analysis and measurement will be required to answer some questions correctly. General, as opposed to technical, knowledge in these areas will normally be sufficient to answer questions of this type.

The test will be 60 minutes long and contain approximately 80 multiple-choice questions.

### Consular Test

This examination is designed to measure the applicant's aptitude and ability to handle the wide range of responsibilities of consular officers in the Foreign Service. A consular officer must be able to interpret and apply laws and regulations, and to solve large numbers of individual problems with tact, imagination, and decisiveness.

Some of the questions in this examination will be on aspects of American government and history pertinent to consular work, but most of the examination will be devoted to sets of questions based on brief descriptions of actual problems confronted by consular officers in the field. An example would be a situation describing a case where an American is charged with a serious violation of law in a foreign jurisdiction. He then appeals to the consular officer for help. A series of questions will then be posed on various aspects of the case. The questions will be written to probe for the ability, resourcefulness, and tact required to arrive at fair and practical solutions to both routine consular problems and complex situations. The test will be 60 minutes long and contain approximately 80 questions.

### Economic/Commercial Test

This examination is designed for applicants who hope to follow careers as economic or commercial officers in the Foreign Service. Since officers perform both economic and commercial functions.

This process has four measurable facets: 1) knowledge, i.e., recognition of a particular political problem within an intricate matrix of political events; 2) analysis, i.e., understanding of its causes and nature; 3) reasoning and evaluation, i.e., objective formulation of alternative solutions of the problem and the separate evaluation of the specific and general consequences of the adoption of each; and 4) communication, i.e., presentation of the problem and alternative solutions in the most appropriate, direct and lucid manner possible.

The test will be 60 minutes long and contain approximately 100 multiple-choice questions.

### Information/Cultural Test

This examination is intended to measure the applicant's capability to perform a wide variety of informational and cultural functions in a foreign environment.

The test is broadly based. Part of the examination is intended to measure the applicant's general knowledge of the United States: its history, culture, institutions, and social problems. International relations and cross-cultural communications will also be examined. Some questions will deal with the "fast" media (the press, radio, and television) and periodicals. Some questions will be factual, while others will require the thoughtful application of basic knowledge to hypothetical situations.

The best preparation for the test is a good general education and a habit of alert observation, coupled with some training or experience in the media, education, or cultural and public affairs.

The test will be 60 minutes long and contain approximately 100 multiple-choice questions.

the test will cover both aspects of this work. The applicant will be asked to demonstrate basic knowledge of economic theory, analysis and policy. For example, there will be questions dealing with price and wage theory, national-income accounts and analysis, money and banking, and monetary and fiscal policy. The test will place considerable emphasis on international economics, including international trade, international finance, commercial policy, and international institutions. Some questions will touch upon economic growth and development as they affect both developed and developing nations. There will be questions pertaining to domestic and international business.

The test will be 60 minutes long and contain approximately 100 multiple-choice questions. Although many questions will ask the applicant to demonstrate knowledge or understanding of facts, concepts, and tools of analysis, some questions will require the candidate to demonstrate the ability to apply such knowledge and understandings. There may be written passages and/or tables of economic or commercial data which the applicant must interpret or analyze.

### Political Test

This examination is designed to measure the extent to which an applicant who wishes to become a political affairs officer in the Foreign Service is: 1) knowledgeable about U.S. history, the development and present functioning of American governmental, administrative, and judicial institutions, and current domestic affairs; 2) capable of comparing U.S. political institutions and agencies with those of other countries; and 3) informed about international relations, organizations, and law.

Part of the test will attempt to measure the ability of an applicant to function in the specialized role of a political officer, i.e., the ability to think not only like a political scientist or a historian, but also like a diplomat/political analyst who has to deal with an immediate situation in the most objective, analytical way possible.



New Consular Affairs officers from the 105th Class of new Foreign Service officers who entered in January, 1973. Fifty new consular officers were appointed in the 12 months ending in June 1973.

date, an admission ticket will be sent to you. The exact location of the test center will be shown on the admission ticket. YOU MUST BRING THIS ADMISSION TICKET WITH YOU TO THE TEST CENTER.

To request a necessary change in your assigned test center, send a letter or telegram to ETS (Berkely), containing the name of the examination for which you are registered, the date, and place of examination. From overseas use cable address EDUCTESTSVC-BERK. Give your name and address exactly as you gave them on the Registration/Applicant Record Form submitted for the December 8, 1973; administration of the examination. Please note that Supervisors are instructed not to admit an applicant who presents a ticket for another center unless the candidate also has a letter or telegram from ETS. DO NOT RETURN YOUR TICKET OF ADMISSION.

#### Completing the Registration/Applicant Record Form

1. **NAME.** Print your last name, first name, and middle initial, one letter to a box. Do not use nicknames, titles, or religious titles, such as Sister. If your name contains an apostrophe, do not print this punctuation and do not leave a box blank where it would normally appear. Similarly, if a space appears in your name, do not leave a box blank. Use this form of your name in all correspondence with ETS and the Board of Examiners for the Foreign Service and do not later use Jack A. Smith.

2. **ADDRESS FOR YOUR ADMISSION TICKET AND SCORE REPORT.** Enter the address one letter or number to a box, at which you wish to receive your admission ticket and score report. Leave a box blank where a space appears in the address. Omit vowels if necessary to fit an address within the boxes. Always abbreviate such words as

#### Registering for the Examination

**PLEASE DO NOT REGISTER TO TAKE THE FOREIGN SERVICE OFFICER EXAMINATION UNLESS YOU MEET THE AGE AND CITIZENSHIP REQUIREMENTS STATED ELSEWHERE IN THE ANNOUNCEMENT—OTHERWISE THE TIME AND EFFORT YOU SPEND IN TAKING THE EXAMINATION WILL BE WASTED BECAUSE YOUR REGISTRATION/APPLICATION WILL BE CANCELLED IF YOU DO NOT MEET THE ELIGIBILITY REQUIREMENTS.**

To take the Foreign Service Officer Examination on December 8, 1973, you must register in advance by completing the enclosed application and mailing it to Educational Testing Service (ETS). IT IS TO YOUR ADVANTAGE TO REGISTER EARLY. If you register late, ETS may have to assign you to a center other than that which you requested or reject your registration.

For registrations received up to the closing date of October 31, 1973, ETS will register you for the center of your choice insofar as space and test books are available. Registrations received after the closing date will not be processed. It is the responsibility of the applicant to mail the completed form in time to reach ETS (Berkeley, California) before the closing date.

Before completing your Registration/Applicant Record Form, study it and the numbered instructions which correspond to item numbers on the application form. Follow these instructions carefully to avoid errors that may delay your registration at ETS. Use only black or blue ink when filling out the form. YOU ARE RESPONSIBLE FOR ENTERING ALL INFORMATION CORRECTLY. MISTAKES MAY RESULT IN YOUR BEING ASSIGNED TO A TEST CENTER OTHER THAN THE ONE YOU INTENDED TO REQUEST.

Do not submit more than one Registration/Applicant Record Form for the examination. Approximately 3 weeks prior to the test

- street, drive, and road, and the state in which you reside. (Use the official Postal Service abbreviations on page 35.) If your address is too long to abbreviate understandably, complete it in the blank area to the right of the boxes. Include ZIP code.
3. **PERMANENT ADDRESS.** This address should be that through which you could be contacted in the foreseeable future (for example, address of parents, guardians, friends, etc.) if you are living in a temporary domicile.
4. **DATE OF BIRTH.** Enter your date of birth numerically; i.e., January 9, 1941, should be indicated as 01 09 41 in the spaces provided.
5. **SEX.** Check the appropriate box.
6. **SOCIAL SECURITY NUMBER.** If you have a Social Security number, enter the numbers in the boxes. If you do not have a Social Security number, leave this space blank.
7. & 8. **LENGTH OF ACTIVE MILITARY SERVICE AND LENGTH OF FULL-TIME WORK EXPERIENCE.** Enter the number of months of active military service and/or full-time work experience in the appropriate boxes. If the total number is 9 or less, enter a zero before the number (i.e., 09). If the length of your active military service or length of your full-time work experience is more than 99 months, enter 99 in the boxes.
9. & 10. **TELEPHONE NUMBERS.** Enter the appropriate telephone number, including Area Code for each.
11. **STATE OF PERMANENT RESIDENCE.** List the state (use the official Postal Service abbreviations on page 35) where you feel you permanently reside.
12. **TEST CENTER.** Select the city in which you wish to take the examination from the Test Center Code list on pages 30-31. Print the center number, the name of the city and state in the space provided. Be careful to enter the correct code number of the test center you select; a mistake will result in your being assigned to a center you do not want. The exact location of the test center will be printed on the admission ticket sent to you.
- Applicants who wish to be examined abroad should write name of city and country where examination is requested. Do not enter a numerical code for foreign sites. The examination will normally be administered at any American diplomatic or consular post abroad at which an applicant may request to take it.
13. & 14. **UNDERGRADUATE MAJOR CODE AND GRADUATE MAJOR CODE.** Locate your undergraduate and/or graduate major in the list (page 35) and enter the proper code numbers in the space provided. If you have no major or your major is not listed, enter 190 for undergraduate and/or 290 for graduate (Other Major, or None, as indicated at the end of the list).
15. **CAREER FIELD.** Indicate only one choice. (See pages 5-11 for descriptions of the type of work in each functional specialty.) Please note that you can be examined and scores reported for only one functional specialty. If you change your Career Field choice after you have submitted your Registration/Applicant Record Form, you may indicate that change on your answer sheet at the test center at the beginning of the examination; do not write ETS to make this change.
16. & 17. **UNDERGRADUATE AND GRADUATE INSTITUTIONS.** Locate the name of your undergraduate institution on the College Code List on pages 32-34, enter the code number and write the name, city and state (or country) in the spaces provided. Do the

24. **SOURCE OF INFORMATION.** Select and check only one of the sources listed although you may have learned about the Foreign Service Officer Examination from several sources.

25. **AFFIRMATION.** You are to copy and write the quoted statement and sign your name as you would a check or any other legal document. Forms received without this portion completed will be returned as incomplete. **BE CERTAIN THAT YOU HAVE COMPLETED THIS ITEM BEFORE SEALING THE FORM FOR MAILING.**

#### Mailing

When you are certain that you have supplied all the information requested, mail the completed application to: Foreign Service Examination, Educational Testing Service, 1947 Center Street, Berkeley, CA 94704. (Pre-addressed envelope enclosed.) Apply postage: 8¢ First Class or 11¢ Air Mail. Do not send application to the Board of Examiners for the Foreign Service.

#### Use of Data Collected on the Registration/Applicant Record Form

All data collected on the Registration/Applicant Record Form in addition to that necessary for the preparation and issuing of admission tickets and attendance rosters will be used to help improve future tests and in research studies based on the results of the examination. None of your responses to these questions or items on the Registration/Applicant Record Form will be reflected in the scores reported for the individual candidate. Your cooperation in providing responses to all items will be greatly appreciated.

#### Admission to the Test Center

Before the test date, you will receive an admission ticket giving the reporting time and the address of the test center for which you are registered. Be sure to take the ticket to the center address shown

same for your graduate institution. You should indicate the institution which you are currently attending or your most recent institution for both undergraduate and graduate study.

If the name of the institution you are attending or attended is not listed, enter the appropriate code number indicated at the end of the list and write the name and location of the institution in the space provided.

18. **CURRENT STUDENT STATUS.** Check the box which indicates most closely your present status.

19. **EDUCATION.** Check the appropriate box for the highest level of education you have attained at the present time. Please check only one box.

20. **CURRENT OCCUPATIONAL STATUS.** Check the appropriate box regarding your present status. Be certain that you do not indicate "Full-time", "Student Status (Item 18)" and "Working Full-Time" Status.

21. **FIELD OF WORK.** If you are employed, select and check the box that indicates most closely the field in which you are actively employed. Choose only one field, even though you may be working part time in more than one field.

22. **EMPLOYER DESCRIPTION.** Select and check the box that most closely indicates the employer in the field of work you selected in Item 21 above.

23. **FOREIGN TRAVEL.** If you have traveled or lived abroad, check the period of time most appropriate for the entire length of time you lived or traveled abroad. If you have lived abroad for varying lengths of time, combine for a total figure.

on it; you will be required to show it to the Supervisor. Also take a second means of identification, such as your student identification card or motor vehicle driver license. Test center Supervisors can refuse to admit a candidate if his identity cannot be positively established.

Your admission ticket is good only for the examination at the center specified on it. It is not transferable to another person or center. BE SURE TO EXAMINE IT WHEN YOU RECEIVE IT. If an error appears in your name, inform ETS in writing but do not return your ticket.

Your registration number, which you will enter on your answer sheet, will appear on the front of your ticket. This number is the primary means of identifying your answer sheet during the scoring process.

If you lose your admission ticket, or if you have not received it one week before the test date, immediately notify ETS (Berkeley, California) and request a duplicate authorization. Supervisors are instructed to admit only those who have an admission ticket or authorization letter, telegram, or cable, or whose names appear on the registration rosters.

Candidates should report to the test center at the time shown on their admission ticket. NO CANDIDATE WILL BE ADMITTED AFTER TESTING HAS BEGUN.

#### Regulations at the Test Center

The staff of each test center will observe certain common procedures to insure that all candidates have equal testing time and that the operation of the center meets the requirements for standardized testing. The success of the test administration depends on your cooperation with these procedures.

The Foreign Service Officer Examination will be given only on the day and at the time scheduled. Be prompt; Supervisors cannot admit anyone after testing begins.

No pencils are furnished at the center. Take three or four No. 2 (B or HB) pencils for marking your answer sheet and an eraser.

Candidates are not permitted to continue any part of the examination beyond the established time limit. Take a watch since there may not be a clock visible to you in the testing room.

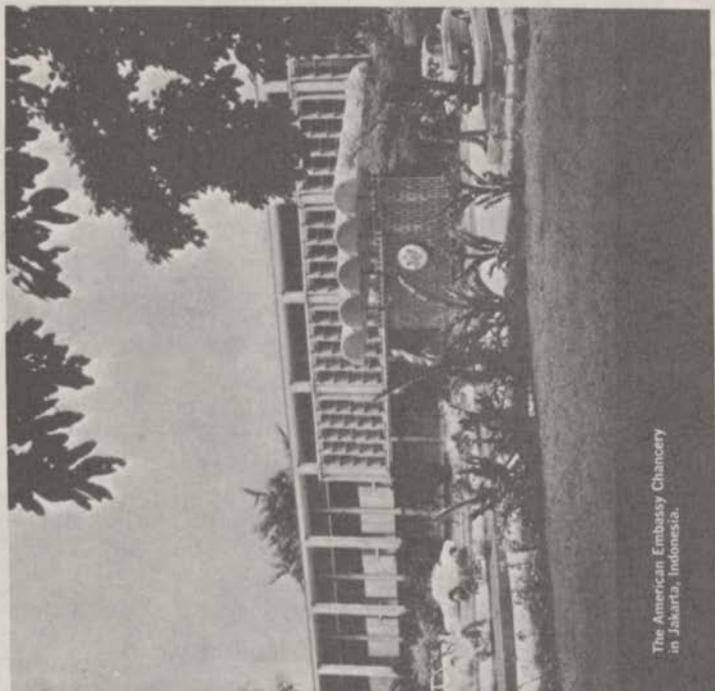
Books, slide rules, compasses, rulers, dictionaries, or papers of any kind—other than your admission ticket—are not allowed in the examination room. Supervisors will not permit anyone found with such materials to continue the test.

Scratch paper is not permitted. The margins of the test book may be used for notes and figuring. All responses must be marked on the answer sheet. No credit will be allowed for work done in the test book.

During the test administration if a candidate is discovered engaging in any kind of misconduct—such as creating a disturbance; giving or receiving help; using notes, books, or papers of any kind; working on one section of the test during the time allotted for another section; removing test materials or notes from the test room, or taking part in an act of impersonation—the candidate will be dismissed from the center and the answer sheet will not be scored.

#### Scores and Score Reporting

You will be sent a score report directly from ETS. Scores for all candidates taking the examination will be released at the same time during the week of January 21, 1974. DO NOT TELEPHONE ETS AS NO SCORE WILL BE REPORTED ON THE TELEPHONE FOR ANY REASON. There will be no transcript service for the Foreign Service Officer Examination. Any inquiries after February 1, 1974, should be directed to the Board of Examiners for the Foreign Service.



The American Embassy Chancery  
in Jakarta, Indonesia.



|                      |                        |                       |                       |                       |                        |                       |                       |                      |                          |
|----------------------|------------------------|-----------------------|-----------------------|-----------------------|------------------------|-----------------------|-----------------------|----------------------|--------------------------|
| <b>MISSISSIPPI</b>   | 2601<br>Columbus       | <b>NEW MEXICO</b>     | 3301<br>Albuquerque   | <b>OKLAHOMA</b>       | 3801<br>Norman         | <b>TENNESSEE</b>      | 4501<br>Chattanooga   | <b>WASHINGTON</b>    | 5101<br>Bellingham       |
|                      | 2602<br>Hattiesburg    |                       | 3302<br>Las Cruces    |                       | 3802<br>Oklahoma City  |                       | 4502<br>Johnson City  |                      | 5102<br>Seattle          |
|                      | 2603<br>Jackson        |                       | 3303<br>Roswell       |                       | 3803<br>Stillwater     |                       | 4503<br>Knoxville     |                      | 5103<br>Spokane          |
|                      | 2604<br>Oxford         |                       | 3304<br>Santa Fe      |                       | 3804<br>Tulsa          |                       | 4504<br>Memphis       |                      | 5104<br>Tacoma           |
| <b>MISSOURI</b>      | 2701<br>Cape Girardeau | <b>NEW YORK</b>       | 3401<br>Albany        | <b>OREGON</b>         | 3901<br>Baker          | <b>TEXAS</b>          | 4601<br>Abilene       | <b>WEST VIRGINIA</b> | 5201<br>Charleston       |
|                      | 2702<br>Columbia       |                       | 3402<br>Binghamton    |                       | 3902<br>Corvallis      |                       | 4602<br>Amarillo      |                      | 5202<br>Elkins           |
|                      | 2703<br>Kansas City    |                       | 3403<br>Buffalo       |                       | 3903<br>Eugene         |                       | 4603<br>Austin        |                      | 5203<br>Morgantown       |
|                      | 2704<br>Kirksville     |                       | 3404<br>Ithaca        |                       | 3904<br>Medford        |                       | 4604<br>Beaumont      |                      | 5301<br>WISCONSIN        |
|                      | 2705<br>St. Louis      |                       | 3405<br>New York      |                       | 3905<br>Portland       |                       | 4605<br>Bryan         |                      | 5302<br>Appleton         |
|                      | 2706<br>Springfield    |                       | 3406<br>Ogdensburg    | <b>PENNSYLVANIA</b>   | 4001<br>Corpus Christi |                       | 4606<br>Dallas        |                      | 5303<br>Eau Claire       |
| <b>MONTANA</b>       | 2801<br>Billings       |                       | 3407<br>Olean         |                       | 4002<br>Dallas         |                       | 4607<br>El Paso       |                      | 5304<br>La Crosse        |
|                      | 2802<br>Bozeman        | <b>NORTH CAROLINA</b> | 3408<br>Poughkeepsie  |                       | 4003<br>Harrisburg     |                       | 4608<br>Fort Worth    |                      | 5305<br>Madison          |
|                      | 2803<br>Gasow          |                       | 3409<br>Rochester     |                       | 4004<br>Philadelphia   |                       | 4609<br>Houston       |                      | 5305<br>Milwaukee        |
|                      | 2804<br>Great Falls    |                       | 3410<br>Syracuse      |                       | 4005<br>Pittsburgh     |                       | 4610<br>Liblock       |                      | <b>WYOMING</b>           |
|                      | 2805<br>Helena         |                       | 3411<br>Utica         |                       | 4006<br>Scranton       |                       | 4611<br>Mojave        |                      | 5401<br>Casper           |
|                      | 2806<br>Kalispell      |                       | 3412<br>Watkins       | <b>PUERTO RICO</b>    | 4006<br>State College  |                       | 4612<br>San Antonio   |                      | 5402<br>Cheyenne         |
|                      | 2807<br>Missoula       |                       | 3413<br>Westfield     |                       | 4101<br>San Juan       |                       | 4613<br>Waco          |                      | 5403<br>Laramie          |
| <b>NEBRASKA</b>      | 2901<br>Hastings       |                       | 3414<br>Winstonsalem  | <b>RHODE ISLAND</b>   | 4101<br>Providence     |                       | 4614<br>Wichita Falls |                      | 5404<br>Rock Springs     |
|                      | 2902<br>Lincoln        | <b>NORTH DAKOTA</b>   | 3501<br>Durham        |                       | 4201<br>Providence     |                       |                       |                      | <b>FOREIGN COUNTRIES</b> |
|                      | 2903<br>Omaha          |                       | 3502<br>Raleigh       | <b>SOUTH CAROLINA</b> | 4301<br>Charleston     |                       |                       |                      | The examination will     |
| <b>NEVADA</b>        | 3001<br>Las Vegas      |                       | 3503<br>Wilmington    |                       | 4302<br>Columbia       |                       |                       |                      | be held at any Ameri-    |
|                      | 3002<br>Reno           |                       | 3504<br>Winston-Salem |                       | 4303<br>Greenville     | <b>VERMONT</b>        |                       |                      | can diplomatic or con-   |
| <b>NEW HAMPSHIRE</b> | 3101<br>Durham         |                       | 3505<br>Winston-Salem |                       | 4401<br>Aberdeen       |                       |                       |                      | sular post abroad at     |
|                      | 3102<br>Hanover        | <b>OHIO</b>           | 3701<br>Akron         |                       | 4402<br>Pierre         |                       |                       |                      | which a candidate may    |
|                      | 3103<br>Manchester     |                       | 3702<br>Cincinnati    |                       | 4403<br>Rapid City     |                       |                       |                      | ask to take it.          |
| <b>NEW JERSEY</b>    | 3201<br>Trenton        |                       | 3703<br>Cleveland     |                       | 4404<br>Sioux Falls    |                       |                       |                      | Write name of city and   |
|                      |                        |                       | 3704<br>Columbus      |                       | 4405<br>Vermillion     | <b>VIRGIN ISLANDS</b> |                       |                      | country where examina-   |
|                      |                        |                       | 3705<br>Dayton        |                       |                        |                       |                       |                      | tion will be taken.      |
|                      |                        |                       | 3706<br>Toledo        |                       |                        |                       |                       |                      |                          |
|                      |                        |                       | 3707<br>Youngstown    |                       |                        |                       |                       |                      |                          |
|                      |                        |                       | 3708                  |                       |                        |                       |                       |                      |                          |







## OFFICIAL POSTAL SERVICE ABBREVIATIONS

For states and territories:

|                      |    |                |    |
|----------------------|----|----------------|----|
| Alabama              | AL | Montana        | MT |
| Alaska               | AK | Nebraska       | NE |
| Arizona              | AZ | Nevada         | NV |
| Arkansas             | AR | New Hampshire  | NH |
| California           | CA | New Jersey     | NJ |
| Canal Zone           | CZ | New Mexico     | NM |
| Colorado             | CO | New York       | NY |
| Connecticut          | CT | North Carolina | NC |
| Delaware             | DE | North Dakota   | ND |
| District of Columbia | DC | Oklahoma       | OK |
| Florida              | FL | Oregon         | OR |
| Georgia              | GA | Pennsylvania   | PA |
| Hawaii               | HI | Puerto Rico    | PR |
| Idaho                | ID | Rhode Island   | RI |
| Illinois             | IL | South Carolina | SC |
| Indiana              | IN | South Dakota   | SD |
| Iowa                 | IA | Tennessee      | TN |
| Kansas               | KS | Texas          | TX |
| Kentucky             | KY | Utah           | UT |
| Louisiana            | LA | Vermont        | VT |
| Maine                | ME | Virginia       | VA |
| Maryland             | MD | Virgin Islands | VI |
| Massachusetts        | MA | Washington     | WA |
| Michigan             | MI | West Virginia  | WV |
| Minnesota            | MN | Wisconsin      | WI |
| Mississippi          | MS | Wyoming        | WY |
| Missouri             | MO |                |    |

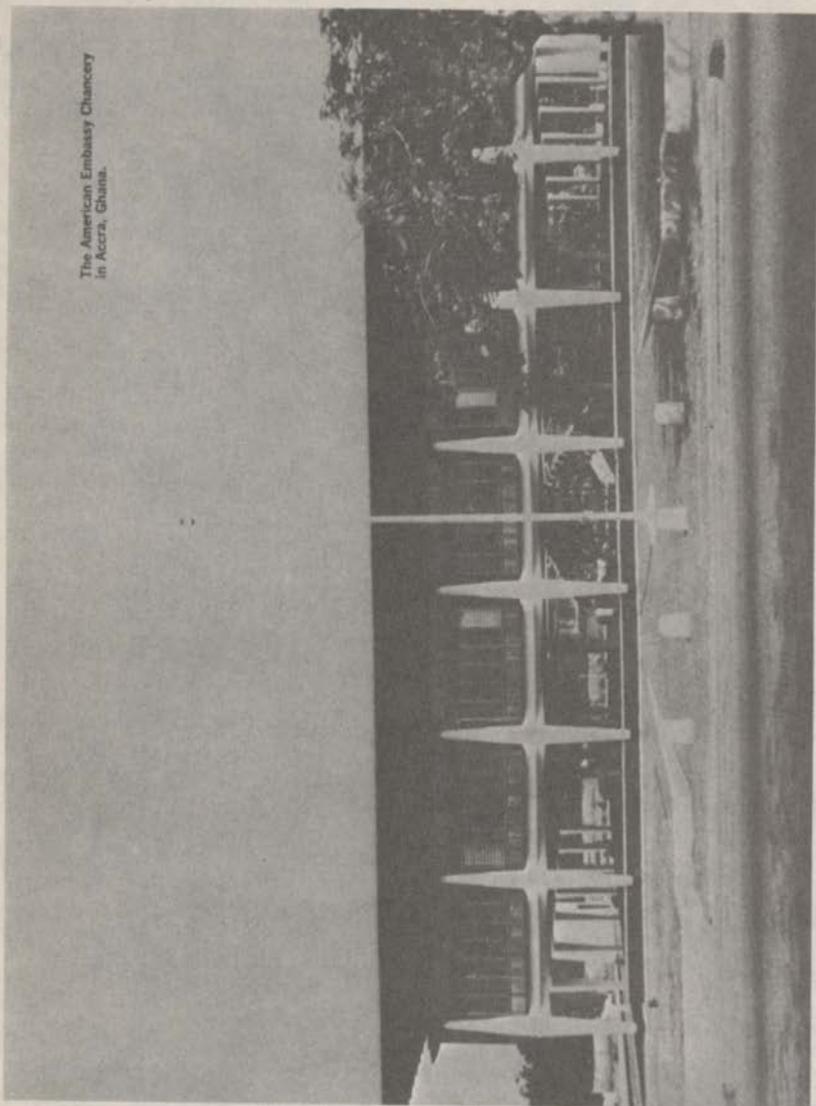
For street addresses:

|              |      |
|--------------|------|
| Apartment    | APT  |
| Avenue       | AVE  |
| Boulevard    | BLVD |
| Box          | BOX  |
| Broadway     | BDWY |
| Court        | CRT  |
| Drive        | DR   |
| East         | E    |
| Fort         | FT   |
| Garden       | GDN  |
| Headquarters | HQ   |
| Highway      | Hwy  |
| Lane         | LANE |
| Loop         | LOO  |
| Mountain     | MT   |
| North        | N    |
| Park         | PK   |
| Parkway      | PKWY |
| Place        | PL   |
| Point        | PT   |
| Port         | PT   |
| Road         | RD   |
| Route        | RT   |
| South        | S    |
| Street       | ST   |
| Terrace      | TR   |
| Trail        | TRL  |
| Tunnel       | TUN  |
| Turnpike     | TRPK |
| Way          | WY   |
| West         | W    |

## COLLEGE MAJOR CODE LIST

| MAJOR FIELD |                     | MAJOR     |                     |
|-------------|---------------------|-----------|---------------------|
| Undergrad   | Grad                | Undergrad | Grad                |
| 101         | Accounting          | 136       | Internat'l Study    |
| 102         | Art                 | 137       | Internat'l Trade    |
| 103         | Business            | 237       | Journalism          |
| 104         | Agriculture         | 238       | Latin Am. Study     |
| 105         | American Civ.       | 239       | Law                 |
| 106         | Anthropology        | 240       | Liberal Arts        |
| 107         | Archaeology         | 141       | Library Science     |
| 108         | Art                 | 142       | Linguistics         |
| 109         | Asian Study         | 143       | Marketing           |
| 110         | Astronomy           | 144       | Mathematics         |
| 111         | Biology             | 145       | Medicine            |
| 112         | Black Studies       | 146       | Meteorology         |
| 113         | Botany              | 147       | Music               |
| 114         | Business            | 148       | Near East Study     |
| 115         | Chemistry           | 149       | Personnel Mgmt.     |
| 116         | Classics            | 150       | Philosophy          |
| 117         | Criminology         | 151       | Physical Educ.      |
| 118         | Economics           | 152       | Physical Therapy    |
| 119         | Education           | 153       | Physiology          |
| 120         | Engineering         | 154       | Political Science   |
| 121         | Environmental Study | 155       | Pre-Med             |
| 122         | European Study      | 156       | Psychology          |
| 123         | Far East Study      | 157       | Public Admin.       |
| 124         | Finance             | 158       | Religion            |
| 125         | Fire Arts           | 159       | Russian Areas Study |
| 126         | French              | 160       | Science             |
| 127         | French              | 161       | Social Science      |
| 128         | General Science     | 162       | Social Work         |
| 129         | Geography           | 163       | Sociology           |
| 130         | Geology             | 164       | Sociology           |
| 131         | German              | 165       | Spanish             |
| 132         | Government          | 166       | Speech              |
| 133         | History             | 167       | Statistics          |
| 134         | Home Economics      | 168       | Zoology             |
| 135         | Indust. Mgmt.       | 169       | Other Major         |
|             |                     | 170       |                     |

The American Embassy Chancery  
in Accra, Ghana.



Start along this line

FORM  
OSF-24  
8-73REGISTRATION/APPLICANT RECORD FORM  
FOREIGN SERVICE OFFICER EXAMINATION, DECEMBER 8, 1973

|   |  |   |  |   |  |
|---|--|---|--|---|--|
| 1. NAME   |  | 4. DATE OF BIRTH  |  | 6. SOC. SEC. NUMBER   |  |
| FIRST LAST NAME   |  | MONTH DAY YEAR  |  | OF WHI  |  |
| 2. ADDRESS  |  | 5. SEX  |  | 7. LENGTH OF ACTIVE MILITARY SERVICE                                  |  |
| TO WHICH THE APPLICANT TAKES AND SCORE REPORT ARE TO BE SENT  |  | MALE FEMALE   |  | MONTHS MONTHS   |  |
| NUMBER AND STREET   |  | 1 0 2 0   |  | 8. TELEPHONE NUMBER   |  |
| CITY AND STATE OR COUNTRY   |  | ZIP CODE  |  | PRESENT AREA CODE   |  |
| 3. PERMANENT ADDRESS  |  |   |  | 10. TELEPHONE NUMBER  |  |
|   |  |   |  | PERMANENT AREA CODE   |  |
|   |  |   |  | 11. STATE OF PERMANENT RESIDENCE                                      |  |
|   |  |   |  | [ ] [ ]   |  |
| 12. TEST CENTER   |  | FOREIGN CENTER  |  |   |  |
| See the list of test centers in the Bulletin.   |  |   |  |   |  |
| CENTER NUMBER   |  | CITY  |  | COUNTRY   |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 13. UNDERGRADUATE MAJOR CODE  |  | 15. CAREER FIELD  |  | 4. Political (Department of State)                                    |  |
| (of 10)   |  | (Check only one - see page 8 for description)   |  | 5. Information/Cultural (U.S. Information Agency)                     |  |
| See testing instructions  |  | 1. Administration (Department of State)   |  |   |  |
| 14. GRADUATE MAJOR CODE   |  | 2. Consular (Department of State)   |  |   |  |
| (of 10)   |  | 3. Economic/Commercial (Department of State)  |  |   |  |
| See testing instructions  |  |   |  |   |  |
| 16. UNDERGRADUATE INSTITUTION   |  | 17. GRADUATE INSTITUTION  |  |   |  |
| Enter your current or most recent under-graduate institution  |  | Enter your current or most recent graduate institution  |  |   |  |
| See the list of institution codes in the Bulletin.  |  | See the list of institution codes in the Bulletin.  |  |   |  |
| CODE  |  | INSTITUTION   |  | CITY  |  |
| [ ] [ ]   |  | [ ] [ ] [ ] [ ]   |  | [ ] [ ] [ ] [ ]   |  |
| STATE OR COUNTRY  |  | STATE OR COUNTRY  |  |   |  |
| [ ] [ ]   |  | [ ] [ ] [ ] [ ]   |  |   |  |
| 18. CURRENT STUDENT STATUS  |  | 2. Part-time Undergraduate  |  | 4. Part-time Graduate   |  |
| 1. Full-time Undergraduate  |  | 3. Full-time Graduate   |  | 5. Non-student  |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 19. EDUCATION   |  | (Check the appropriate box for the highest level of education you have attained at this time) |  |   |  |
| 0. Elementary school graduate   |  | 3. College study, no degree   |  | 7. Master's degree, including LLB if you have previous college degree |  |
| 1. High school graduate   |  | 4. College study, Associate degree  |  | 8. Study above Masters degree   |  |
| 2. Business or vocational school graduate   |  | 5. College study, Bachelor's degree   |  | 9. Doctorate  |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 20. CURRENT OCCUPATIONAL STATUS   |  | 2. Working part-time  |  | 3. Not currently employed   |  |
| 1. Working full-time  |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 21. IF EMPLOYED, DESCRIBE FIELD OF WORK   |  | 3. Skilled Trades & Technical   |  | 6. Teaching   |  |
| 1. Professional or Scientific   |  | 4. Clerical and related   |  | 7. Sales  |  |
| 2. Administration   |  | 5. Service Occupation   |  | 8. Other  |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 22. IF EMPLOYED, DESCRIBE EMPLOYER  |  | 3. Educational institution  |  | 5. Industry   |  |
| 1. Family or own business   |  | 4. Military service   |  | 6. Other  |  |
| 2. Government   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 23. HAVE YOU TRAVELED OR LIVED ABROAD?  |  | 1. Yes  |  | 2. No   |  |
| If Yes, indicate for what period of time:   |  | 3. Less than three months   |  | 4. Three to six months  |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 5. Six months to two years  |  | 6. Longer than two years  |  |   |  |
| [ ] [ ]   |  | [ ] [ ]   |  |   |  |
| 24. NOW DID YOU HEAR ABOUT THE DECEMBER 8, 1973 FOREIGN SERVICE OFFICER EXAMINATION?  |  | 3. Newspaper, Radio or Television   |  | 6. Foreign Service Officer  |  |
| (Check only one)  |  | 4. Magazine, Journal or Professional Association  |  | 7. Friend or acquaintance   |  |
| 1. College Placement Officer  |  | 5. Civil Service Commission   |  | 8. Other  |  |
| 2. College Faculty Member   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| [ ] [ ]   |  | [ ] [ ]   |  | [ ] [ ]   |  |
| 25. AFFIRMATION: Please write the following statement in the space below: "Subject to the penalties provided in 18 USC 1001 for making false statements to a United States Government Agency, I certify that the above information is correct and my name is . . ." |  |   |  |   |  |

Date: / /

(Sign your name as you would a check or other document)



Foreign Service Officers Alfred Jenkins (FSO-1) and Charles W. Freeman, Jr. (FSO-5) lead the advance party departing Washington, D.C., on March 31, 1973, to open the permanent U.S. Liaison Office in Peking.



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# CAREERS

DATE OF EXAMINATION: 12/8/73  
CLOSING DATE: 10/31/73

## CONSULAR OFFICERS WHO ENTERED THE FOREIGN SERVICE THROUGH THE EXAM PROCESS SINCE 1970

| Year and name          | Present grade | First overseas assignment               |
|------------------------|---------------|---|
| 1970:                  |               |   |
| Benson, Ross E.        | FSO-6         | Guadalajara, consular officer.          |
| Dizikes, Dean          | FSO-6         | Stuttgart, consular officer.            |
| Hamilton, Donna        | FSO-6         | Bogota, consular officer.               |
| Hancock, Michael       | FSO-6         | Mexico DF, consular officer.            |
| Jones, A. Elizabeth    | FSO-6         | Kabul, administrative officer.          |
| Mangiafico, Luciano    | FSO-6         | Bridgetown, consular officer.           |
| Nagao, Clarence        | FSO-6         | Beirut, consular officer.               |
| Strutzel, Michael      | FSO-6         | Vienna, visa officer.                   |
| Wolf, John S.          | FSO-6         | Perth, consular officer.                |
| Wollemberg, Leo        | FSO-6         | Colombo, consular officer.              |
| 1971:                  |               |   |
| Ayling, Robert         | FSO-6         | Douala, IRO general.                    |
| Barry, Michael         | FSO-6         | Santo Domingo, consular officer.        |
| Bennett, John          | FSO-6         | Madrid, consular officer.               |
| Bollmann, Elizabeth    | FSO-6         | Frankfurt, consular officer.            |
| Covey, James           | FSO-6         | Pretoria, consular officer.             |
| Donohue, Gilbert       | FSO-6         | Mazatlan, consular officer.             |
| Fourier, George P.     | FSO-6         | Tehran, consular officer.               |
| Gibson, Richard M.     | FSO-6         | Fort de France, consular officer.       |
| Halmo, James L.        | FSO-6         | Guatemala, consular officer.            |
| Holm, Donald           | FSO-6         | Addis Ababa, consular officer.          |
| Klein, Jacques P.      | FSO-6         | Bremen, consular officer.               |
| Kott, Robert J.        | FSO-6         | Jakarta, consular officer.              |
| Leggio, Anthony        | FSO-6         | Mexico DF, consular officer.            |
| Mahoney, Michael       | FSO-6         | Port of Spain, consular officer.        |
| McCulloch, Gerald      | FSO-6         | Bilbao, consular officer.               |
| McLean, Joseph         | FSO-6         | Vietnam/AID detail to CORDS.            |
| Tipton, Marian L.      | FSO-6         | Santiago, consular officer.             |
| Wilkinson, Sharon      | FSO-6         | Sao Paulo, consular officer.            |
| Alexander, Leslie      | FSO-7         | Georgetown, consular officer.           |
| Bryfogle, Donald       | FSO-7         | Guayaquil, consular officer.            |
| Himes, Rex L.          | FSO-7         | Casablanca, consular officer.           |
| Hooks, J. Aubrey       | FSO-7         | Tel Aviv, consular officer.             |
| Hooper, James R.       | FSO-7         | Dhahran, consular officer.              |
| Kleinkauf, Therese     | FSO-7         | Port au Prince, consular officer.       |
| Leininger, Wayne       | FSO-7         | Toronto, consular officer.              |
| Martin, Thomas H.      | FSO-7         | Kingston, visa officer.                 |
| McKenzie, Bruce        | FSO-7         | Hamburg, consular officer.              |
| McNamara, Brian        | FSO-7         | Tegucigalpa, consular officer.          |
| Neitzke, Ronald J.     | FSO-7         | Oslo, consular officer.                 |
| Rutledge, Roger        | FSO-7         | Palermo, consular officer.              |
| Sten, Charles R.       | FSO-7         | Frankfurt, visa officer.                |
| Tkacik, John J.        | FSO-7         | Reykjavik, consular officer.            |
| Zajac, Eugene C.       | FSO-7         | Istanbul, consular officer.             |
| Crocker, Ryan C.       | FSO-8         | Khorramshahr, IRO general.              |
| Croddy, Arnold J.      | FSO-8         | Amsterdam, consular officer.            |
| 1972:                  |               |   |
| Griffin, Ann E.        | FSO-6         | Lahore, consular officer.               |
| Bell, Randolph M.      | FSO-7         | Frankfurt, consular officer.            |
| Blandford, James E.    | FSO-7         | Dakar, consular officer.                |
| Borich, Joseph J.      | FSO-7         | Taipei, consular officer.               |
| Chester, Geraldene G.  | FSO-7         | LWOP.                                   |
| Cole, Harry E., Jr.    | FSO-7         | Lisbon, consular officer.               |
| Darbyshire, Ann E.     | FSO-7         | Vancouver, visa officer.                |
| Heimann, Judith M.     | FSO-7         | Brussels, consular officer.             |
| Henneke, Frederick L.  | FSO-7         | Pending assignment as consular officer. |
| Holladay, Thomas L.    | FSO-7         | Georgetown, consular officer.           |
| Hoog, John F.          | FSO-7         | Manila, visa officer.                   |
| Lamb, Anthony B.       | FSO-7         | Warsaw, consular officer.               |
| Livingston, Richard P. | FSO-7         | Athens, IRO general.                    |
| Persiko, Robert D.     | FSO-7         | Mexico, consular officer.               |
| Peters, Lauralee       | FSO-7         | Saigon, consular officer.               |
| Shaffer, Dale L., Jr.  | FSO-7         | Santiago, consular officer.             |
| Taylor, Philip B.      | FSO-7         | Medellin, consular officer.             |
| Telft, John F.         | FSO-7         | Jerusalem, consular officer.            |
| Toyryla, David T.      | FSO-7         | Madrid, consular officer.               |
| Welty, Dean L.         | FSO-7         | Seoul, consular officer.                |
| Wunsch, Gerald A.      | FSO-7         | Hermosillo, consular officer.           |
| Wynn, Michael D.       | FSO-8         | Port-au-Prince, consular officer.       |
| Frank, Bonnie          | FSO-8         | Edinburgh, consular officer.            |
| Huhtala, Marie T.      | FSO-8         | Paris, consular officer.                |
| Lubar, John V.         | FSO-8         | St. Johns, consular officer.            |
| Parris, Mark Robert    | FSO-8         | Ponta del Gada, consular officer.       |
| Straub, Alice K.       | FSO-8         | Ottawa, Staff aide to Ambassador.       |
| Veler, Annette L.      | FSO-8         | Frankfurt, consular officer.            |
| Wood, B. Sue           | FSO-8         | Manila, consular officer.               |

## CONSULAR OFFICERS WHO ENTERED THE FOREIGN SERVICE THROUGH THE EXAM PROCESS SINCE 1970—Continued

| Year and name             | Present grade | First overseas assignment                   |
|---------------------------|---------------|---|
| 1973:                     |               |   |
| Gray, Bruce N.....        | FSO-7         | Copenhagen, consular officer.               |
| Krauss, William K.....    | FSO-7         | Frankfurt, consular officer.                |
| Ratigan, John R.....      | FSO-7         | Tehran, consular officer.                   |
| Christenson, Richard..... | FSR-7         | Seoul, consular officer. <sup>1</sup>       |
| Coffman, Steven P.....    | FSR-7         | Reykjavik, consular officer. <sup>1</sup>   |
| Cubbison, Edwin P.....    | FSR-7         | Cali, consular officer.                     |
| Danga, Karl I.....        | FSR-7         | Cebu, consular officer.                     |
| Ford, Theodore M.....     | FSR-7         | Addis Ababa, consular officer.              |
| Geis, Stephen M.....      | FSR-7         | Guadalajara, consular officer. <sup>1</sup> |
| Guignard, Michael J.....  | FSR-7         | Tokyo, consular officer. <sup>1</sup>       |
| Heilman, Michael J.....   | FSR-7         | Beirut, consular officer. <sup>1</sup>      |
| Jones, Douglas H.....     | FSR-7         | Tel Aviv, consular officer.                 |
| McCarthy, Robert E.....   | FSR-7         | CU/PC.                                      |
| McElhanev, Douglas L..... | FSR-7         | Lisbon, consular officer.                   |
| Raspolic, Elizabeth.....  | FSR-7         | Lyon, consular officer. <sup>1</sup>        |
| Rosner, William R.....    | FSR-7         | Guadalajara, consular officer. <sup>1</sup> |
| Sprick, Karl H.....       | FSR-7         | Hong Kong, consular officer.                |
| Steinkamp, Kent R.....    | FSR-7         | Seville, consular officer. <sup>1</sup>     |
| Wheeler, Carol E.....     | FSR-7         | Frankfurt, consular officer.                |
| Barnes, Marsha E.....     | FSR-8         | Georgetown, consular officer.               |
| Casey, Mary Ann.....      | FSR-8         | Rabat, consular officer. <sup>1</sup>       |
| Clerici, Laura Ann.....   | FSR-8         | Jakarta, consular officer. <sup>1</sup>     |
| Craven, Robert L.....     | FSR-8         | Lima, consular officer.                     |
| Faciinelli, Robyn M.....  | FSR-8         | Paris, consular officer.                    |
| Griffith, Wayne G.....    | FSR-8         | Bogota, consular officer. <sup>1</sup>      |
| Hagen, Robert S.....      | FSR-8         | Dept/INR/RSE/SOV.                           |
| Kunkel, John R.....       | FSR-8         | Kathmandu, consular officer. <sup>1</sup>   |
| Love, Mary Ann.....       | FSR-8         | Oslo, consular officer. <sup>1</sup>        |
| Morgan, Nancy E.....      | FSR-8         | Yaounde, consular officer. <sup>1</sup>     |
| Sindelar, Hugo R.....     | FSR-8         | Jerusalem, consular officer. <sup>1</sup>   |

<sup>1</sup> Newly appointed officers in training with assignments pending

## APPENDIX 4

DEPUTY UNDER SECRETARY OF STATE  
FOR MANAGEMENT,  
Washington, November 9, 1973.

Hon. JOSHUA EILBERG,  
Chairman, Subcommittee on Immigration, Citizenship, and International Law  
Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: I greatly appreciate the opportunity, offered by the questions you submitted to me in your letter of October 12, to develop more fully my testimony given at the Subcommittee's hearings on September 13 and 18.

The responses to your questions are enclosed and I trust they will prove helpful to the Subcommittee. I have tried to keep the answers as concise as possible consistent with thoroughness and accuracy and I will, of course, be happy to go into greater detail on any of the questions should you desire.

It was a pleasure for me to appear before the Subcommittee. I highly value the Subcommittee's support of our consular operations. Please let me know if I can be of further assistance.

Sincerely,

CURTIS W. TARR, Acting.

Enclosure.  
Responses to Questions.

*Q. 1. What is presently the number of career consular officers? How does this figure compare with other phases of the Foreign Service?*

A. As of June 30, 1973, there were 587 career consular officers, i.e., officer level personnel of all categories (FSO, FSR, FSSO) with "consular" as their primary skill in the Foreign Service. These figures pertain only to officer level personnel in the Foreign Service available for service on a worldwide basis. They do not include those Foreign Service Reserve Officers, Foreign Service Staff Officers and Civil Service Officers not available for service outside the continental United States. For a breakdown by category (FSO, FSR, etc.) see answer to Question 8. These officers represent 11.5% of the total 5,117 officer level personnel in the Foreign Service.

*Q. 2. How often do those choosing consular work as their specialty change their minds after being involved in this type of work for a period of time?*

A. While statistics have not been maintained on the number of consular or other officers who change their primary functional skill after entry into the Foreign Service, a review of individual records reveals that over the past five years no more than six Foreign Service officers who entered the Service as Consular officers have subsequently "re-coned" to other functional tracks.

As a matter of career development a number of consular officers are given "excursion tours" in other fields of Foreign Service work. Of the 63 Foreign Service consular officers at the senior and mid-career levels who are presently assigned within the United States, for example, only 31 are serving in the Bureau of Security and Consular Affairs while 25 are serving in non-consular positions elsewhere in the Department and on detail to other Government agencies; and 7 are in long-term training programs. It is also our policy to rotate consular officers through all phases of consular work to ensure their capacity for assumption of supervisory responsibilities over the entire spectrum of consular operations.

*Q. 3. What percentage of Foreign Service Officers are presently engaged in consular work?*

A. Of the 3,375 Foreign Service Officers (FSO's), 10.9% are engaged in consular work as of June 30, 1973.

Q. 4. Could you estimate the average grade level of consular officers and can you inform us whether as a general proposition these grade levels are lower than other phases of the Foreign Service?

A. The following statistics, as of June 30, 1973, include Foreign Service Officers (FSO's) only:

| Primary skill                     | Number of FSO's | Average grade level |
|-----------------------------------|-----------------|---------------------|
| Consular -----                    | 368             | FSO-5               |
| Administration -----              | 546             | FSO-4               |
| Economic/commercial -----         | 796             | FSO-4               |
| Political -----                   | 1,257           | FSO-4               |
| Information -----                 | 2               | FSO-4               |
| Special professional -----        | 8               | FSO-3               |
| Executive/program direction ----- | 398             |                     |
| Total -----                       | 3,375           |                     |

Q. 5. Although I recognize that the decisions of consular officers are final with respect to visa issuance or the denial of visas, is there any formal or qualitative review of these questions by the consular officers' immediate supervisors?

A. In a case involving a refusal of a visa, immigrant or nonimmigrant, on one or more of the grounds of ineligibility specified in section 212(a) of the Act, a formal review procedure is provided by regulation under which the principal consular officer at the post, or a designated alternate, is required to review the finding of ineligibility. If the reviewing officer disagrees with the original finding, he may request the Department's advisory opinion concerning the case and resolve the case upon receipt of the advisory opinion or he may assume responsibility for the case and reverse the original finding.

In a case involving refusal of a nonimmigrant visa because the applicant failed to overcome the presumption of immigrant classification contained in section 214(b) of the Act there is no provision for such a systematic review and no such review is routinely carried out.

In either situation, of course, the applicant himself or any other person having a legitimate interest in the applicant's case may request that the consular officer's finding be reviewed. Such requests may be made to the Department or directly to the consular office at which the application was made.

In a case in which a visa, immigrant or nonimmigrant, was issued to the applicant there is no provision for systematic review. Although it is theoretically possible that an applicant or an interested party might seek to obtain review of the decision to issue the visa, such requests are not often made. Review does of course exist in terms of routine review by a supervisor of his subordinate's performance, but this is not on a case-by-case basis.

Q. 6. Do you believe that consular officers should be upgraded and promotional opportunities increased for this phase of the Foreign Service?

A. (a) The level of consular positions overseas is determined on the basis of job classification surveys which are intended to provide a balanced job level structure worldwide. These surveys take into consideration not only job levels for similar consular responsibilities at other posts but also job levels for other types of work (i.e., political, economic and administrative) in the same post and worldwide. An extensive survey of the content and levels of all jobs in the Foreign Service was recently concluded. We believe that if and when the findings and recommendations of this study are implemented job levels assigned to consular positions will be more equitable. In addition to surveys, we encourage posts to review position levels from time to time to take into consideration increases in workload or other factors which might justify higher position levels. Furthermore, SCA and the appropriate geographic bureau keep these factors in mind in connection with the development of the budgetary consular package.

(b) Promotional opportunities for consular officers at present compare favorably with those for officers in other cones. Prior to the introduction of the cone system this may not have been the case but we believe the combination of the cone system and the identification of a number of senior level positions for consular officers should assure that future opportunities for consular officers will at least be commensurate with those for other Foreign Service Officers.

The following charts reflect the promotional situation since 1969.

## FSO PROMOTIONS BY FUNCTION—CLASSES 2 THROUGH 5

| Year and function   | Number reviewed | Percent of class reviewed | Nominated for promotion | Nominations as a percent of |                 |
|---------------------|-----------------|---------------------------|-------------------------|-----------------------------|-----------------|
|                     |                 |                           |                         | Number reviewed             | Total nominated |
| 1969 (1969 boards): |                 |                           |                         |                             |                 |
| Class 2 to 1:       |                 |                           |                         |                             |                 |
| ADM.....            | 50              | 13.2                      | 5                       | 10.0                        | 13.2            |
| CON.....            | 17              | 4.4                       |                         |                             |                 |
| ECON.....           | 95              | 25.1                      | 9                       | 9.5                         | 23.7            |
| POL.....            | 210             | 55.9                      | 24                      | 11.3                        | 63.1            |
| SPT*.....           | 5               | 1.4                       |                         |                             |                 |
| Total.....          | 377             | 100.0                     | 38                      | 10.1                        | 100.0           |
| Class 3 to 2:       |                 |                           |                         |                             |                 |
| ADM.....            | 81              | 14.8                      | 8                       | 9.9                         | 14.8            |
| CON.....            | 54              | 9.7                       | 4                       | 7.4                         | 7.4             |
| ECON.....           | 149             | 26.9                      | 15                      | 10.1                        | 27.8            |
| POL.....            | 268             | 48.4                      | 27                      | 10.1                        | 50.0            |
| SPT*.....           | 1               | .2                        |                         |                             |                 |
| Total.....          | 553             | 100.0                     | 54                      | 9.8                         | 100.0           |
| Class 4 to 3:       |                 |                           |                         |                             |                 |
| ADM.....            | 70              | 13.5                      | 11                      | 15.7                        | 12.1            |
| CON.....            | 65              | 12.5                      | 8                       | 12.3                        | 8.8             |
| ECON.....           | 145             | 27.9                      | 22                      | 15.2                        | 24.2            |
| POL.....            | 239             | 45.9                      | 49                      | 20.5                        | 53.8            |
| SPT*.....           | 1               | .2                        | 1                       | 100.0                       | 1.1             |
| Total.....          | 520             | 100.0                     | 91                      | 17.5                        | 100.0           |
| Class 5 to 4:       |                 |                           |                         |                             |                 |
| ADM.....            | 26              | 6.3                       | 6                       | 23.1                        | 4.8             |
| CON.....            | 47              | 11.4                      | 14                      | 29.8                        | 11.3            |
| ECON.....           | 134             | 32.6                      | 45                      | 33.6                        | 36.3            |
| POL.....            | 204             | 49.7                      | 59                      | 28.9                        | 47.6            |
| SPT*.....           |                 |                           |                         |                             |                 |
| Total.....          | 411             | 100.0                     | 124                     | 30.2                        | 100.0           |
| 1970 (1969 boards): |                 |                           |                         |                             |                 |
| Class 2 to 1:       |                 |                           |                         |                             |                 |
| ADM.....            | 54              | 13.0                      | 2                       | 3.7                         | 5.7             |
| CON.....            | 20              | 4.8                       | 1                       | 5.0                         | 2.9             |
| ECON.....           | 103             | 24.9                      | 6                       | 5.8                         | 17.1            |
| POL.....            | 233             | 56.3                      | 25                      | 10.7                        | 71.4            |
| SPT*.....           | 4               | 1.0                       | 1                       | 25.0                        | 2.9             |
| Total.....          | 414             | 100.0                     | 35                      | 8.5                         | 100.0           |
| Class 3 to 2:       |                 |                           |                         |                             |                 |
| ADM.....            | 96              | 14.8                      | 12                      | 12.5                        | 17.4            |
| CON.....            | 56              | 8.6                       | 3                       | 5.3                         | 4.4             |
| ECON.....           | 172             | 26.6                      | 21                      | 12.2                        | 30.4            |
| POL.....            | 321             | 49.6                      | 33                      | 10.3                        | 47.8            |
| SPT*.....           | 2               | .3                        |                         |                             |                 |
| Total.....          | 647             | 100.0                     | 69                      | 10.7                        | 100.0           |
| Class 4 to 3:       |                 |                           |                         |                             |                 |
| ADM.....            | 59              | 9.4                       | 11                      | 18.6                        | 12.6            |
| CON.....            | 64              | 10.2                      | 6                       | 9.4                         | 6.9             |
| ECON.....           | 191             | 30.5                      | 24                      | 12.6                        | 27.6            |
| POL.....            | 313             | 49.9                      | 45                      | 14.7                        | 52.9            |
| SPT*.....           |                 |                           |                         |                             |                 |
| Total.....          | 627             | 100.0                     | 86                      | 13.9                        | 100.0           |
| Class 5 to 4:       |                 |                           |                         |                             |                 |
| ADM.....            | 33              | 6.1                       | 12                      | 36.4                        | 9.7             |
| CON.....            | 23              | 4.3                       | 7                       | 30.4                        | 5.6             |
| ECON.....           | 155             | 28.8                      | 35                      | 22.6                        | 28.2            |
| POL.....            | 327             | 60.8                      | 70                      | 21.4                        | 56.5            |
| SPT*.....           |                 |                           |                         |                             |                 |
| Total.....          | 538             | 100.0                     | 124                     | 23.0                        | 100.0           |
| 1971 (1970 boards): |                 |                           |                         |                             |                 |
| Class 2 to 1:       |                 |                           |                         |                             |                 |
| ADM.....            | 55              | 13.5                      | 3                       | 5.4                         | 11.1            |
| CON.....            | 19              | 4.7                       | 1                       | 5.3                         | 3.7             |
| ECON.....           | 115             | 28.2                      | 9                       | 7.8                         | 33.3            |
| POL.....            | 216             | 52.9                      | 14                      | 6.5                         | 51.9            |
| SPT*.....           | 3               | .7                        |                         |                             |                 |
| Total.....          | 408             | 100.0                     | 27                      | 6.6                         | 100.0           |

## FSO PROMOTIONS BY FUNCTION—CLASSES 2 THROUGH 5—Continued

| Year and function          | Number reviewed | Percent of class reviewed | Nominated for promotion | Nominations as a percent of |                 |
|----------------------------|-----------------|---------------------------|-------------------------|-----------------------------|-----------------|
|                            |                 |                           |                         | Number reviewed             | Total nominated |
| <b>Class 3 to 2:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 89              | 14.7                      | 9                       | 10.1                        | 19.2            |
| CON.....                   | 51              | 8.4                       | 1                       | 2.0                         | 2.1             |
| ECON.....                  | 159             | 26.2                      | 18                      | 11.3                        | 38.3            |
| POL.....                   | 306             | 50.5                      | 19                      | 6.2                         | 40.4            |
| SPT*.....                  | 1               | .2                        |                         |                             |                 |
| Total.....                 | 606             | 100.0                     | 47                      | 7.8                         | 100.0           |
| <b>Class 4 to 3:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 60              | 9.5                       | 9                       | 15.0                        | 16.6            |
| CON.....                   | 57              | 9.1                       | 7                       | 12.3                        | 13.0            |
| ECON.....                  | 189             | 30.1                      | 21                      | 11.1                        | 38.9            |
| POL.....                   | 322             | 51.3                      | 17                      | 5.3                         | 31.5            |
| SPT*.....                  |                 |                           |                         |                             |                 |
| Total.....                 | 628             | 100.0                     | 54                      | 8.6                         | 100.0           |
| <b>Class 5 to 4:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 31              | 5.8                       | 10                      | 32.3                        | 10.0            |
| CON.....                   | 24              | 4.5                       | 7                       | 29.2                        | 7.0             |
| ECON.....                  | 148             | 27.4                      | 41                      | 27.7                        | 41.0            |
| POL.....                   | 336             | 62.3                      | 42                      | 12.5                        | 42.0            |
| SPT*.....                  |                 |                           |                         |                             |                 |
| Total.....                 | 539             | 100.0                     | 100                     | 18.6                        | 100.0           |
| <b>1972 (1971 boards):</b> |                 |                           |                         |                             |                 |
| <b>Class 2 to 1:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 52              | 13.1                      | 2                       | 3.8                         | 8.9             |
| CON.....                   | 18              | 4.5                       | 1                       | 5.6                         | 4.3             |
| ECON.....                  | 116             | 29.1                      | 8                       | 6.9                         | 34.8            |
| POL.....                   | 210             | 52.8                      | 12                      | 5.7                         | 52.0            |
| SPT*.....                  | 2               | .5                        |                         |                             |                 |
| Total.....                 | 398             | 100.0                     | 23                      | 5.8                         | 100.0           |
| <b>Class 3 to 2:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 84              | 14.2                      | 10                      | 11.9                        | 22.2            |
| CON.....                   | 57              | 9.4                       | 1                       | 1.7                         | 2.2             |
| ECON.....                  | 156             | 26.3                      | 19                      | 12.2                        | 42.2            |
| POL.....                   | 297             | 49.9                      | 14                      | 4.7                         | 31.2            |
| SPT*.....                  | 1               | .2                        | 1                       | 100.0                       | 2.2             |
| Total.....                 | 595             | 100.0                     | 45                      | 7.6                         | 100.0           |
| <b>Class 4 to 3:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 61              | 9.2                       | 10                      | 16.4                        | 16.7            |
| CON.....                   | 59              | 8.9                       | 7                       | 11.8                        | 11.7            |
| ECON.....                  | 199             | 30.1                      | 19                      | 9.5                         | 31.6            |
| POL.....                   | 337             | 51.8                      | 24                      | 7.4                         | 40.0            |
| SPT*.....                  |                 |                           |                         |                             |                 |
| Total.....                 | 656             | 100.0                     | 60                      | 9.1                         | 100.0           |
| <b>Class 5 to 4:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 34              | 6.6                       | 11                      | 32.3                        | 11.5            |
| CON.....                   | 32              | 5.7                       | 6                       | 18.7                        | 6.2             |
| ECON.....                  | 146             | 26.0                      | 33                      | 23.3                        | 35.4            |
| POL.....                   | 349             | 61.7                      | 45                      | 12.9                        | 46.9            |
| SPT*.....                  |                 |                           |                         |                             |                 |
| Total.....                 | 561             | 100.0                     | 95                      | 17.1                        | 100.0           |
| <b>1973 (1972 boards):</b> |                 |                           |                         |                             |                 |
| <b>Class 2 to 1:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 47              | 13.5                      | 8                       | 17.0                        | 21.6            |
| CON.....                   | 18              | 5.3                       | 2                       | 11.1                        | 5.4             |
| ECON.....                  | 97              | 27.9                      | 8                       | 8.2                         | 21.6            |
| POL.....                   | 184             | 53.0                      | 19                      | 10.3                        | 51.4            |
| SPT*.....                  | 1               | .3                        |                         |                             |                 |
| Total.....                 | 347             | 100.0                     | 37                      | 10.7                        | 100.0           |
| <b>Class 3 to 2:</b>       |                 |                           |                         |                             |                 |
| ADM.....                   | 83              | 15.3                      | 9                       | 10.8                        | 17.6            |
| CON.....                   | 50              | 9.2                       | 5                       | 10.0                        | 9.8             |
| ECON.....                  | 135             | 25.0                      | 12                      | 8.9                         | 23.5            |
| POL.....                   | 273             | 50.5                      | 25                      | 9.2                         | 49.1            |
| SPT*.....                  |                 |                           |                         |                             |                 |
| Total.....                 | 541             | 100.0                     | 51                      | 9.4                         | 100.0           |

## FSO PROMOTIONS BY FUNCTION—CLASSES 2 THROUGH 5—Continued

| Year and function | Number reviewed | Percent of class reviewed | Nominated for promotion | Nominations as a percent of |                 |
|-------------------|-----------------|---------------------------|-------------------------|-----------------------------|-----------------|
|                   |                 |                           |                         | Number reviewed             | Total nominated |
| Class 4 to 3:     |                 |                           |                         |                             |                 |
| ADM.....          | 89              | 13.8                      | 15                      | 16.9                        | 19.2            |
| CON.....          | 66              | 10.2                      | 7                       | 10.6                        | 8.9             |
| ECON.....         | 182             | 28.3                      | 25                      | 13.7                        | 32.1            |
| POL.....          | 307             | 47.7                      | 31                      | 10.1                        | 39.8            |
| SPT*.....         |                 |                           |                         |                             |                 |
| Total.....        | 544             | 100.0                     | 78                      | 12.1                        | 100.0           |
| Class 5 to 4:     |                 |                           |                         |                             |                 |
| ADM.....          | 67              | 13.2                      | 22                      | 32.8                        | 18.8            |
| CON.....          | 38              | 7.5                       | 15                      | 39.5                        | 12.8            |
| ECON.....         | 115             | 22.6                      | 33                      | 28.7                        | 28.2            |
| POL.....          | 288             | 56.5                      | 46                      | 16.0                        | 39.2            |
| SPT*.....         | 1               | 1                         | 1                       | 100.0                       |                 |
| Total.....        | 509             | 100.0                     | 117                     | 23.0                        | 100.0           |

\*Special, Professional and Technical.

Q. 7. I understand that there has been a new promotional procedure established by which, for example, consular officers would compete for promotion only with other consular officers. How has this procedure been working?

A. Since 1964, the Precepts for the annual Selection Boards have provided for an initial review of officers on a functional basis. In order to determine the number of officers to be promoted resulting from this action, the Department has developed an inventory of all requirements by functional category and class and a projection of the number of officers in the Service to meet these requirements. This enables the Department to meet its needs through promotion to the next higher class in the various functional categories. These procedures have increased promotion opportunities for consular officers over the past few years as is indicated in the charts following question #6.

Q. 8. How many officers in each of the separate categories (cones) which comprise the Foreign Service?

A. The following statistics are as of June 30, 1973, and include Foreign Service Officers, Foreign Service Reserve Officers Unlimited, Foreign Service Reserve Officers available for world-wide assignment, and Foreign Service Staff Officers available for world-wide assignment:

|                                   |       |
|-----------------------------------|-------|
| Executive/Program Direction ..... | 425   |
| Administration .....              | 1,724 |
| Consular .....                    | 587   |
| Information .....                 | 29    |
| Economic/Commercial .....         | 858   |
| Political .....                   | 1,317 |
| Special Professions .....         | 178   |
| Total .....                       | 5,117 |

Q. 9. Does SCA play any role in evaluating the performance of consular officers?

A. The performance of a consular officer in the field is evaluated annually by his immediate superior and that evaluation is in turn reviewed by the rating officer's supervisor. With the exception of those consular officers assigned to SCA in Washington, SCA does not play a direct role in the annual evaluation of a consular officer's performance.

SCA does, however, play an indirect role in this regard. SCA maintains close contact with consular officers in the field through periodic consular conferences attended by the Administrator and other Key personnel, correspondence with officers and posts, and interviews with individual officers when they are in the United States on leave or otherwise. In these and other ways, SCA receives information concerning an officer's performance and potential which is brought to bear in SCA's liaison with the Career Counseling and Assignments Division of the Office of Personnel. This liaison includes discussion of performance and assignability of individual consular officers and facilitates close coopera-

tion in the determination of all key consular assignments. In addition, a certain amount of correspondence concerning an officer's performance, particularly letters of commendation, are channeled through SCA to the Performance Evaluation Division in the Office of Personnel for inclusion in the officer's performance file.

*Q. 10. There are a number of different types of appointments and assignment commissions for consular officers. Give a description of each and how many officers are in each category.*

A. (1) The four major categories, by pay plan, of consular officers are as follow:

| <i>Category</i>  | <i>Number</i> | <i>Description</i>   |
|------------------|---------------|--|
| FSO              | 368           | Foreign Service Officers who shall be appointed in accordance with Section 511 of the Foreign Service Act of 1946, as amended.   |
| FSRU             | 6             | Foreign Service Reserve Officers Unlimited appointed under authority of Public Law 90-494 and at present restricted to conversion from existing FSR Corps.   |
| FSSO (worldwide) | 139           | Foreign Service Staff Officers who shall be appointed in accordance with the provisions of Section 531 of the Foreign Service Act of 1946, as amended.   |
| FSR (worldwide)  | 74            | Foreign Service Reserve Officers who shall be assigned to the Service on a temporary basis from Government agencies or appointed on a temporary basis from outside the Government in accordance with the provisions of Section 522 of the Foreign Service Act of 1946, as amended, in order to make available to the Service additional skills as may from time to time be required. |

(2) Appointment Commissions—Since 1969, all Foreign Service Officers (FSO's) receive one appointment commission which covers their appointment as FSO of class, their appointment as a Consular Officer and their appointment as a Diplomatic Secretary. Foreign Service Reserve and Staff Officers receive an appointment commission as a Consular Officer and/or a Diplomatic Secretary.

(3) Assignments Commission—An assignments commission is the formal notification by the United States Government to the host foreign government of the assignment of an officer to that country in an official capacity. The consular and/or diplomatic title reflects the needs of the position to which the officer is being assigned. All Foreign Service Officers (FSO's) and Foreign Service Reserve Officers (FSR's) assigned to perform consular work are designated as Vice Consuls, Consuls or Consuls General.

Section 533 of the Foreign Service Act of 1946, as amended, provides that Foreign Service Staff Officers may be commissioned only as vice consuls and consuls.

*Q. 11. Are personnel policies the same for positions appointed by the President and consular agents which are appointed by the Secretary of State?*

*Q. 12. What criteria is used in evaluating the performance of Presidential appointments and consular agents?*

*Q. 13. What is the extent of the practice of appointing:*

- 1. noncitizens as consular agents;*
- 2. temporary acting consular agents?*

A. Consular Agents perform limited consular services, such as notariats, and act as points of contact between citizens and the principal officer of the supervisory consular post of the district. They are not consular officers and are not authorized to issue passports or visas. They are responsible for reporting deaths of U.S. citizens to their supervisory consular office and can assist in handling estates of deceased citizens, but only under the supervision of a consular officer. They can also provide various non-statutory services for U.S. citizens, as the need arises.

Consular Agents work only on a part-time basis, with no regular, required work schedule. Since they are not required to work fixed hours, they do not acquire annual leave, sick leave or overtime pay, as Foreign Service Officers and other Government employees do. It is unlikely that this differentiation in compensation affects the performance of any Agent, however, since these posi-

tions are not undertaken as a full-time means of support. Typically, candidates are drawn from American businessmen, foreign employees of American companies and retired Foreign Service personnel living in the area. While preference is given to Americans, qualified U.S. citizens who are willing to take on such responsibilities are sometimes difficult to find. Acting Consular Agents exist only while the hiring and approval of a permanent Agent is pending.

There are three classes of Agencies, Class I, Class II and Class III, with a respective salary range of \$3200, \$2400 and \$1600 per annum. Classification is based upon the importance of the services provided by the Consular Agent to the Government and volume of work performed. At the present time there are twelve Class I Consular Agencies and one Class II Agency. Six Consular Agents are American citizens; five are non-citizens; two Agency positions are vacant. Of the eleven Consular Agents, one is an Acting Consular Agent.

Foreign Service Officers, who are appointed by the President, and other career Foreign Service employees, are given thorough performance evaluations at least once a year in accordance with the requirements of the Foreign Service Act. Comprehensive and detailed annual performance evaluations are not completed on Consular Agents, however, since they are not competing for advancement within the Foreign Service. Their performance is monitored by the principal officer of the supervisory post, which may be a nearby Consulate General or the Embassy and the appropriate geographic bureau and SCA to assure that it fully meets the Department's requirements. Additionally, Consular Agencies are periodically inspected by the Inspector General of the Foreign Service as are all Foreign Service operations.

Q. 14. *The ambassador, as the representative of the President, has responsibility for the overall direction of U.S. Government activities overseas. He also determines the precise structure of the mission in light of the local circumstances. How much does he influence the number of consular officers in his country?*

A. As the question indicates, the Ambassador plays a primary role in determining the precise structure of the mission in light of local circumstances. It is his duty to assure to the best of his ability that the responsibilities with which he is charged as Chief of Mission are carried out as effectively and efficiently as possible. Although he is not personally empowered to administer the Immigration and Nationality Act, the consular officers so empowered are under his overall direction and it is his responsibility to assure that they are in a position to administer the Act effectively. Our experience indicates that Ambassadors do support effective staffing of their consular section and generally refrain from making extraneous demands on the consular section or its personnel which might limit their ability to perform effectively and efficiently. The Ambassador has a strong but not exclusive voice in determining the size of his staff. The ultimate determination is made by the Department of State in close coordination with the Ambassador. Any permanent changes in the size of existing staff are subject to overall limitations established by the Office of Management and Budget and, of course, ultimately, the Congress.

Q. 15. *Has the number of consular personnel increased during the past few years? Have there been any cuts?*

A. The number of permanent American consular positions has decreased by about 1.8% during the past five years. The following statistics indicate the rate of increase/decrease in consular positions as well as the rate of increase/decrease in political and economic/commercial positions.

PERMANENT AMERICAN POSITIONS<sup>1</sup>

| Date               | Consular | Increase or decrease | Economic commercial | Increase or decrease | Political | Increase or decrease |
|--------------------|----------|----------------------|---------------------|----------------------|-----------|----------------------|
| December 1968..... | 856      |                      | 905                 |                      | 1,462     |                      |
| January 1970.....  | 785      |                      | 883                 |                      | 1,499     |                      |
| June 1971.....     | 817      |                      | 830                 |                      | 1,382     |                      |
| March 1972.....    | 847      | -15                  | 812                 | -57                  | 1,399     | -242                 |
| June 1972.....     | 834      | -1.8                 | 810                 | -6.3                 | 1,258     | -16.6                |
| December 1972..... | 849      |                      | 850                 |                      | 1,283     |                      |
| June 1973.....     | 841      |                      | 848                 |                      | 1,220     |                      |

<sup>1</sup> These figures include (1) FSO, FSR/FSRU, FSS and Civil Service positions, and (2) FSO, FSR, FSR (worldwide) FSS (worldwide), FSR (department service), FSS (department service), and Civil Service Officers. Clerical and other non-consular positions located in the passport office, visa office and office of special consular services are not included. From fiscal year 1971 to fiscal year 1973 permanent local consular positions were increased from 1,481 to 1,536. Further increases in both Americans and locals are anticipated in fiscal years 1974 and 1975.

<sup>2</sup> Percent.

*Q. 16. In determining the number of consular personnel needed, what criteria has been established?*

A. The Department generally determines funding and personnel requirements for the performance of consular services on the basis of workload forecasts in relation to employee productivity. Initially, all Foreign Service posts are queried in great detail regarding consular workloads during the previous year and manpower and workload projections for the following two years. These data are analyzed in light of program priorities, productivity indices, policy and procedural considerations known in Washington and a variety of local factors unique to each post performing consular services. Although manhour productivity is a useful index of a post's performance, local variations in the mix of various consular services performed as well as significant variations in work processes dictated by local, country or regional considerations, prevent the arbitrary imposition of strict workload/personnel criteria or formulas on all posts. The Bureau of Security and Consular Affairs, and its constituent offices, working closely with geographic bureau management and the Department's budget office, develops, presents and justifies in hearings before the Office of Management and Budget a consolidated "Consular Package" providing for the estimated positions required to meet workloads on a worldwide basis.

Staffing requirements for each consular section are established at a level which will facilitate the performance of all required consular services consistent with effective management and the efficient use of public funds. Both statutory and non-statutory services are given equal priority in budget decisions.

Many non-statutory services are of a "tourist" variety, involving little if any direct Government interest and the Department is seeking to divest itself of these responsibilities in areas where suitable or better alternatives may be available to the American citizen. Examples of this are use of consular posts for "mail drop" purposes in areas having adequate or better postal alternatives, use of Department communications facilities for cabling funds to destitutes when American Express or other facilities will provide equivalent services, and direct mailing of Federal Benefits checks in lieu of having recipients of Federal annuities report to consular posts on a monthly basis.

Methods for delivering consular services required by law, such as visa issuance, are constantly monitored for the identification of opportunities for improving performance or reducing manpower requirements consistent with the proper discharge of our responsibilities. Examples of this are installation of on-line automated name-check facilities, installations of modern electrical or electronic internal communications within consular sections such as the telautograph system, expanded application of "visa-by-mail" procedures in areas having good postal systems and low fraud potential, and use of panels of local examining physicians in certain countries in lieu of U.S. Public Health Service physicians operating in congested consular section space.

Annual budgets are prepared as much as two years in advance, and our resource forecasting is, of course, subject to unanticipated world events, political changes, and a variety of other unknowns. Therefore, between the submission of a fiscal year budget and the actual appropriation of funds by the Congress, a number of marginal or even major changes may occur. SCA, the geographic bureaus and posts continually monitor consular workloads and staffing on a post basis. In this manner, both temporary and permanent staffing changes are initiated to meet "spot" demands. These "spot" changes may include the temporary detail to the consular section from other sections of employees already at post to meet peak demands, temporary details from one post to another, or the creation of new positions and increases in permanent staff in high demand consular sections through reprogramming of funds from lower priority work elsewhere. Another technique for providing "spot" relief to overburdened consular sections is the temporary hiring of locals or resident Americans. All of these techniques are utilized in bridging the time span between the submission of annual budgets and the actual appropriation of funds. In addition, should all possible internal alternatives prove insufficient to meet resource demands, the Department would seek supplemental appropriations from OMB and the Congress.

*Q. 17. It is my understanding that a monthly report entitled "Nonimmigrant and Immigrant Visa Work Load" is provided to each regional bureau advising them on visa staffing problems. In your opinion, do these reports appear to have*

*any influence on the bureaus when they determine the number of consular personnel which they will require?*

A. The "Nonimmigrant and Immigrant Visa Workload" is part of the overall visa activity report prepared monthly by posts and submitted to the Visa Office in single copy. This multi-purpose report is used to account for immigrant visa numbers allocated to posts and to provide various statistical data on immigrant visa issuances and refusals for computer inputs and outputs in the production of tabulations which are published in the Annual Report of the Visa Office. Additionally, the monthly visa activity report contains information on caseloads processed (immigrant and nonimmigrant issuances and refusals and nonimmigrant revalidations), the number of authorized visa positions filled at the end of the month, and the total manhours applied to both immigrant and nonimmigrant work. Each month the Visa Office prepares caseload and manhour data on each post for computer input. The computer input showing these data as well as production ratios based on caseload and applied manhours is furnished to the executive (administrative) office of each regional bureau and the Bureau of Security and Consular Affairs. These monthly reports are very definitely considered in budget formulation. They are the basis for the annual "consular package" developed in SCA and used for discussion with the regional bureaus in determining the number of consular personnel required.

*Q. 18. To what extent does the Administrator of SCA advise the Director General of the Foreign Service and the geographic bureaus on the assignment of key consular personnel? In other words, how much influence does the Administrator of SCA exert with respect to the allocation and assignment of consular personnel?*

A. The Administrator of SCA maintains very close liaison with the Director General of the Foreign Service and the geographic bureaus on the assignment of key consular personnel. This liaison has been markedly strengthened in recent months as the result of the designation of certain senior principal officer positions as positions which should normally be filled by senior consular core officers. Although the Administrator of SCA does not have the right to veto assignments of which she does not approve, all concerned recognize the importance of SCA concurrence and, in practice, the close consultation and coordination between SCA and the Office of the Director General in the determination of key consular assignments precludes the necessity of such a veto.

*Q. 19. Does a consular officer receive any additional training after his arrival at his assigned post?*

A. In addition to normal on-the-job training, including rotation of new officers through all phases of consular work overseas, consular officers serving at "foreign language posts" are encouraged to participate in the post language training programs available to all officers and staff at the post.

Consular conferences are scheduled periodically in the various geographic regions to provide seminar-type discussions on the overall aspects of consular operations, on new regulations and improved methods of handling consular work, etc. Senior Department officers and supervisory consular officers from each post within the geographic area participate in these Conferences.

The Foreign Service Institute sponsors a comprehensive Correspondence Study Program which includes courses offered by universities and military and private correspondence schools throughout the United States. These courses are open to all officers and employees, both those serving overseas and those serving here in the U.S.

*Q. 20. Are the economic and political phases of the Foreign Service given a higher priority for staffing purposes than the consular functions of an Embassy?*

A. The answer is no. It has been the Department's experience over the past few years that Embassies, constituent posts abroad and indeed the Office of Personnel give priority to filling vacant consular positions abroad since the statutory obligations involved in consular work cannot go untended. The comparison of position and personnel increases and decreases in consular as compared with political and economic/commercial functions (refer to Question 15) reveals considerably less decrease in consular positions over the past five years than in the political and economic/commercial positions and an increase in consular personnel as opposed to decreases in political and economic/commercial personnel.

*Q. 21. I understand that there are certain limitations on the compensation and other benefits which are available to consular agents (i.e., no overtime, annual or sick leave). How do these limitations affect the performance of consular agents?*

A. The answer to this question is contained in my reply to questions 11, 12, and 13.

*Q. 22. What is the "Visas Raccoon" system or the so-called "Sixty-six" message system? Have these systems been fraudulently used by aliens to enter the United States?*

A. Several years ago the Department adopted code words (numbers, animals, and birds) to be used in messages between the Department and Foreign Service posts, and also between Foreign Service posts, which serve to reduce the number of words in repetitive type messages having to do with the visa function. Visas Raccoon and Visas Sixty-Six are but two of the many code words currently in use, and these may be described as follows:

Whenever an alien appears at a Foreign Service post and reports that he is one who had been lawfully admitted to the United States for permanent residence but whose document evidencing such status (Form I-151—Alien Registration Receipt Card) has been lost, stolen, or never received, the consular officer may transmit, at the alien's expense, a telegram to the Immigration and Naturalization Service via the Department's communication system requesting the Service to confirm the alien's claim to lawful residence status. Such telegrams are authorized only when the alien is able to demonstrate to the consular officer's satisfaction that he would be seriously inconvenienced were he required to remain abroad until the Service could issue and deliver to him a replacement Alien Registration Receipt Card. The telegram from the Foreign Service post is headed Visas Raccoon, and it contains certain basic information about the alien which enables the Immigration and Naturalization Service to check its records.

All incoming Visas Raccoon telegrams are routed electronically to the Central Office, INS, and information copies are passed to the Visa Office in the Department. The Central Office contacts the appropriate district office of INS, either by Telex or telephone, to determine whether the alien concerned had in fact been admitted for lawful permanent residence. If this is established, INS telephones the Visa Office which in turn prepares a Visas Sixty-Six telegram for transmission to the Foreign Service post. Upon receipt of such telegram, the consular officer contacts the alien and issues him a letter which authorizes him to proceed to the United States, as contemplated by section 211(b) of the Immigration and Nationality Act.

Although the Department has no actual evidence to support the belief that the system may have been used fraudulently by aliens to gain entry into the United States, no doubt some aliens have posed as lawful residents by assuming the identity of known resident aliens, and thus conceivably could gain entry under the Raccoon procedure. For this reason, the entire Visas Raccoon procedure was amended mid-way through 1973. Briefly stated, the revised procedure calls upon the consular officer to require every alien for whom a Visas Raccoon telegram is sent and a Visas Sixty-Six received, to complete an application form for a replacement Alien Registration Receipt Card. That form, together with the alien's photograph, is carried by the alien to the port of entry and the immigrant inspector compares the alien with the photograph and other documentation, such as his passport, before admitting him as a returning resident alien. The application for a replacement Alien Registration Receipt Card is then forwarded to the appropriate district director's office where final action is taken on the issuance of a new card.

Although it may be too early to determine whether the new procedure is secure, the Central Office of INS informed the Department on October 18, 1973, that none of the District Offices have reported any difficulties with the procedure and, most importantly, no imposters are known to have gained entry by assuming the identity of another person.

*Q. 23. At what consular posts are visas presently being issued by mail?*

A. All Foreign Service posts are authorized to issue nonimmigrant visas without benefit of personal appearance and all posts do issue some. In these cases the required documentation (application forms, passports, photographs and supporting documents) is submitted to the consular office by mail or similar means. This documentation is then screened and a determination of visa eligibility made and, where approved, the visa is issued without personal appearance of the applicant. The passport and documentation are then returned to the applicant by the same means.

*Q. 24. In your opinion, are any screening controls sacrificed by this type of procedure since it obviates the interview with a consular officer which is of utmost importance in determining the subjective intent of the visa applicant?*

A. The purpose of the "visa-by-mail" application (Form FS-257a) is to elicit from the visa applicant written responses to the same types of questions that he would otherwise be expected to answer orally during a personal interview. Visas are issued by mail (i.e., without an interview) only when these responses and other supporting documentation submitted appear clearly worthy of credence and substantiate the legitimacy and temporary nature of the applicant's contemplated trip. If, on the other hand, the consular officer after reviewing this documentation has any doubts about the applicant's true intent, or about the credibility or meaningfulness of the statements and evidence presented, he will request the applicant to appear personally to discuss his case. I am of the opinion that no sacrifice in the control aspects of visa processing is being made in cases where we now find it possible to issue visas by mail.

*Q. 25. Are visas issued by mail only in those posts which are experiencing a very small amount of fraud or mala fide N.I.V. applications?*

A. Generally speaking, yes. (See answer to question No. 52.) Posts located in countries where fraud is widespread as a general rule issue visas on the basis of waiver of the personal appearance only in the case of host government officials and members of their families and persons well and favorably known to the consular officer or an American colleague assigned to the post, as well as persons who have been issued visas previously and who seek new visas or revalidations for expired or about to expire visas. This is the case, for example, at Santo Domingo, Bogota, Manila and other posts where there is a high incidence of fraud.

*Q. 26. Can you estimate what percentage of the total number of adjustees each year actually change their mind and decide to remain in the United States after arrival? Isn't it really only a small percentage and don't most adjustees have a preconceived intent to stay when they apply for their nonimmigrant visa?*

A. Any estimates of the percentage of aliens obtaining adjustment of status who intended to seek adjustment at the time they applied for a nonimmigrant visa would be totally speculative. Every alien to whom a nonimmigrant visa is issued has satisfied the consular officer of his intent to abide by the terms of his admission while in the United States and to depart the United States after accomplishing the purpose of his travel to this country.

In addition, a statement to the Immigration and Naturalization Service by an applicant for adjustment that he had obtained his visa with the intention of seeking adjustment after admission would be an admission against interest since the Service will exercise its discretion to deny an application for adjustment if it finds that the alien obtained a nonimmigrant visa under false pretenses because he had at the time of visa application an intent to seek adjustment of status after admission.

For these reasons, it must be presumed that every applicant for adjustment of status will contend throughout the proceedings that he obtained his visa in good faith and experienced a good faith change of intent after admission. Therefore, the only possible source of information which might shed some light on this question would be Immigration and Naturalization Service statistics on the percentage of applications for adjustment which are denied as an exercise of discretion on the basis of a finding that the alien obtained a nonimmigrant visa under false pretenses. We would have to leave it to the Immigration and Naturalization Service to state whether such statistics are maintained and, if so, whether any conclusions could be drawn from them.

*Q. 27. You stated that fraud may take the form of false letters from employers, false bank statements and false marriage or birth certificates. What steps are generally taken to determine the validity of these types of documents?*

A. We feel that within a reasonably short period of time at post the consular officer is able to detect fraudulent documentation and that in most cases this is caught at the time of preliminary interview or examination of the visa application. In any case where the consular officer is in doubt about the validity of documentation submitted in connection with the visa application, visa issuance is, of course, withheld pending verification.

The consular officer may verify employment offers by phoning the employer or, if an applicant does not appear to be the type of individual working in a job outlined in the employment letter the consular officer may verify the applicant's status the same way. Bank statements, marriage and birth certificates may also be checked with the source if they appear to be questionable.

At some posts staffing limitations and volume may preclude in-depth checking of all documentation submitted and the consular officer must be guided by his

sense of feel for the validity of documentation submitted, based on experience at that particular post.

*Q. 28. You stated that the efficiency of a particular post cannot be judged by looking at the number of visas issued per officer assigned. How, in fact, is the efficiency of a post ascertained—is it based on the number of applications considered?*

A. Because making a straight-forward calculation of the average number of man-hours expended per case processed is a relatively simple matter, there is a great temptation to evaluate efficiency solely in terms of this "productivity" figure. There are, however, so many variable factors which influence the amount of time necessary to process a case and which are not calculable in mathematical terms that such comparisons are largely meaningless and we try to refrain from making them.

Leaving aside those variable factors—size and quality of staff and size and layout of working space—over which we have some measure of control, there remain a number of factors over which we have essentially none whatever. These factors relate primarily to the character of the applicants at various posts and involve such elements as the language abilities of the applicants, the sources of the documentation they submit in support of their applications and the incidence of fraud in applications processed at the post.

How, then, do we judge the efficiency of an individual post?

First, on the basis of the flow of reports and other communications to and from a post we are able to develop some feeling for the over-all situation the post faces in terms of the various factors I have mentioned. It is thus possible to compare, on an informal non-mathematical basis, the operations of posts of a similar size and having roughly similar problems. Also the nature of inquiries and reports will tend to indicate whether there are procedural or substantive difficulties requiring consideration. Additionally, officers passing through Washington are debriefed by the Visa Office; inspectors' reports are carefully reviewed and consular conferences provide occasions to discuss operational matters.

*Q. 29. Are there any procedures for determining the number of nonimmigrants who return to their residence abroad in accordance with the terms of their visa; or, alternately, is a post notified when a nonimmigrant overstays and is located by the INS or if a nonimmigrant seeks and obtains an adjustment of status?*

Along these lines have any efforts been made to make INS and State computer systems compatible in an effort to promote a greater exchange of information between consular officers and INS inspectors?

The Electronic Name Check File now contains only refusal data or negative information with respect to a particular applicant (i.e., he was refused a visa at a post, a particular applicant is excludable under one of the statutory grounds). Can these computers be utilized to develop a data base which would contain positive detailed information regarding all visa applicants?—Should this information be available to INS inspectors at ports of entry?

Do you plan to expand the Electronic Name Check File to any additional posts in FY '74 or FY '75?

A. There are no procedures for determining the number of nonimmigrants who return abroad and the Immigration and Naturalization Service does not notify the posts of overstays. The Service does, however, notify the nonimmigrant visa issuing post concerning an alien whose case falls within the following categories and INS has, or intends to, take action with respect to such alien:

Nonimmigrant visa cancelled by INS as alien was excluded at port of entry;

Nonimmigrant visa cancelled by INS since alien withdrew application at port of entry;

Nonimmigrant visa cancelled by INS because deportation proceedings have been initiated;

Nonimmigrant visa cancelled by INS and alien has been permitted to depart voluntarily;

Nonimmigrant visa cancelled by INS because it has revoked the order permitting the alien concerned to enter the United States on the basis of a waiver given earlier under Section 212(d)(3) of the Act; and

Nonimmigrant visa cancelled by INS because it was presented by an imposter, i.e., an alien different from the one to whom it was issued.

The Department of State itself has no means of determining the number of nonimmigrants who return abroad in accordance with the terms of their visas; the Immigration and Naturalization Service, however, does collect information

on departing aliens and this forms a basis for calculating the number of alien overstays. The Service does not notify our posts about overstays located since this in itself would serve no useful purpose, but it does take the following actions:

INS sends form G-325 A to the post that issued an alien's visa if he applies for adjustment of status (from nonimmigrant to permanent resident status) under section 245 of the I and N Act. Receipt of form G-325 A causes the post to check its files for derogatory information and it also alerts the post to the alien's impending adjustment of status.

INS sends form I-275 (Notice of Withdrawal of Application for Admission) to the visa issuing post when an alien is permitted to withdraw his application for admission to the U.S.

INS sends form I-213 (Record of Deportable Alien) to the visa issuing post when an alien is granted voluntary departure in lieu of being deported.

INS also, under authority delegated by the Secretary of State, cancels the nonimmigrant visas of aliens who:

- are excluded at a port of entry
- are permitted to withdraw their entry applications
- are granted voluntary departure in lieu of deportation
- against whom deportation proceedings are initiated
- have their 212(d)(3) visa waiver orders revoked
- are found to be imposters or to have their visas or other documents presented by imposters seeking entry.

(a) Although the Department of State has used a computer for lookout purposes for several years, the Immigration and Naturalization Service only recently began to use an automated system. Both agencies recognize the need to develop a system whereby information possessed by one can be shared and indeed made available to the other electronically, and to this end have agreed to seek recommendations from a private research corporation that we hope will shortly examine both consular and INS operations along the United States-Mexico border. It is hoped, as a result of the study and the recommendations of the research group, that even greater and more integrated use will be made of computers and present day communications systems by State and INS.

(b) Although most of the data in the computer's name check file relates to known or suspected ineligible aliens, the system as presently programmed has the capability of storing considerable additional information. For example, the Embassy at Manila has been adding to the file the names of applicants who are registered on oversubscribed waiting lists of intending immigrants; information regarding lost, stolen, or invalidated foreign passports is being added by the Department on a continuing basis; and information on beneficiaries of temporary worker petitions is added by four of our larger posts. The Department has not been unmindful of the possibilities of using the computer to even greater advantage and, in this connection, notes that a mechanization study was prepared a few years ago that proposed utilizing the computer to maintain waiting lists of intending immigrants, trigger the dispatch of instructions to applicants through posts abroad at the appropriate time depending on priority date, foreign state chargeability, and availability of visa numbers. However, we were unable to implement these proposals because of insufficient funding, lack of both hardware and software, and the need for amendments to the immigration laws. Yet as both State and INS move ahead, it is intended to explore the development of new systems that are compatible and which serve the needs of the two agencies, including, of course, consular offices and ports of entry. This could, in the long run, include positive detailed information regarding all visa applicants.

(c) At the present time, 25 Foreign Service posts are "on line" with the Department's computer. A recent survey indicated that these "on line" posts account for approximately 40% of the overseas workload in the nonimmigrant and immigrant visa function. It is contemplated that additional posts will be included in the computer system in the future as funds become available. The cost of installing the system at a single post is in the neighborhood of \$100,000 for the first year of operation and roughly \$80,000 for each succeeding year. The costs vary of course depending on the distance from a given post to Washington and the charges involved for lease of communications link.

*Q. 30. You indicated last week that one of the problems in the consular area is that the State Department is organized on a geographical rather than a functional basis. Yet most ambassadors and geographical bureaus couldn't care less*

*about consular activities. In view of this and the fact that SCA has been created by statute and expressly charged with the administration of the Immigration and Nationality Act, shouldn't greater consideration be given to the functional role of SCA?—In other words, shouldn't SCA have control (greater control) over all aspects of consular activities abroad?*

*You indicated that the consular function must compete for resources with the more prestigious functions of the Department of State. Therefore, wouldn't it be advisable to administratively separate the consular function from the other phases of the Foreign Service and place this function under the direct supervision of SCA?—Would legislation be needed to accomplish this objective?*

A. I fully agree that SCA should have a strong voice with respect to all aspects of consular activities abroad and I feel that we have been moving in that direction. Last year, with the full support of the Office of Management and Budget, we institutionalized the concept of the "consular package" which in essence provides for close consultation between Foreign Service posts, SCA and the geographic bureaus in determining staffing levels for all consular operations abroad. The "consular package" concept includes recognition of the fact that existing and added consular positions will not be reprogrammed by the bureaus for other purposes without consultation with SCA and without an overriding showing of need. Thus SCA now has a major voice in determining staffing levels. This arrangement in addition to the increasing recognition of SCA's role with respect to the assignment of consular personnel (see number 18 above) assures SCA an important voice in the personnel side of our consular operations abroad.

On the functional or technical side, SCA has a long recognized and dominant role. The Visa Office, under SCA, is the primary Washington contact point for all overseas visa operations. The Visa Office is the primary channel for informing consular officers of new legislation and the interpretation and application of existing legislation and regulations. It handles a heavy traffic of advisory opinions in individual cases and it is responsible for all other operational matters concerned with the efficiency of our visa operations throughout the world.

The Passport Office, under SCA, plays a similar role with respect to our passport and citizenship operations worldwide, as does the Office of Special Consular Services in regard to that branch of consular work. Obviously there are innumerable areas in which SCA's responsibilities and interests coincide with those of the geographic bureaus, but I feel that all concerned recognize fully SCA's primary functional and policy responsibilities in all consular matters.

I think it would be unwise administratively to separate the consular function from the other phases of the Foreign Service. I consider SCA to be in a strong position with respect to its operational responsibilities and I think a further separation of the consular function would not contribute to a more effective administration of the Immigration and Nationality Act but would detract from it. This is due primarily to personnel considerations and to the relationships between the consular operations and the other operations of a post overseas. With respect to personnel, we have only recently embarked upon a "conal" or "functional field" system under which officers are recruited specifically for any one of the four major cones in the Foreign Service. This enables us to recruit officers of high caliber in each of the four cones. With proper career management we hope to assure them a well-rounded career in each of these cones and a balanced competitive opportunity to attain top positions in the Service. Should we abandon this and move to a separate Consular Service, we would, in my opinion, decrease the possibility of attracting top caliber officers to consular work. A separate Consular Service would isolate consular personnel from other facets of foreign service. It would also limit the number of top positions to which they might aspire or reasonably be assigned. It would have a great deal less appeal as a career. Accordingly, I think our interests are best served by strengthening the consular cone as a concept designed to attract top caliber personnel, to encourage a greater sense of professionalism and to provide well-rounded career opportunities and experience as an integral part of the Foreign Service.

This same concept pertains with respect to removing all responsibility for management of the consular function from the geographic bureaus and placing it directly under the supervision of SCA. Responsibility for the operation of posts overseas rests with the geographic bureaus and it is in the interest of administrative efficiency and balanced treatment of the consular function at each post that the responsibilities extend equally to consular operations as to any of the other operations. To assure that the consular function gets its full share of

personnel and other resources the answer is to maintain close and constructive relationships with the geographic bureaus. To fully separate the consular function and in effect place it directly in competition with the geographic bureaus would create serious management problems and certainly not contribute to greater efficiency. SCA would have to add "post management" personnel to its Washington staff, and assume numerous, essentially duplicatory responsibilities.

*Q. 31. Isn't it true that when cutbacks at our embassies are ordered by either OMB or the Department of State, the consular service is the first to be affected (the salaries of political and economic officers are often partially paid by other branches of the government—AID, CIA, Defense—while consular officers are paid entirely by the Department of State—therefore, the greatest savings would be realized by eliminating the number of consular officers)?*

A. There have been several position and/or employee reductions in the Department of State over the past five years. Some have been directed by the President; others have been imposed by OMB or have resulted from shortages of salary funds required to pay all of our employees. Some of the cuts have been focused on limiting or reducing total Government employment and have applied to virtually all Government agencies. Others, such as Balpa (redressing Balance of Payment), have had as their specific objective a reduction in the size of Government staff abroad.

Responsibilities assigned to the Foreign Service include a variety of duties primarily of concern to other Federal agencies which do not have contingents located abroad. Additionally, the Foreign Service compliments or supplements the work of other Federal agencies having limited staff abroad, and it provides administrative support services to the overseas staffs of a number of such agencies. The Department is reimbursed by such agencies for services provided. In this connection, therefore, the Department does have a significant number of positions and employees whose salaries and expenses are indirectly paid from appropriations to other agencies.

For this reason, the Department does not have the same degree of numerical or funding control over all positions in the Foreign Service. While we may consummate decisions to reduce or eliminate our own work in order to meet a lowered employment target, we have a lesser control over the work we perform for other agencies on a reimbursable basis. This situation then may lead to the thought that functions such as consular, which are totally controlled by the Department because they do not obtain significant reimbursement from other agencies, are reduced proportionately more during times of retrenchment. In fact, this is not the case. With respect to positions fully supported by State Department appropriations, the consular function in particular has not received a disproportionate share of position reductions. The consular function has done better than others in recent years, whether or not they are supported by reimbursements from other agencies. Both OMB and the Department recognize that little of the work performed by consular sections may be eliminated.

As indicated in the chart contained in the answer to question number 15, the Department's personnel records reflect that while American consular positions have decreased 1.8% from December 1968 to June 1973, economic/commercial positions decreased 6.3% and political positions decreased 16.6%.

I would not want to mislead the Subcommittee into believing that stringent employment ceiling controls have not been exercised over consular staffing. Such controls are inherent in a government which seeks to hold employment to the minimum levels consistent with the proper and efficient discharge of public business. Rarely does any office in Government always get all the resources it might like to have. These controls are directly related to the fact that frequently consular sections do not have sufficient permanent staff on a year-round basis to meet peak workloads which might be experienced for only several months each year. In order to conserve resources, during peak workloads we will temporarily assign to the consular section qualified personnel normally assigned to other duties at the post. Doubtlessly, this has become more of an accepted practice during periods of stringent position controls such as we have seen for the past five years.

*Q. 32. You indicated that you would supply the Committee with sample copies of the different examinations which are given for each phase of the Foreign Service. Do all exams have the same degree of difficulty and are there uniform requirements for the passage of these exams?*

A. There is attached background information on the written examination

and the process by which the new examination to be given this year has evolved. The written examination is the property of the Educational Testing Service (ETS) of Princeton University, the Department of State's prime contractor for development of this year's written examination. Because of copyright and contract relationships we are unable to provide a full copy of the examinations. The enclosed announcement of the examinations explains, at page 22 and following, the different tests that are given to applicants for each primary function of the Foreign Service.

It has been the objective of the Educational Testing Service, in preparing the new type of written examination to be given for the first time this year, to assure that each of these "functional field tests" is of the same degree of difficulty. Each will be given the same weight with respect to the examination as a whole; each will be designed to assess aptitude, knowledge and skills relative to the particular field of functional specialization for which the applicant is a candidate.

These "cone" examinations, which will comprise one-third of the overall written examination, have been developed over the last eight months through a process of study and dialogue with Foreign Service professionals. Following a review of the literature, guidelines, and precepts for consular work in the Foreign Service, and study of a carefully selected group of position descriptions covering different functions, settings, and level of responsibility, ETS researchers met with committees of Consular Cone officers in the Foreign Service. These "job analysis committees" were specifically selected to bring together highly competent officers with varied types of background and experience in consular affairs. The committees carried on a dialogue with ETS researchers over the period of about four months. Working from this study together with the job analysis committees, job related examinations are being developed by ETS for consular field of specialization. Similar work has been done for each of the other "cones".

Reflecting this new component of the written examination, the oral examination for successful candidates during the coming year will be devoted more fully to other qualities expected of the first-rate Foreign Service officer, whatever the field of specialization. In addition, there will be a clear awareness of those factors which have not been assessed by the written exam and which require attention by the oral examining panel.

*Q. 33. You stated that you work closely with INS in the United States and abroad in your efforts to deal with the illegal alien problem. Can you give us any specific examples of this close cooperation?*

A. Cooperation of the type I had in mind involves essentially an exchange of information between visa-issuing posts and INS offices regarding matters which affect nonimmigrant bona fides. The following are some specific examples:

1. When an alien seeking entry into the United States is excluded or withdraws his application for admission (usually because the immigration inspector questions his admissibility and the alien elects not to pursue the matter before an immigration judge), the pertinent circumstances are made a matter of record on Service Form I-275. Similarly, when the Service locates an alien in the United States who is deportable (as, for example, when the alien has violated his nonimmigrant status by working illegally or has remained beyond his authorized period of stay), the facts are noted on Service Form I-213. In such instances, a copy of the Service form is transmitted to the post at which the alien obtained his visa. Information of this nature is useful to our posts both with respect to the particular alien, should he again apply for a visa, and as a means of identifying general trends. One post, for example, analyzed the I-213 forms it received over a period of time and discovered that 80% of all status violators who had obtained visas at that post came from one province within the country. Naturally, this suggested that much closer scrutiny should be paid to applicants from that area.

2. When an alien is deported from the United States or required to depart within a specific period, the Service places a notation in the alien's passport to indicate that deportation has been ordered or that voluntary departure has been granted. Should the alien again apply for a visa, these indicia serve to alert consular officers to the fact that the alien has previously been in the United States and failed to comply with our immigration laws. While not related to cooperation with the Service, I might also mention in this connection that consular officers place a notation in the alien's passport whenever a non-

immigrant visa application is refused. This is designed to reduce the incidence of visa shopping, i.e., cases in which an applicant denied a visa at one post then seeks to obtain one at another post.

3. The four geographic regions of the INS publish weekly reports which contain information on conditions and trends affecting entry, smuggling and surreptitious entries, frauds and other related matters. Several months ago the Department and INS worked out an arrangement under which a consolidated form of these regional reports containing pertinent extracts from each would be produced by INS and distributed by the Department to all visa-issuing posts. As in the case of the I-275 and I-213 forms, information in these reports serves to pinpoint various illegal modus operandi of which consular officers, as well as immigration officials, should be aware.

4. Information, of course, also flows in the other direction. Consular posts routinely supply, at the request of INS, information which appears in their files with respect to particular aliens who obtained visas abroad. Additionally, consular officers frequently furnish the Service information which has come to their attention regarding the conduct of aliens in the United States. There is a standard Departmental form, FS-508, which exists primarily for reporting information of this nature directly to the Service. From time to time, consular officers also submit observations and recommendations regarding Service practices and procedures in general, and these, if meritorious, are the subject of consultation between ourselves and INS.

While the foregoing are specific examples of cooperation between the Department and INS, I would like to add that officials of our Visa Office and the Service's Central Office consult with one another on virtually a daily basis—by telephone, memoranda, and in meetings—with respect to anti-fraud measures, suspicious entries, possible counterfeit visas other aspects of the illegal alien problem, as well as all other matters related to the administration of the Immigration and Nationality Act.

*Q. 34. Do you anticipate that any specific actions will be taken to implement the recommendations which will be made by the Special Nonimmigrant Visa Survey Team which has just returned from visiting various posts abroad?*

A. The Special Nonimmigrant Visa Survey Team which recently visited various posts abroad prepared on its return a detailed report of its findings. We are in the process of preparing guidelines to be sent to the field for implementation. These guidelines are aimed primarily at assuring maximum efficiency and effectiveness through use of sound management principles. I anticipate that this instruction will be going forward to all posts in the near future.

*Q. 35. On page 18 of your prepared statement you indicated that you are considering reinstating the requirement that every new Foreign Service Officer take basic consular officer training. You are also considering increased language training for consular officers. The Subcommittee would be anxious to know whether these matters are in the early formative stages or whether we can expect action in these areas in the near future.*

A. (a). In the time since I testified before the Subcommittee additional studies have been carried out to determine the feasibility of extending basic consular officer training to every new Foreign Service Officer. These studies indicate that it would not be practicable to give all new officers the full four-week basic consular course provided for each new consular officer. They also indicate, however, that consular training in excess of that now given each new officer is highly desirable and we are presently attempting to work out a program to assure that every new Foreign Service Officer shall have a good grounding in the statutory obligations which the Immigration and Nationality Act imposes upon the Foreign Service. The purpose of this training would be not only to acquaint the new officer with the Act but also to provide him with at least a basic understanding of the operational concepts of consular work.

(b). Increased language training for consular officers is being considered within the context of increased language training for all Foreign Service Officers. As I indicated we are attempting to enforce as rigidly as possible our program for so-called language mandatory positions, that is, positions which should be filled by an officer competent in the language of the host country. In seeking to achieve this goal we are trying to provide language training for all persons assigned to such positions who do not yet have the required competence in the local language. In the case of consular officers, 41.2 percent of all

consular positions are language-designated positions. This is a relatively high percentage in relation to other consular groups. Adherence to this program automatically assures increased language training opportunities for consular officers. The extent of its implementation is limited by budgetary considerations which in this particular case are not severe and, of course, by questions of timing in connection with assignments. Statistical summaries showing language skills of consular group officers, and listing language designated consular positions world wide are attached.

CONSULAR OFFICERS/ LANGUAGE SKILLS/ LANGUAGE-DESIGNATED CONSULAR POSITIONS

Statistical Summary

PEOPLE

Total Number of Consular Officers including those whose primary skill is now program direction

|                       |   |     |
|-----------------------|---|-----|
| FSO/FSR/FSRU-1        | - | 6   |
| FSO/FSR/FSRU-2        |   | 19  |
| FSO/FSR/FSRU-3/SO-1   |   | 64  |
| FSO/FSR/FSRU-4/SO-2   |   | 111 |
| FSO/FSR/FSRU-5/SO-3   |   | 126 |
| FSO/FSR/FSRU-6/SO-4   |   | 138 |
| FSO/FSR/FSRU-7/SO-5   |   | 112 |
| FSO/FSR/FSRU-8/SO-6/7 |   | 24  |
| TOTALS                |   | 600 |

Language skills at the 3,3 level -- 428 officers

Language skills at the 2,2 level -- 269 officers

---

697 officers

Note. Statistics are done by languages covered; in instances where one officer has 3,3 or better in two languages is counted twice, etc.

## TESTED LANGUAGE SKILLS AVAILABLE IN THE CONSULAR CONE

(Based on data available as of 8/31/73)

SUMMARY

|  |     |              |
|--|-----|--------------|
| Language skills at the 3,3 or better level                     | --- | 428 officers |
| Language skills at the 2,2 (including 3,2;2,3;<br>2+,2+) level | --- | 269 officers |
| <hr/>  |     |              |
| TOTAL language skills at the 2,2 or better level               | --- | 697 officers |

SUMMARY OF AVAILABLE WORLD LANGUAGE SKILLS

|   |     |              |
|---|-----|--------------|
| French - at the 3,3 or better level     | --- | 95 officers  |
| French - at the 2,2 level               | --- | 63 officers  |
| German - at the 3,3 or better level     | --- | 65 officers  |
| German - at the 2,2 level               | --- | 35 officers  |
| Italian - at the 3,3 or better level    | --- | 34 officers  |
| Italian - at the 2,2 level              | --- | 25 officers  |
| Portuguese - at the 3,3 or better level | --- | 19 officers  |
| Portuguese - at the 2,2 level           | --- | 8 officers   |
| Spanish - at the 3,3 or better level    | --- | 147 officers |
| Spanish - at the 2,2 level              |     | 77 officers  |
| <hr/>                                   |     |              |
| TOTAL                                   |     | 568 officers |

Notes: The above statistics indicate available language skills; officers with a tested S-3, R-3 in two languages are included twice, etc.

The 3,3 or better level is based on tested scores at S-3 and R-3 or better. Officers with S-3, R-2 or S-2, R-3 or S-2+, R-2+, etc. are included in the statistics at the 2,2 level.

A number of officers known to have language skills but with no tested ratings are not included in these statistics.



O/R-1 O/R-2 S/R-3, SO-1 O/R-4, SO-2 O/R-5, SO3 O/R-6, SO4 O/R-7, SO5 O/R-8, SO6 TOTALS

Hindi  
S-3, R-3 or better  
S-2, R-2

Hungarian  
S-3, R-3 or better  
S-2, R-2

Japanese  
S-3, R-3 or better  
S-2, R-2

Indonesian  
S-3, R-3 or better  
S-2, R-2

Italian  
S-3, R-3 or better  
S-2, R-2

Malaysian  
S-3, R-3 or better  
S-2, R-2

Nepali  
S-3, R-3 or better  
S-2, R-2

Norwegian  
S-3, R-3 or better  
S-2, R-2

Persian  
S-3, R-3 or better  
S-2, R-2

Polish  
S-3, R-3 or better  
S-2, R-2

2

4

3

3

1

2

34

23

2

1

4

1

1

3

6

2

2

2

1

1

4

5

1

1

1

1

1

1

9

7

1

9

6

5

2

1

2

2

2

3

3

1

1

3

3

1

1

3

3

3

3



|   | O/R-1 | O/R-2 | O/R-3, S01 | O/R-4, S02 | O/R-5, S03 | O/R-6, S04 | O/R-7, S05 | O/R-8, S06 | TOTALS |
|---|-------|-------|------------|------------|------------|------------|------------|------------|--------|
| <u>Thai</u><br>S-3, R-3 or better<br>S-2, R-2       |       |       |            | 1          |            | 1          |            |            | 2      |
| <u>Turkish</u><br>S-3, R-3 or better<br>S-2, R-2    |       |       |            | 1<br>1     | 1          |            | 1          |            | 3<br>1 |
| <u>Urdu</u><br>S-3, R-3 or better<br>S-2, R-2       |       |       |            |            | 1          | 1          |            |            | 2      |
| <u>Vietnamese</u><br>S-3, R-3 or better<br>S-2, R-2 |       |       |            | 1          | 1<br>4     | 2<br>4     |            |            | 3<br>9 |
| TOTALS  | 7     | 30    | 85         | 154        | 160        | 138        | 94         | 29         | 697    |

## CONSULAR OFFICERS/ LANGUAGE SKILLS/ LANGUAGE-DESIGNATED CONSULAR POSITIONS

Statistical SummaryPOSITIONS

Total Number of Consular Positions, including the 35 Principal Officerships designated for officers with primary skill of consular

|       |       |
|-------|-------|
| FSO-1 | 12    |
| FSO-2 | 23    |
| FSO-3 | 72    |
| FSO-4 | 120   |
| FSO-5 | 123   |
| FSO-6 | 166   |
| FSO-7 | 123   |
| FSO-8 | 4     |
| TOTAL | 643 * |

\* Includes 25 training positions

Total Number of Consular Positions which are language-designated at the 3,3 level

|       |     |
|-------|-----|
| FSO-1 | 8   |
| FSO-2 | 6   |
| FSO-3 | 23  |
| FSO-4 | 32  |
| FSO-5 | 31  |
| FSO-6 | 22  |
| FSO-7 | 14  |
| TOTAL | 136 |

Total Number of Consular Positions which are language-designated at the 2,2 level

|       |     |
|-------|-----|
| FSO-1 | -   |
| FSO-2 | 2   |
| FSO-3 | 10  |
| FSO-4 | 25  |
| FSO-5 | 20  |
| FSO-6 | 40  |
| FSO-7 | 42  |
| TOTAL | 139 |

Total Number of Consular Positions which are language-designated at the 3,3 or 2,2 level

265\* Includes 24 Principal Officerships language-designated

LANGUAGE-DESIGNATED CONSULAR POSITIONS INCLUDING  
24 PRINCIPAL OFFICERSHIPS

| <u>World Languages</u>    | <u>Language-designated<br/>Positions</u> | <u>Incumbents with<br/>2,2 or better</u> | <u>Incumbents with less</u> |
|---------------------------|--|--|-----------------------------|
| French                    | 46                                       | 41                                       | 4 + 1 vacancy               |
| German                    | 24                                       | 22                                       | 2                           |
| Italian                   | 7  | 5  | 2                           |
| Portuguese                | 13                                       | 11                                       | 2                           |
| Spanish                   | 137                                      | 119                                      | 13 + 5 vacancies            |
|                           | <hr/> 227                                | <hr/> 198                                | <hr/> 23 + 6 vacancies      |
| <u>Esoteric Languages</u> | 38                                       | 28                                       | 9 + 1 vacancy               |

Language-designated positions by geographic area:

|     |    |           |
|-----|----|-----------|
| ARA | -- | 136       |
| EUR | -- | 97        |
| EA  | -- | 9         |
| NEA | -- | 10        |
| AF  | -- | 13        |
|     |    | <hr/> 265 |



|  | Position Classifications |     |     |     |     |     |     |     | Total |
|--|--------------------------|-----|-----|-----|-----|-----|-----|-----|-------|
|  | 0-1                      | 0-2 | 0-3 | 0-4 | 0-5 | 0-6 | 0-7 | 0-8 |       |
| <b>WORLD LANGUAGES (Continued)</b>         |                          |     |     |     |     |     |     |     |       |
| <b>PORTUGUESE</b>                          |                          |     |     |     |     |     |     |     |       |
| Positions at 3,3 level                     |                          |     |     |     |     |     | 1   |     | 5     |
| Incumbents who comply at 3,3 or better     |                          |     | 1   | 1   | 1   | 1   |     |     | 3     |
| Incumbents with 2,2                        |                          |     |     |     |     |     |     |     | 1     |
| Incumbents with less than 2,2              |                          |     |     |     |     |     |     |     | 1     |
| Positions at the 2,2 (or 2,3 or 3,2) level |                          |     | 2   |     | 2   | 1   | 3   |     | 8     |
| Incumbents who comply at 2,2 or better     |                          |     |     |     |     |     |     |     | 7     |
| Incumbents with less than 2,2              |                          |     |     |     |     |     |     |     | 1     |
| <b>SPANISH</b>                             |                          |     |     |     |     |     |     |     |       |
| Positions at 3,3 level                     | 3                        | 6   | 13  | 17  | 8   | 7   | 3   |     | 57    |
| Incumbents who comply at 3,3 or better     | 1                        | 6   | 7   | 9   | 7   | 5   | 2   |     | 37    |
| Incumbents with 2,2                        |                          |     | 5   | 4   | 1   |     |     |     | 14    |
| Incumbents with less than 2,2              | 2                        |     | 1   | 4   |     |     | 1   |     | 6     |
| Positions at the 2,2 (or 2,3 or 3,2) level |                          | 2   | 6   | 13  | 12  | 25  | 21  |     | 79    |
| Incumbents who comply at 2,2 or better     |                          |     | 5   | 11  | 11  | 20  | 18  |     | 67    |
| Incumbents with less than 2,2              |                          |     | 1   | 1   | 1   | 2   | 2   |     | 7     |
| Positions vacant                           |                          |     |     |     |     | 3   | 1   |     | 5     |

## ESOTERIC LANGUAGES

| <u>LANGUAGE</u>    | <u>POSITION LEVEL</u> | <u>LDF LEVEL</u> | <u>INCUMBENT'S LEVEL</u> |
|--------------------|-----------------------|------------------|--------------------------|
| Arabic (Eastern)   | 0-5                   | 3,3              | 2+,2+                    |
| Chinese (Mandarin) | 0-7                   | 2,2              | 2,2                      |
|                    | 0-7                   | 2,2              | 2,1                      |
| Czechoslovak       | 0-6                   | 2,2              | 2,2                      |
|                    | 0-5                   | 2,2              | 3,3                      |
| Dutch              | 0-3                   | 3,3              | 2+,3                     |
|                    | 0-5                   | 3,3              | No tested rating         |
|                    | 0-6                   | 2,2              | 3,3                      |
|                    | 0-6                   | 3,3              | 2+,2+                    |
|                    | 0-7                   | 3,3              | 2,3                      |
| Greek              | 0-5                   | 3,3              | No tested rating         |
|                    | 0-5                   | 3,3              | No tested rating         |
| Hindi              | 0-6                   | 3,3              | No tested rating         |
| Hungarian          | 0-5                   | 3,3              | 2,2                      |
| Indonesian         | 0-7                   | 2,2              | 2,2                      |
|                    | 0-4                   | 2,2              | 2,2                      |
| Japanese           | 0-4(Princ.Off.)       | 3,3              | 3,3                      |
|                    | 0-7                   | 3,3              | 2,2                      |
| Nepalèse           | 0-5                   | 3,3              | No tested rating         |
| Persian (Iranian)  | 0-5                   | 3,3              | No tested rating         |
|                    | 0-5                   | 3,3              | No tested rating         |
| Polish             | 0-5                   | 3,3              | 4,4                      |
|                    | 0-6                   | 3,3              | 1+,1+                    |
|                    | 0-6                   | 3,3              | 1+,1+                    |
| Rumanian           | 0-4                   | 3,3              | 3,4                      |

| <u>LANGUAGE</u> | <u>ESOTERIC LANGUAGE (Continued)</u> |                          |
|-----------------|--------------------------------------|--------------------------|
|                 | <u>POSITION LEVEL</u>                | <u>INCUMBENT'S LEVEL</u> |
| Russian         | 0-4                                  | 3,3                      |
|                 | 0-5                                  | 3,3                      |
|                 | 0-6                                  | 3,3                      |
| Serbo-Croatian  | 0-4                                  | 3,3                      |
|                 | 0-5                                  | 3,3                      |
|                 | 0-6                                  | 2,2                      |
|                 | 0-7                                  | 2,2                      |
|                 | 0-6                                  | 3,3                      |
| Swedish         | 0-5                                  | 2,2                      |
|                 | 0-6                                  | 3,3                      |
| Thai            | 0-5                                  | 3,3                      |
|                 | 0-6                                  | 3,2                      |
|                 | 0-7                                  | 2,2                      |
|                 | 0-7                                  | 3,3                      |
| Turkish         | 0-5                                  | 3,3                      |
|                 | 0-6                                  | 4,3                      |

*Q. 36. Many individuals have suggested that we prohibit adjustment of status to those who enter as F's, H's, J's, and L's. Others have suggested that we prohibit adjustment to those who are seeking visas as 3rd, 6th, and nonpreference petitioners. How would you react to these suggestions?*

A. Prior to 1952 there was no provision for adjustment of status as it presently exists. Aliens in the United States who sought to acquire permanent residence had to obtain immigrant visas abroad for that purpose or submit themselves to a procedure analogous to the existing provisions of section 244 of the Act under which the deportation of a deportable alien may be suspended and his admission for permanent residence recorded if certain conditions are met. As a result, pressure for administrative action to overcome this situation arose and a procedure known as "pre-examination" was established in the 1930's. Under this procedure aliens in the United States who met certain criteria were permitted to be preexamined by the Immigration Service and, if found to be admissible as permanent residents, were then permitted to proceed to Canada to obtain an immigrant visa at an American consular office in that country. More recently, since 1965, an analogous system has been developed for natives of the Western Hemisphere who meet certain criteria. The considerations which motivated the establishment of this procedure were similar to those which resulted in the earlier "pre-examination" system.

If either of the proposals described in this question were to be adopted, the Department can foresee that pressures would again arise for the establishment of such a procedure. For this reason, the Department would not favor any such blanket prohibitions against adjustment of status. We believe that adjustment of status, or some more cumbersome special procedure to overcome the absence of a provision for adjustment of status, is and will remain an integral part of our immigration system. We, therefore, believe that any provision excluding certain classes of aliens from benefitting from the privilege of adjustment should be most carefully drawn so that the classes excluded from this benefit are so clearly non-deserving of it as to eliminate entirely—or reduce to a minimum—pressures to amend or overcome the provision. In our judgment, the amendment of section 245 contained in H.R. 982, now pending before the Senate, is such an amendment. The classes of aliens whose adjustment would be prohibited—aliens admitted in transit without a visa, aliens admitted as crewmen or in transit to join a vessel as crewmen, and aliens other than immediate relatives who had accepted unauthorized employment in the United States prior to filing an application for adjustment—are the classes of aliens who should, as a class, be excluded from the benefits of this privilege.

If the alien applying for adjustment does not fall within one of these excluded classes, it is the Department's opinion that the decision to grant or to deny him this benefit should be made on a case-by-case basis on the merits of this case and not upon a more general basis which would fail to take into account the facts of the individual case.

*Q. 37. The Subcommittee is extremely concerned that there have been abuses in the admission of A and G aliens (diplomats). For example, some embassies have filed an inordinate amount of these petitions. Would it be feasible for the Department of State with the cooperation of the foreign country to establish a maximum amount of A and G petitions which may be filed?*

A. We have been advised by INS that nothing can be done when the spouses and dependents of the principal A or G alien are found to be working illegally as long as the principal alien is considered by the Department of State to be maintaining his diplomatic status. Shouldn't something be done to prevent these spouses and dependents from working?—Is the principal alien notified that his spouse and dependents are not permitted to work?—How many A and G aliens "moonlight" in addition to their work at the embassies?—How often are the diplomatic lists revised to eliminate those who are no longer maintaining their A and G status?—Is INS notified when this takes place?

Under the authority contained in Sections 101(a)(15)(A) and 101(a)(15)(G) of the Immigration and Nationality Act visas are issued to diplomats, officers and employees of diplomatic missions, consulates and special service facilities and to officials, officers and employees of designated International Organizations, members of their immediate family and their attendants, servants and personal employees and members of their immediate family.

The bona fides of an A-1, A-2, or G-1, G-2 or G-3 visa request is most generally established by the submission of a formal diplomatic note to a consular officer identifying an individual by name, rank and position of assignment.

The basis for determining eligibility for G-4 visa classification is generally an official communication from a designated International Organization identifying an alien by name and position as a officer or employee (including family) of the organization.

Eligibility for an A-3 or G-5 visa (for attendant, servants and personal employees) can be based on a diplomatic note, a letter from an International Organization or a communication from the prospective employer.

The types of communications mentioned above are usually accepted at face value with respect to determining eligibility of "A" or "G" visa classification. No "petition" procedure is involved.

Restricting the issuance of "A" or "G" visas could raise a most significant political issue that would necessarily have to be resolved at the highest levels of government. It would involve questions of international law and practice, reciprocity of treatment for American diplomatic and consular establishments abroad, United States obligations under international agreements to which this country is a party as well as agreements between the United States and the various international organizations having offices in the United States.

The Department of State does seek to prevent the dependents of diplomatic personnel from working in violation of their visa status. Since March 1965 all embassies have been on notice that, with the exception of educational, nursing and cultural pursuits, the acceptance of gainful private employment by a family member, servant, or personal employee of a foreign government official, as well as the official himself, is inconsistent with their exempt status as nonimmigrants under Section 101(a)(15)(A) of the Act. By agreement with the Immigration Service, the Office of Protocol has served as the action office within the Department to receive and approve or deny requests from embassies for special authorization to accept such employment. From the evidence available to the Department it would appear that the embassies do notify the principals that neither they nor their dependents may accept outside employment without this permission.

The Department has taken the same position with respect to international organization aliens classified as nonimmigrants under Section 101(a)(15)(G) of the Act.

Should any such person in either class wish to engage in gainful, private employment, either full or part-time (with the exception of educational, nursing or cultural pursuits), it is necessary for that person to obtain a change or adjustment of status. The Department has no means of knowing how many aliens in "A" or "G" status "moonlight" in addition to their regular job.

When the Department is officially notified that an alien in "A" or "G" status is working in violation of his status, the Department advises the appropriate Embassy or International Organization of the fact and indicates that the unauthorized employment must cease or steps will be taken to terminate the alien's status and facilitate his departure from the United States.

The diplomatic lists are revised and published anew every quarter on the basis of corrected copy filed by each embassy and checked against Protocol's records. These publications are of course available to INS. In addition, copies of the individual notification of termination of assignment forms with respect to employees are routinely forwarded to INS. Heretofore copies of the forms notifying the Department of the termination of a diplomat's assignment have not been sent to INS on the theory that diplomats are career officers who leave the United States for another assignment. However, it is possible that a problem can arise when a coup takes place and diplomats might choose not to go home and might not be retained in the diplomatic service under the new regime. To close this potential gap, the Department is instituting a change to provide INS with notification of the termination of all diplomatic assignments.

*Q. 38. The Subcommittee did not become aware of the manpower problems in Korea until about six months after these problems originally developed. I wonder if a procedure could be worked out whereby the Subcommittee would be advised, say on a monthly basis, of the posts which are experiencing administrative backlogs.—Can an arrangement be made whereby we can be specifically advised when personnel shortages prevent the issuance of visas to eligible applicants?*

The Department attempts to allocate sufficient positions and personnel to all

visa issuing posts in order that so-called "Administrative Waiting Lists" are not required. Unfortunately, on very infrequent occasions posts have found it necessary to institute this procedure because workload demands temporarily exceed personnel capability. Such a situation may result from unanticipated workload increases or from unfilled positions attributable to unexpected employee attrition or the unavailability of qualified officers. Administrative waiting lists occur only when all permanent or expedient staffing devices have been exhausted. Except in extraordinary circumstances, this procedure is utilized only for a short period of time during which all practicable staffing methods and possible procedural improvements are explored in order to bring workloads and personnel resources into a better balance. The Department would therefore suggest a procedure whereby the Subcommittee would be advised of any instance when an administrative waiting list for immigrant visas exists for more than three months. We believe such a procedure would both facilitate the Committee's oversight responsibility and provide the Department reasonable flexibility in working out temporary staffing and workload imbalances in a timely manner.

*Q. 39. It has been suggested that there is a need for greater management and administrative skills on the part of the consular officer. Would you support the idea of a management training program for consular officers prior to their assignment to a particular post?*

A. The Department is very much aware of the need for strengthened management skills for consular officers and is investigating the feasibility of especially designed management training programs for consular officers. At present two or three senior consular officers are selected for the advanced career training (Senior Seminar, War Colleges); a small number participate in the 14 week Administrative Operations and Management Course; a larger number participate in the one week Executive Studies Seminar; and we plan to continue enrollment of one or two consular officers yearly in graduate-level programs of an academic year in the areas of management and administration. All of these courses are of value in contributing to the management skills of participants.

*Q. 40. On page 4 of your prepared statement you indicated that "it is the consular officer who must pass on the validity of most of the documentation submitted." Does the consular officer ever go behind the approved petition to verify the information contained in the supporting documents (i.e., authenticity of college degree, medical certificates, etc.)?*

A. The specific types of documents cited in your question would more likely be submitted in support of an application for a labor certification, rather than an application for a visa petition. In any event, the answer is yes, consular officers often go behind approved petitions and labor certifications to verify the authenticity of the supporting documentation.

A number of examples may serve to illustrate this point: To obtain a labor certification as a live-in domestic maid, an alien must show that she has had one year of paid experience in this occupation. Cases arise in which the interviewing consular officer finds that the document which purportedly attests to such experience is spurious or fraudulent. Similarly, there are the so-called Chinese specialty cook cases in which the alien presents evidence alleging years of training and experience in a restaurant which, on investigation, proves to be nonexistent. Or there may be cases in which the consular officer discovers that a birth certificate or other document purporting to show relationship, and on the basis of which a relative petition was approved, is bogus. Transcripts of college records, medical certificates, proof of language competence and the like are also subject to tampering and, in some instances, counterfeiting.

Whatever the circumstances, it remains the responsibility of the consular officer to assure himself not only that an approved visa petition or labor certification exists, but that the facts set forth in that document and other supporting evidence are accurate. As in many aspects of visa work, there are wide variations between one area and another insofar as the reliability of documentation is concerned. Consular officers quickly become aware of these differences as they exist in the particular countries to which they are assigned. At some posts in areas where fraudulent documentation is a sizable problem investigative facilities are utilized by the visa section to deal with this problem.

*Q. 41. What steps are taken to determine whether the applicant is excludable under the Immigration and Nationality Act? How often do consular officers check police records?*

*Discuss the 212(d)(3) waiver procedure—what steps have been taken to prevent terrorists from entering the United States?*

*What evidence of financial support is usually required for those applying for a B-2 visitor's visa?*

A. In addition to examining each nonimmigrant application form for completeness and also to see whether the alien has indicated if any of the excludable provisions of U.S. law are applicable in this case, the consular officer checks the post's files and the Department's Visa Lookout Book. If the applicant has resided elsewhere, i.e., in another country or countries for six months or more, the consular officer will normally ask the Foreign Service post or posts concerned to give "clearance" before he makes a final decision in the case.

Consular officers do not routinely require nonimmigrant visa applicants to present police certificates in support of their applications. Where circumstances warrant, however, such certificates may be requested.

Section 212(d)(3) of the Act contains those provisions which authorize a consular officer or the Secretary of State to recommend to the Immigration and Naturalization Service that a nonimmigrant visa be issued despite the fact that the alien concerned is ineligible to receive a visa under one or more provisions cited in section 212(a) of the Act. (Such waivers are not authorized in the cases of aliens who are ineligible under sections 212(a)(27) and (29).) In the absence of INS concurrence in the recommendation, no visa may be issued.

Consular officers may seek INS concurrence by contacting directly the INS officer stationed abroad in the area where the Foreign Service post is located. This occurs in the majority of all such waiver cases. Alternatively, the consular officer may seek the Department's advisory opinion and simultaneously recommend that the Department approach INS, Washington with a request that the latter concur in a waiver. In any event, if INS concurs in the recommendation, the consular officer is so informed. If a nonimmigrant visa is issued pursuant to a waiver order, a notation to this effect is placed below the nonimmigrant visa stamped in the alien's passport. Any restrictions such as a designated port of entry or period of authorized stay are similarly noted in the nonimmigrant visa.

Positive steps have been taken to prevent known or suspected terrorists from entering the United States. These were described recently to the Committee in Executive Session.

Concerning evidence of financial support for those applying for B-2 visitor visas: There is attached to the application form used by visitor visa applicants information as to how one should apply for a visa, as well as a detailed listing of the documentary requirements and other evidence one should submit in support of an application. The following sentences appear in those instructions: "U.S. law prohibits aliens who are granted visitor visas from working in the United States; they must, therefore, demonstrate that they have adequate funds of their own or assurances that they will be supported there by some interested person. In this connection, evidence should also be submitted regarding the arrangements you have made to cover your expenses while in the United States." Applicants submit either a letter from a bank or a savings deposit book, or frequently a letter from an employer. Those will rely on relatives or friends in the United States for living expenses customarily submit letters or often affidavits of support from such relatives or friends.

*Q. 42. Is there any exchange of information between INS and State when patterns of illegal conduct are identified (i.e., large numbers of Indian students who have been accepted at a particular trade school)?*

There is a constant flow of such information between our posts abroad and INS district offices throughout the United States, as well as between the Visa Office and the INS Central Office. INS recently started distribution of a Weekly Intelligence Summary to all Foreign Service posts and this step, taken at the Department's suggestion, should be of assistance to consular officers in weeding out ineligible applicants.

In addition, representatives of the Visa Office and the Central Office of INS meet periodically to discuss mutual problems and work out procedures.

*Q. 43. In a recent issue of a GAO report, there was mention of the definite lack of cooperation between INS and State in combatting the illegal alien problem. Has any action been taken by the State Department to achieve greater coordination and cooperation with INS as a result of this report?*

A. We have not received copies of recent GAO reports on illegal aliens and are therefore not in a position to comment specifically. As a general matter, how-

ever, we believe that we do have a significant degree of cooperation and coordination with INS in the effort to combat illegal aliens. The instances cited in our response to question 33 are illustrative of the extent to which we do coordinate our efforts.

An additional example which would appear worthy of mention in this context is the publication of the revised instructions and guidelines to consular officers for the consideration of student visa applications (contained in the Notes to 22 CFR 41.45, Volume 9 FAM—Visas, Part II). These instructions were referred to INS for comment and there was very close consultation in other ways in their preparation. They represent, therefore, a jointly-arrived-at position on the proper standards for evaluation of the various elements which must be considered in adjudicating an application by an alien for a nonimmigrant student visa.

*Q. 44. What efforts, if any, are being made by the Administration to insure the passage of H.R. 982 and H.R. 981, in the event of House approval of the latter bill?*

A. We have been in touch with the Senate Judiciary Committee on several occasions urging early action on both H.R. 982 and H.R. 981.

*Q. 45. How many additional consular positions do you anticipate will be requested in FY 1975?*

A. The FY 1975 budget has not yet been finalized but we are hopeful that we will obtain the additional positions that we feel are necessary to meet our statutory responsibilities in the face of increasing work loads.

*Q. 46. Would you please explain your statement on page 15 that the quality of consular work cannot be insured merely by providing more consular officers—isn't it true that additional personnel would greatly increase the quality of decision making by consular officers?*

A. It is, of course, generally true that additional personnel should increase the quality of decision making by consular officers in the sense that it would permit the individual officer to work at a less hurried pace and spend more time on each individual case. What I meant, however, was that mere numbers do not in themselves insure greater quality. By far the most important factor is the professional competence and experience of the individual consular officer. I consider these qualities are already at a high level in the Foreign Service but it is my hope that current measures which we have discussed and have in mind will further enhance their professional excellence. Specifically, I refer to such things as implementation of the consular cone concept with its emphasis on specific recruitment of officers for the consular cone within the Foreign Service and its emphasis on careful career development and preparation for ultimate senior responsibility. Related to this are our plans for expanded training opportunities for consular officers, our plans to assure greater recognition of the vital role played by a consular officer in carrying out his statutory responsibilities and our designation of a number of senior positions as positions to which consular officers should be assigned. The quality of performance is unquestionably a function of motivation and I believe that our present course will assure more highly motivated officers.

*Q. 47. Some critics have suggested that the Immigration and Nationality Act is not administrable. Does this represent the thinking of many individuals in the Department of State and if so, why has no legislation been recommended by the Administration to correct this problem?*

A. Criticism of the Immigration and Nationality Act by those charged with administering it has generally been of two kinds:

(1) Despite its complexity and detail, there are some significant gaps. Some of these have been filled by legislation, e.g., creation of the K and L visas and changes in the J visa, all of which were proposed by the Department at one time or other. Others remain, e.g., Western Hemisphere preference system, adjustment of status for Western Hemisphere natives, limiting F visas to students destined for academic institutions, reversion to the pre-1965 version of Section 212(a)(14) adding a job offer requirement, all of which have been proposed by the Department.

(2) The provisions of the law relating to determining the bona fides of nonimmigrant applicants is virtually unadministrable because of the difficulty of determining the true intentions of the NIV applicant. No wholly satisfactory substitute for this long-standing requirement has been devised. However, the Department has proposed the elimination of the NIV require-

ment in certain instances with various safeguards and penalties. It has also proposed or supported measures to attack the problem from the U.S. end such as by eliminating the issuance of Social Security cards to those not entitled to work and imposing penalties on employers hiring aliens not entitled to work (such as H.R. 982).

*Q. 48. As a part of the Government's program to encourage foreign travel to the United States, it has been stated that "all necessary administrative steps to facilitate the granting of nonimmigrant visas" should be taken. To meet this challenge, and the demands caused by the increasing visa workloads, have non-immigrant visa procedures become too brief and simple, and thereby contribute to the illegal alien problem?*

A. We do not believe that NIV procedures have been over-simplified to the extent that they contribute significantly to the illegal alien problem. Some procedures have been simplified to increase efficiency, as for example when some years ago we stopped requiring police certificates of NIV applicants when it was determined that such documentation was of insignificant value. No simplification of visa procedures is ever undertaken, however, without full consideration of its impact on other values of the visa as defined by the law and the intent of Congress.

*Q. 49. Immigration officers and consular officers make the same determination regarding an alien's classification and eligibility, although the consular officer is in a much better position to check the aliens qualifications. Yet, to facilitate the granting of nonimmigrant visas, the consular officers may waive certain documentation and personal interview requirements. For example, police certificates are not required in nonimmigrant visa cases unless there is reason to believe the applicant has a criminal record. How can this be determined if the applicant applies for a visitor visa and personal appearance is waived.*

A. I believe the answer to this question is contained in my reply to question No. 41.

*Q. 50. What is an applicant required to submit with his nonimmigrant visa application?*

A. A valid passport, one photograph, and evidence to support his claim to one of the several nonimmigrant classifications are required of every applicant. These requirements, as they pertain to visitors for business or pleasure (which account for nearly 90% of the nonimmigrant workload), call for evidence substantiating the purpose of the trip and the applicant's intention to depart the United States after a temporary visit. This could be accomplished by submission of an employment letter, evidence of family ties outside the United States, bank statements, etc. In addition, the applicant might have to submit evidence that he has sufficient funds to maintain himself while in the United States or that other satisfactory arrangements have been made for his maintenance and support while in the United States.

*Q. 51. The interview is said to be the most important single aspect of the non-immigrant procedure. One of a number of things to be determined during the course of the interview is whether or not the alien is a bona fide nonimmigrant. Yet, the personal appearance of an applicant for a visitor visa may be waived by the consular officer. In what other cases will a personal interview be waived and how does an officer determine whether the alien is a bona fide nonimmigrant?*

A. Under current regulations, a consular officer may in his discretion waive personal appearance for the following:

(a) a child under 14 years of age;

(b) aliens classifiable under section 101(a) (15) (A)—foreign government officials; 101(a) (15) (B)—visitors for business or for pleasure; 101(a) (15) (C)—aliens in transit; 101(a) (15) (D)—aircrew and crewlist visas only; 101(a) (15) (G)—international organization aliens; 101(a) (15) (H) (1)—temporary worker of distinguished merit and ability; 101(a) (15) (I)—information media representatives; 101(a) (15) (J)—a symbol J-1 alien who qualifies as a leader and who is recipient of a U.S. Government grant, plus the symbol J-2 spouse or child of such J-1 leader grantee; and North Atlantic Treaty aliens issued visas under the symbols NATO-1 through NATO-7 pursuant to the applicable provision of the Agreement on the status of the North Atlantic Treaty Organization.

In addition to the foregoing, a consular officer may waive personal appearance in his discretion of nonimmigrants in any category in whose case he determines that a waiver of personal appearance is warranted in the national interest

or because of unusual circumstances, including hardship to the visa applicant. Unless the last mentioned circumstances are present and determined applicable in a given case, a consular officer must personally interview the following categories of nonimmigrant visa applicants:

(a) aliens classifiable under Sections 101(a) (15) (D)—seamen applying for individual symbol D visas; 101(a) (15) (E)—treaty traders and investors and their spouses and children; 101(a) (15) (F)—students and their spouses and children; 101(a) (15) (H) (i), (ii), (iii), and (iv)—temporary workers, trainees and their spouses and children; 101(a) (15) (J)—exchange visitors, their spouses and children other than those qualifying as leaders (see above); 101(a) (15) (K)—fiance or fiancée of U.S. citizen and minor child; and 101(a) (15) (L)—intracompany transferee and spouse and children.

Consular officers are not obliged to waive personal appearance of any alien; the decision to do so is a discretionary one. Moreover, long-standing instructions to consular officers state that an officer should require the personal appearance of any alien when the evidence before him is insufficient to reach a determination as to the applicant's visa classification and eligibility. In some areas of the world, where bona fides are questionable and fraud is prevalent, nearly all applicants for nonimmigrant visas are personally interviewed by a consular officer, while on the other hand, there are countries and geographic areas where only a small proportion of applicants are required to appear in person. Good judgment, of course, is a major factor in the decision-making process and is usually developed, even by experienced visa officers, only after they have served at their particular post of assignment for some time.

While visa officers assigned to posts in certain countries are able to waive personal appearance in the majority of cases, the opposite may be the case in some other areas. Economics and living conditions are usually the governing factors. High rates of unemployment, underemployment and burgeoning populations all create an unusually high demand for visas among the unsatisfied and it is in these areas of the world where waiver of the personal appearance is held to a minimum. In those areas, personal appearance is waived for the most part only for government officials, persons well and favorably known to the consular officer and other officers assigned to the post, and usually for the individual who has a previously issued visa that has expired or is about to expire.

*Q. 52. Are there any statistics which indicate the frequency of the waiver of a personal appearance by the applicant? If not, could an estimate be made?*

A. We have not maintained statistics on the number of visas issued by waiver of personal appearance since fiscal year 1969. The world-wide percentage in FY-65 was 29%; in FY-66, 35%; in FY-67, 40%; in FY-68, 41% and in FY-69, 44%. Based on these statistics, our best estimate on the waiver of personal appearance for nonimmigrant visas at present would be between 45 and 50%.

A high percentage of personal appearance waivers occurs at our posts in Northern Europe and Japan where there is a low incidence of fraud and both areas are well-off economically. For example, out of the approximately 650,000 non-personal appearance visas issued in FY-69, approximately 520,000 were processed at posts in EUR and EA areas. In FY-68 and 69 London issued 80% and 86% respectively nonimmigrant visas "by mail". In the same years the posts in France issued 75% and 65% respectively of their nonimmigrant visas "by mail".

In areas where we are aware of potential ineligible aliens the volume and percentage is much lower. In such places as, for example, Santo Domingo, Kingston, Manila, and Hong Kong, the majority of applicants for nonimmigrant visas are interviewed and the waiver of personal appearance is made only in clearly eligible cases or to persons well known to the Consular office.

*Q. 53. We understand that visas are issued prior to nonimmigrant clearance and local check practices, i.e., on a post-check basis. Could you explain the meaning of nonimmigrant clearance and local check practices and to what extent are visas issued on a post-check basis?*

A. Consular officers are under standing instructions to check the world-wide lookout system and the post's sources prior to issuance of a nonimmigrant visa. This is what is meant by "nonimmigrant clearance" and "local check practices."

Visa applications are always checked locally in this way prior to issuance. Posts should also check in advance with the post or posts in any other country where the applicant resided for six months or more before the date of application. This latter check may be made after issuance of a nonimmigrant visa in the event there is an emergency and the applicant appears otherwise eligible

for a nonimmigrant visa. Issuance of visas on this post-check basis is comparatively infrequent.

*Q. 54. We understand that post organization arrangements are to allow typists and officers not ordinarily engaged in nonimmigrant visa duties to be shifted to such work during rush periods. Is this a normal practice that is followed at most posts? What is the scope of their responsibilities and do these work assignments require any specialized training?*

A. Every post, based on its particular needs during rush seasons, must determine what manpower it has available to it within its own organization to take care of the nonimmigrant work-flow. When the demand increases manpower is first drawn on to the extent possible from within the consular section itself, i.e., from protective services, passport and citizenship, or immigrant visa sections. If this still proves inadequate, assistance has to be sought from outside the section. Generally there are officers in other sections who have had previous consular experience who can render effective assistance in the processing of routine nonimmigrant visas. By the same token typists and other staff personnel can be used for typing and other clerical assistance.

*Q. 55. Regarding the consular packages for FY 1974 and 1975, have the posts considered the impact of using these officers and typists during the rush periods? In other words, are the man days contributed by these temporary personnel during rush periods shown in relation to the number of consular personnel and case workloads?*

A. During times of peak consular workloads, Foreign Service posts characteristically utilize in Consular Sections on a temporary basis officers and local personnel officially assigned to other sections at the post. This is particularly true at posts which experience wide seasonal fluctuations in workloads. The Department's consular workload measurement and manpower forecasting system develops staffing information on the basis both of permanent positions and employees assigned to the Consular Sections, as well as total manhours utilized or required. Manhours obtained from temporary employees or permanent employees detailed to the Consular Section from other parts of the post organization are accounted for in the manhours element of the workload reporting system. Both permanent positions and manhours reports are considered in determining personnel requirements for budget and personnel assignment purposes.

*Q. 56. Posts were required to determine the effect of the Lewis-Mota case on manpower requirements when they submitted their consular packages for FY 1974 and 1975. What will be the effect on manpower requirements for these years?*

A. The recent court decision (*Lewis-Mota et al v. Secretary of Labor*) requires the reactivation of about 100,000 immigrant visa applications. Instructions concerning the processing of these cases were sent to Foreign Service posts in August of 1973, approximately one month after posts had submitted workload and manpower requirements forecasts for FY 1974 and FY 1975 in connection with the FY 1975 "Consular Package." Nevertheless, the increased workloads imposed by the Lewis-Mota case were considered in the Department's review of post "Consular Package" requests, and appropriate manpower allowances are being requested.

*Q. 57. In April 1971, GAO issued a report on the financial administration and the revision of fees in the consular services program. GAO recommended that the Secretary of State should—revise immigrant visa and other consular fees on a basis that is responsive to Public Law 90-609 and in consonance with public policy that services provided to or for any person should be self-sustaining to the fullest extent possible, promulgate definitive policy and criteria for establishing consular fees, and develop an accounting system and related procedures for periodically determining the cost of providing consular services.*

*What has the Secretary of State done in response to these recommendations?*

A. The Department has agreed to carry out recommendations of the GAO report of April 14, 1971 including: reviewing the costs and fees for immigrant visas; devising procedures for determining costs of all consular services; and defining policies and criteria for establishing consular fees. However, cost finding techniques are being used in place of a detailed cost accounting system as originally advocated by GAO.

An essential first step taken by the Department to determine costs of all consular services was to initiate improvements in consular posts' productivity reporting by covering both full and partial manyears devoted to the more than seventy different services, thus making it possible to include the time and cost

of the performance of consular duties by employees with multi-functional responsibilities. This improvement is resulting in more accurate data than were ever available before on the many years and personnel compensation costs of carrying out consular services.

Various cost formulas or cost finding techniques have been developed and applied to one fiscal year's data to determine the total direct and indirect costs for carrying out all consular services both in the U.S. and overseas. These formulas are currently being reviewed and tested. To establish a method for sorting out the costs for each of the more than seventy consular services, the Department plans to elicit costing data on-site at representative sampling of consular posts beginning in about four months. This survey will serve to validate productivity reporting and test two different methods for attributing costs by specific services.

Work on defining policies and criteria for establishing fees is a continuing part of the study now in process. The final report will include proposed policies and criteria as well as methodology for periodic reviews of costs and fees in the future and a proposed new fee structure for consular services.

## APPENDIX 5

U.S. DEPARTMENT OF JUSTICE,  
IMMIGRATION AND NATURALIZATION SERVICE,  
Washington, D.C., December 12, 1973.

HON. JOSHUA EILBERG,  
*Chairman, Subcommittee on Immigration, Citizenship and International Law,  
Committee on the Judiciary, House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your letter of November 14, 1973, requesting responses to twenty-eight additional questions in connection with the recent oversight hearings held by your Committee.

Attached are the responses to the questions submitted. You will note that each question and answer is on a separate page.

If I can be of any further assistance please do not hesitate to call on me.

Sincerely,

L. F. CHAPMAN, Jr., *Commissioner.*

Attachments.

*Q. 1. What is the extent of INS immigration officials detecting aliens entering the country with fraudulent passports and valid visas?*

A. It is not infrequent, although the volume is not great, that a case is detected at a port of entry of a passport page with a valid visa which has been inserted in the passport. Such cases can be detected by examination of the passport binding or stitching as well as a comparison of the page with visa with other passport pages. Frequently all passport pages are perforated with the passport number and the perforations on the inserted page do not match precisely. Also, a comparison with the passport identity information and endorsement on the visa will disclose the attempted fraud. Statistical data is not accumulated, but novel and/or sophisticated efforts are reported to all Service field offices. Such cases are probably less difficult to detect than cases of impersonation.

Opportunities for Immigration Investigators and Border Patrol Agents to intercept fraudulent passports and valid visas are limited; however, they can and do encounter counterfeit and altered documents, as well as valid documents being used by imposters.

In Fiscal Year 1973, Border Patrol officers in the Southwest Region detected 1,270 counterfeit, 721 altered and 417 valid but fraudulently used Forms I-151 as evidence of legal admission to the United States, while 6 counterfeit, 132 altered, and 129 valid but fraudulently used Forms I-186 were intercepted. There were also 8 fraudulent Mexican credentials and 39 altered or misused Forms I-179 reported.

There was an overall total of 16,968 documented frauds (exclusive of false claims to United States citizenship) reported by the Southwest Region of INS: 3,779 counterfeit, 1,577 altered, and 2,362 valid but fraudulently used Forms I-151; 906 counterfeit, 1,433 altered, and 6,684 valid but fraudulently used Forms I-186; 133 fraudulent Mexican credentials; and 3 counterfeit, 52 altered, and 39 valid but fraudulently used Forms I-179.

*Q. 2. Has the organizational structure of INS impeded in any manner the efficient administration of the Immigration and Nationality Act?*

A. The present organizational structure of the Immigration & Naturalization Service became effective January 3, 1955. The establishment of four regional headquarters for direct supervision and management of districts within each region according to broad outlines of policy and procedure was based on intensive studies made by Service officials prior to January 1955. The present structure centralized in each regional office much of the administrative work previously performed in the Central Office and districts. Regional officers were given case control and appellate work previously performed in the Central Office. Districts lacking adequate workloads were eliminated. The present organizational structure provides adequate supervision and management of operations at the many

scattered points throughout the United States and its territories and frees senior staff officers for surveys and the determination of solutions to broad Service problems who were previously severely handicapped with case work. All phases of the January 3, 1955 reorganization of this Service were discussed in detail at hearings on March 9 and 17, 1955 before the House Subcommittee on Legal and Monetary Affairs.

The present organization has proved sound, but, as the new Commissioner I intend to review in detail the organizational structure and, if the situation requires it, will make changes as I believe are necessary and within my scope of authority, or will make recommendations to higher authority.

*Q. 3. In terms of total appropriations and personnel, how does INS compare with the other agencies in the Department?*

A. According to the Fiscal Year 1974 Budget of the United States Government, major segments of the Department of Justice reflect the following personnel and appropriations in thousands of dollars:

| Agency (salaries and expenses)                             | Fiscal year         |                |                     |                |                     |                |
|--|---------------------|----------------|---------------------|----------------|---------------------|----------------|
|  | 1972 (actual)       |                | 1973 (estimate)     |                | 1974 (estimate)     |                |
|  | Permanent employees | Appropriations | Permanent employees | Appropriations | Permanent employees | Appropriations |
| Federal Bureau of Investigation.....                       | 20,527              | \$336,116      | 20,527              | \$351,675      | 20,300              | \$366,506      |
| Immigration and Naturalization Service.....                | 7,682               | 130,944        | 7,682               | 135,084        | 7,682               | 139,698        |
| Federal prison system.....                                 | 6,162               | 104,863        | 6,373               | 115,417        | 6,911               | 129,021        |
| Law Enforcement Assistance Administration.....             | 546                 | 698,919        | 660                 | 855,597        | 601                 | 891,124        |
| Bureau of Narcotics and Dangerous Drugs <sup>1</sup> ..... | 2,743               | 65,812         | 2,867               | 74,053         | 2,867               | 77,400         |
| General Administration.....                                | 648                 | 10,509         | 776                 | 14,000         | 952                 | 19,693         |
| General legal activities.....                              | 2,098               | 40,669         | 2,333               | 46,300         | 2,298               | 47,342         |
| Antitrust Division.....                                    | 630                 | 12,340         | 629                 | 12,836         | 629                 | 13,019         |
| U.S. attorneys and marshals.....                           | 4,619               | 85,240         | 4,911               | 92,300         | 4,977               | 99,528         |

<sup>1</sup> Presently the Drug Enforcement Administration.

*Q. 4. Do you think that more personnel are needed to cope with the illegal alien problem and to carry out other INS responsibilities?*

A. Yes. The past few years have witnessed a startling increase in the number of illegal aliens apprehended in the United States. The control of illegal aliens does not meet optimum law enforcement standards. Such aliens are entering surreptitiously and living and working throughout this country. One primary goal of the Service is to reduce the illegal alien population. Additional personnel are required to accomplish this mission.

*Q. 5. Has the Department, OMB, or the Congress ever cut INS requests for more personnel? Could you provide data on INS personnel requests to the Department, OMB, and the Congress for a period of five years?*

A. Substantial reductions in personnel requests have been made by the Department and OMB as detailed in the following table:

| Fiscal year       | Additional personnel requested |           |           |           |           |           |
|-------------------|--------------------------------|-----------|-----------|-----------|-----------|-----------|
|                   | Department                     |           | OMB       |           | Congress  |           |
|                   | Requested                      | Reduction | Requested | Reduction | Requested | Reduction |
| 1970.....         | 580                            | 287       | 293       | 96        | 197       | .....     |
| 1971.....         | 969                            | 546       | 423       | 113       | 310       | .....     |
| 1972.....         | 960                            | 197       | 763       | 311       | 452       | .....     |
| 1973.....         | 1,065                          | 609       | 456       | 456       | .....     | .....     |
| 1974.....         | 1,468                          | 518       | 950       | 950       | .....     | .....     |
| 5-year total..... | 5,042                          | 2,157     | 2,885     | 1,926     | 959       | .....     |

*Q. 6. In FY 1972, INS apprehended 505,949 illegal aliens. Of these, almost 400,000 or 79% illegally entered the United States. I would like to know what percent of INS resources (budget and personnel) are directed toward preventing aliens from illegally entering this country and what does this consist of?*

A. The border patrol is responsible for preventing the illegal entry of persons into the United States and to apprehend any aliens who accomplish illegal entry. The percent of INS resources directed to the border patrol during fiscal years 1972 and 1973 follows:

| Fiscal year | Total appropriation | Total employees | Total directed to preventing illegal entry |         |                        |         |
|-------------|---------------------|-----------------|--|---------|------------------------|---------|
|             |                     |                 | Amount                                     | Percent | Employees <sup>1</sup> | Percent |
| 1972.....   | \$130,944,000       | 7,682           | \$38,745,200                               | 29.6    | 2,005                  | 26.1    |
| 1973.....   | \$137,484,000       | 7,682           | 40,302,500                                 | 29.3    | 2,032                  | 26.5    |

<sup>1</sup> Includes clerical and maintenance personnel.  
<sup>2</sup> Includes pay raise cost of \$2.4 million.

Q. 7. In a New York Times article it was stated that a supplemental request has been made for 3,000 additional employees. Can you advise us as to the status of this request and where these additional employees will be assigned in the event the request is granted?

A. A fiscal year 1974 supplemental request for 1,823 additional positions not 3,000 positions, was submitted to the Department of Justice on June 20, 1973. The Department reduced our request to 750 additional positions and the OMB further reduced the request to 300 positions. Presently the supplemental request, including the 300 additional positions, is pending before the Congress. If the supplemental request is granted, we plan on assigning the additional positions as follows:

| Location:               | Total positions |
|-------------------------|-----------------|
| New York, N.Y.....      | 67              |
| Newark, N.J.....        | 29              |
| Los Angeles, Calif..... | 69              |
| Chicago, Ill.....       | 41              |
| Virgin Islands.....     | 4               |
| Livermore, Calif.....   | 2               |
| Mexican border.....     | 88              |
| <b>Total</b> .....      | <b>300</b>      |

Q. 8. GAO recently reported that INS could apprehend more illegal aliens if it had more detention funds and space, investigators, border patrolmen, transportation funds and time. They further reported that the New York and Los Angeles INS offices had a backlog of about 38,000 cases in which INS had not verified the departure of apprehended aliens who had been allowed to depart on their own recognizance. Could you explain to this Committee why the number of permanent positions in INS has not changed during 1972-1974 as presented in the 1974 appropriation hearings?

A. As I detailed in reply to question number 5, there were no additional positions allowed for the Service during fiscal years 1973 and 1974. We submitted to the Department of Justice a request for 2,533 additional positions during 1973 and 1974. The Department reduced our request by 1,127 positions and the OMB further reduced the request by 1,406 positions. The Service was not allowed to submit to the Congress a request for additional positions. However, in my reply to question number 7, I pointed out that a fiscal year 1974 supplemental budget request for 300 additional positions is presently pending before the Congress.

Q. 9. When the Subcommittee was in Guam recently, we were advised that a large number of E-treaty traders were engaged in menial skills which would be in violation of their nonimmigrant status. What efforts are made by INS personnel in Guam to locate and remove such individuals?

A. "E" visas unlike those under subparagraphs (h), (k) and (l) of Section 101(a) (15) of the Act are issued by American consuls without any prior Service inquiry which is afforded by the nonimmigrant visa petition under Section 214(c) and (d). At the time of application for admission to Guam on the basis of "E" visas issued by consular officers, a careful screening is conducted by the Service to determine to the extent feasible the nature of the employment contemplated. As a result of the screening some applicants for admission have withdrawn their applications and departed. Due to a shortage of personnel it is difficult to make

follow-up checks except at this time as the applications are made for additional time or to act on specific allegations of violations and then only to the extent of available manpower.

*Q. 10. Adjustment of Status—Many individuals have suggested that we prohibit adjustment of status to those who enter as F's, H's, J's and L's. Others have suggested that we prohibit adjustment to those who are seeking to adjust as 3rd, 6th, and nonpreference petitioners. What is INS's suggestion?*

A. It is true that some applicants for adjustment of status have utilized admission to the United States as F's, H's, J's, L's, and other nonimmigrant classifications as a means of circumventing the usual immigrant visa issuance process and have entered with an apparently preconceived intention of adjusting status. When the Service finds this to be the case, and there are no substantial countervailing equities to offset this adverse factor, the application is denied as a matter of discretion. (See *Matter of Arai*, 13 I. & N. Dec. 494). When appropriate, denial is based upon statutory ineligibility (inadmissibility under section 212(a) (19) of the Act).

However, it is the view of this Service that, simply because some individuals have engaged in the above described abuse of the immigration laws, it would not be proper to institute an absolute prohibition on adjustment of status of aliens who entered under specified nonimmigrant classifications.

*Q. 11. We have been advised by INS that nothing can be done when the spouses and dependents of the principal A or G alien are found to be working illegally as long as the principal alien is considered by the Department of State to be maintaining his diplomatic status. Shouldn't something be done to prevent these spouses and dependents from working? Is the principal alien notified that his spouses and dependents are not permitted to work? How many A and G aliens "moonlight" in addition to their work at the embassies? How often are the diplomatic lists revised to eliminate those who are no longer maintaining their A and G status? Is INS notified when this takes place?*

A. The Department of State has advised the heads of all foreign diplomatic missions to the United States that it is the position of our Government that, except for nursing, educational and clerical pursuits, the acceptance of gainful private employment by the spouses and dependents of a foreign government official is inconsistent with their status under section 101(a) (15) (A) or (G) of the Immigration and Nationality Act. If such spouses or dependents inquire of this Service regarding the right to engage in gainful private employment while maintaining their present status, they are advised to have their embassy communicate with the Office of the Chief of Protocol, Department of State, concerning the matter. That office advises the foreign embassy in writing whether the requested employment is permissible and, if permissible, to furnish a copy of the communication to the alien.

If the Service becomes aware in any manner that an alien in the United States as a section 101(a) (15) (A) or (G) nonimmigrant is engaged in gainful private employment, the Department of State is notified so that it may make representations to the foreign embassy, if appropriate.

All nonimmigrants, upon admission to the United States are furnished Service Form I-358 which, inter alia, states that "Persons admitted temporarily as nonimmigrants may not accept employment unless they have been accorded nonimmigrant classifications which authorize employment . . ."

The Service has no information on the number of A and G aliens who "moonlight" in addition to their work at the embassies.

The Department of State revises the diplomatic lists quarterly and makes the revised lists available to the Service. In addition, the Department of State furnishes to the Service, whenever received, copies of notices of terminations of aliens who were in nonimmigrant status under section 101(a) (15) (A) (ii) and (iii). The United States Mission to the United Nations receives monthly lists of aliens whose nonimmigrant status under section 101(a) (15) (G) with the United Nations has been terminated, and furnishes copies to the New York office of the Service. When the Department of State advises that a principal alien is no longer entitled to classification under section 101(a) (15) (A) or (G) and that there is no objection to affecting his departure, the Service initiates such action. When Service field offices encounter a principal alien who was admitted as a section 101(a) (15) (A) or (G) nonimmigrant but appears to be in violation of status, the Department of State is notified. Further Service action is then held in abeyance pending receipt of advice from that Department that action may be taken to enforce the alien's departure.

*Q. 12. What is the status of the transfer of INS personnel envisioned in Reorganization Plan No. 2?*

A. No Immigration Service personnel have been transferred. For all practical purposes, the inspection system is the same as before. This Service operates under an agreement with the Treasury Department which states, in effect, that Service personnel are authorized to continue the inspection of persons at ports of entry and requested legislation (H.R. 8245) rescinding the transfer of Immigration personnel to the Treasury Department has passed the House and passed the Senate. However, as passed by the Senate it contains amendments which will require Senate-House conference and reconsideration.

*Q. 13. Has INS ever revoked approval of a particular school for failure to report foreign students who did not attend the institution or who dropped out after the school year has started?*

A. The Service does not maintain statistics concerning revocation of approval of schools for attendance by nonimmigrant students. However, field offices have reported that there have been no revocations for the reasons stated, i.e., a school's failure to report foreign students who did not attend the institution, or who dropped out after the school year had started. In this connection it should be noted that normally a school is warned of violations and afforded an opportunity to take corrective action.

*Q. 14. Would you explain the average processing time for processing the various immigration petitions and would you explain the reasons for the discrepancy in processing times among the various district offices?*

A. National averages for the time required to process the various types of immigration applications and petitions are not meaningful because of the wide variations in processing time among the various Service offices. These variations are dependent upon the nature and volume of the total workload and the on-duty force. Many of our offices are understaffed, both officer and clerk-wise. Some are plagued by chronic, hard-to-fill, low grade vacancies.

To utilize all available time of immigration inspectors in the desperate effort to combat adjudications arrearages, visa petitions for relatives, applications for extension of temporary stay, applications for duplicate Alien Registration Receipt Cards, etc., are sent to land border ports, airports and seaports, to be adjudicated by inspectors when they are not actually engaged in inspection of arriving persons. During the summer months when inspection volume is at its peak, inspectors are unable to give much assistance in adjudication of cases for other offices which need such assistance to curtail the growth of backlogs. Accordingly, arrearages build up rapidly during those months at some Service offices.

Also contributing to delays at some offices (e.g., New York, Los Angeles, Chicago) are the fraud patterns detected, particularly in connection with visa petitions. The fraud may be in the form of sham marriages or fraudulent documentation. This necessitates interviews and possible investigation, requiring additional time for final decision as well as additional immigration examiner and investigator manpower.

From time to time, when funds have been available, the Service has authorized overtime work for officers and clerks in an attempt to reduce backlogs. Also "crash programs" have been instituted on occasion. These have served only as temporary palliatives which cannot make up for chronic understaffing. At the end of FY 1973, the backlog of applications and petitions for immigration benefits was 124,176 and climbing.

*Q. 15. Do you feel there is any need to revise the procedures for granting foreign students work permission?*

A. We believe that the Service's procedures for granting permission to work to foreign students are satisfactory and do not require revision.

*Q. 16. What has been the experience of INS with respect to the recently-issued investor regulations which exempt a person who invests \$10,000 or more from the labor certification requirement?*

A. The new regulation relating to "investor" exemption from section 212(a) (14) went into effect on February 12, 1973. Such investors are classified as non-preference immigrants and nonpreference numbers have been unavailable for adjustment of status purposes since June 1973. Therefore, our experience with the new regulation has been somewhat limited. However, such experience has shown that the regulation has led to abuses and absurd situations. For example,

members of the professions who find that they are unable to obtain a required labor certification are deciding to circumvent the denial of a certification by investing \$10,000 in a firm. Thus, an accountant or engineer is able to figuratively "buy" a labor certification for \$10,000 by putting that amount into the accounting or engineering business in which he intends to be employed. Withdrawal of our regulation (8 CFR 212.8(b)(4)) and the Department of State's parallel regulation (22 CFR 42.91(a)(14)(ii)(d)) is presently under consideration by our respective agencies.

*Q. 17. What cooperation exists between the Bureau of Customs and INS with respect to the detection of drugs both at ports of entry and the points away from the border?*

A. Excellent cooperation exists at ports of entry between Customs and Immigration Officers in the detection and seizure of narcotics and dangerous drugs. At airports and seaports the Immigration inspection precedes the Customs inspection. If an applicant for admission appears suspect or his name appears in the Service lookout system (Treasury Department lookouts are maintained in the I&NS lookout system) Customs officers are alerted. Many seizures have resulted from such notification.

At Canadian border ports Immigration Officers inspect for both Customs and Immigration as do Customs Officers. On the Mexican border multiple inspection is conducted with Immigration. Customs, Agriculture and Public Health Service inspectors each inspecting for all agencies. Immigration Officers check the Customs lookout system on applicants for admission. If an Immigration Officer suspects that an applicant for admission has drugs in his possession, he turns the person and his conveyance, if any, over to a secondary Customs inspector for a complete search. If the person is an alien, he is subject to exclusion and deportation pursuant to section 212(a)(23) of the Immigration and Nationality Act (8 U.S.C. 1182) after prosecution.

As will be noted in attachment, during Fiscal Year 1973, marijuana, narcotics and dangerous drugs valued at over 9 million dollars were seized by Immigration Officers at ports of entry either alone or in conjunction with Customs officers and during the period July through September 1973 seizures valued at nearly six million dollars were made. Hundreds of intelligence leads relating to drugs were furnished other agencies by Immigration Inspectors.

For many years the Customs Agency and the Immigration Border Patrol have worked together along the borders of the United States, between ports of entry. The harmonious relations enjoyed by officers of the two Services attest to the dedicated effort that field officers have made to do their respective jobs without compromising the operations of either Service.

Specific fundamental guidelines were directed to field officers of the Border Patrol requiring that all information relating to matters of primary interest to the Customs Service be furnished promptly to that organization. Prior to July 1, 1973, when the Drug Enforcement Administration was established, seized marijuana, narcotics, and dangerous drugs, and violators apprehended in connection therewith, were turned over to either the Customs Service or the Bureau of Narcotics and Dangerous Drugs for prosecution or other appropriate disposition.

The Customs Service also issued instructions to their officers which contemplated coordination of operations and periodic meetings of representatives of the two organizations to insure the smooth operation of both agencies in areas of mutual interest.

The U.S. Customs Service is now in the process of establishing a Customs Patrol on both the United States/Canada and United States/Mexico borders. Representatives of newly formed segments of the Customs Patrol have called upon us to solicit our assistance and to coordinate efforts in activities along the borders. We have offered to cooperate.

Under Reorganization Plan No. 2 of 1973, all intelligence, investigative, and law enforcement functions relative to the suppression of illicit traffic in narcotics, dangerous drugs, or marijuana were vested in the Attorney General. In connection therewith, the Drug Enforcement Administration was established to create a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic. In compliance with the intent of the plan, we are now working closely with Drug Enforcement Administration officials in their efforts to coordinate activities relative to control of the illicit traffic, and have developed guidelines for reciprocal enforcement procedures to assist both organizations in the fulfillment of their missions.

Border Patrol participation in the control of marijuana, narcotics, and dangerous drug traffic is significant. Incident to pursuing their primary mission of immigration law enforcement, Border Patrol officers seized over 97 tons of marijuana valued at more than \$19 million. Cooperative efforts between the Border Patrol and other agencies resulted in the seizure of 204.5 ounces of hard drugs (heroin, opium, and cocaine) having an estimated street value of approximately \$750,000 and almost 5 million dangerous drug pills valued at more than \$1 million.

#### SERVICE PARTICIPATION IN THE CONTROL OF MARIJUANA, NARCOTICS, AND DANGEROUS DRUG TRAFFIC DURING JULY, AUGUST, AND SEPTEMBER 1973

Service officers took part in 2,740 seizures of marijuana, narcotics, and dangerous drugs during the July through September 1973 quarter. These seizures were valued at \$11,944,407.

Over 31 tons of marijuana, valued at over \$6 million were seized during the 3-month period, a 52-percent increase over the 20 plus tons seized during the same period in 1972.

Service officers cooperated in the seizure of 88,633 dangerous drug pills valued at \$19,887. Also seized were 320 ounces of heroin valued at \$3,847,842, 6,060 ounces (379 pounds) of hashish valued at \$1,211,994, and 520 ounces of cocaine valued at \$507,102.

Of these seizures, over eighty-eight percent of the marijuana was seized in the Southwestern United States by Border Patrol agents working alone. Seventy-eight percent of the heroin seizures, over ninety-nine percent of the hashish seizures, and sixty-six percent of the cocaine seizures were in the Northeastern United States.

Other Government agencies concerned with the control of marijuana, narcotics, and dangerous drugs were furnished 533 intelligence leads by Service officers. During the quarter, 297 deportable aliens involved in drugs were located by INS officers, while 767 persons having previous involvement with narcotics were excluded from the United States under Section 212(a)(23) of the I&N Act.

A total of 79,977,434 persons were inspected at ports of entry during the quarter; 766,383 conveyances were examined; and 2,726,623 persons were questioned at interior locations in the United States.

RCS: CADN 302

 PARTIAL REPORT OF SERVICE PARTICIPATION  
 IN THE CONTROL OF MARIJUANA,  
 NARCOTICS, AND DANGEROUS DRUG TRAFFIC
Reporting Office <sup>011</sup> BORDER PATROLPeriod of JULY-SEPT. 1973

| SEIZURES  | TOTAL SEIZURES         |                      |                               | INS SEIZURES           |                      |                               | JOINT SEIZURES         |                      |                               |
|---|------------------------|----------------------|-------------------------------|------------------------|----------------------|-------------------------------|------------------------|----------------------|-------------------------------|
|   | (1)<br>No. of Seizures | (2)<br>Amount Seized | (3)<br>Est. Value of Seizures | (4)<br>No. of Seizures | (5)<br>Amount Seized | (6)<br>Est. Value of Seizures | (7)<br>No. of Seizures | (8)<br>Amount Seized | (9)<br>Est. Value of Seizures |
| 1. Type of Contraband   |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| (Cigarettes)  |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| a. Marijuana (Pounds)   | 82                     | 269                  | 259                           | 35                     | 108                  | 110                           | 47                     | 161                  | 149                           |
| b. Heroin (oz.)   | 1,462                  | 3,260.91             | 326,091                       | 343                    | 1,416.43             | 141,643                       | 1,119                  | 1,844.48             | 184,448                       |
| c. Opium (oz.)  | 16                     | 309.03               | 3,75,107                      | 3                      | 11.49                | 138,144                       | 13                     | 297.51               | 3,576,963                     |
| d. Cocaine (oz.)  | 1                      | 1.00                 | 254                           | -                      | -                    | -                             | 1                      | 1.00                 | 254                           |
| e. Hashish (oz.)  | 24                     | 492.10               | 479,801                       | 5                      | .28                  | 274                           | 19                     | 491.82               | 479,527                       |
| f. Hashish (oz.)  | 250                    | 6,052.60             | 1,210,520                     | 49                     | 7.45                 | 1,490                         | 201                    | 6,045.15             | 1,209,039                     |
| g. Dangerous Drug Pills (units)   | 486                    | 10,493               | 2,203                         | 74                     | 1,714                | 361                           | 412                    | 8,779                | 1,842                         |
| Methamphetamine - 1/2" (over 1000000)   | 1                      | .03                  | 20                            | -                      | -                    | -                             | 1                      | .03                  | 20                            |
| Bupropion - 1/2" (over 1000000)   | 1                      | .47                  | 70                            | -                      | -                    | -                             | 1                      | .47                  | 70                            |
| Deserline Grain   | 1                      | 5.50                 | 5                             | -                      | -                    | -                             | 1                      | 5.50                 | 5                             |
| Codine - 8x   | 1                      | .30                  | 15                            | 1                      | .50                  | 15                            | -                      | -                    | -                             |
| Payote - 1lb.   | 3                      | 5.31                 | 29                            | 2                      | 5.25                 | 26                            | 1                      | .06                  | 3                             |
| LSD - 1000000   | 3                      | 8                    | 60                            | 3                      | 8                    | 60                            | -                      | -                    | -                             |
| Amphetamine - 0x  | 3                      | 2.03                 | 464                           | -                      | -                    | -                             | 3                      | 2.03                 | 464                           |
| Mephedrone - 0x   | 1                      | .07                  | 1                             | -                      | -                    | -                             | 1                      | .07                  | 1                             |
| LSD - Caps  | 5                      | .39                  | 385                           | 4                      | .31                  | 305                           | 1                      | .08                  | 80                            |
| Hash Pipe   | 12                     | 16                   | 80                            | 5                      | 5                    | 25                            | 7                      | 11                   | 55                            |
| Tetrahydro - Chloride - Pills   | 1                      | 3                    | 30                            | -                      | -                    | -                             | 1                      | 3                    | 30                            |
| <b>TOTAL</b>  | <b>2,353</b>           | <b>10,493</b>        | <b>5,735,394</b>              | <b>524</b>             | <b>1,714</b>         | <b>282,453</b>                | <b>1,829</b>           | <b>8,779</b>         | <b>5,452,941</b>              |
| 2. Number of Intelligence leads furnished to other Agencies regarding marijuana, narcotics, or dangerous drugs.   |                        |                      |                               |                        |                      |                               | 208                    |                      |                               |
| 3. Number of Deportable Aliens Located involved in marijuana, narcotics, or dangerous drugs.  |                        |                      |                               |                        |                      |                               | 172                    |                      |                               |
| 4. Number of Exclusions under Section 212(a)(23).   |                        |                      |                               |                        |                      |                               | 752                    |                      |                               |
| The estimated value of marijuana, narcotics or dangerous drugs appearing in columns 3, 6, and 9 is to be reported as indicated below:   |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 1/ Adjusted July figure from \$663, to \$66,300.  |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 1. Marijuana - \$100 per pound  |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 2. Hashish - \$200 per ounce  |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 3. Payote - \$5 per pound   |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 4. Dangerous Drug Pills - \$10 per thousand on seizures of over 5,000 pills or capsules. On smaller seizures base the estimated cost on the retail price of 10 cents for each capsule or pill. If a valuation is readily obtainable from Customs or BIOD and differs from the above estimated value, use the value reported by Customs or BIOD. |                        |                      |                               |                        |                      |                               |                        |                      |                               |
| 5. The value of other hard narcotics, (i.e., heroin, opium, and cocaine) shall be reported in accordance with the valuation placed by Customs or BIOD.  |                        |                      |                               |                        |                      |                               |                        |                      |                               |

Form G-62 (Rev. 6-27-72)

UNITED STATES DEPARTMENT OF JUSTICE - Immigration and Naturalization Service

 SERVICE PARTICIPATION IN THE CONTROL OF MARIJUANA, NARCOTICS, AND  
 DANGEROUS DRUG TRAFFIC DURING FISCAL YEAR 1973

During fiscal year 1973, Service officers participated in 5,640 seizures of marijuana, narcotics, and dangerous drugs. These seizures were valued at more than \$32.8 million.

Over 113 tons of marijuana, valued at more than \$22.6 million, were seized during the year. Service officers working alone in the Southwestern United States accounted for 86 percent of the marijuana seizures (over 97 tons valued at more than \$19.4 million).

INS officers cooperated in the seizure of 650 ounces of heroin valued at \$7,809,000, 786 ounces of cocaine valued at \$767,000, and 5,240,173 dangerous drug pills valued at \$1,121,000. Also seized were 1,379 ounces of hashish and 20 ounces of opium.

Service officers furnished 1,678 intelligence leads to other Government agencies concerned with the control of marijuana, narcotics, and dangerous drugs. A total of 1,018 deportable aliens involved in drugs were located by INS officers during 1973, while 1,491 persons having previous involvement with narcotics were excluded from the United States under Section 212(a)(23) of the I&N Act.

During the fiscal year, 259,947,532 persons were inspected at ports of entry, 2,665,728 conveyances were examined, and 9,488,379 persons were questioned at interior locations in the United States.

| RCS: CACH 582   |                        | MONTHLY REPORT OF SERVICE PARTICIPATION<br>IN THE CONTROL OF MARIJUANA,<br>NARCOTICS, AND DANGEROUS DRUG TRAFFIC |                               |                        |                      |                               |                        | U.S. DEPARTMENT OF JUSTICE<br>OTHER THAN<br>BORDER PATROL<br>Reporting Office |                               |  |
|---|------------------------|--|-------------------------------|------------------------|----------------------|-------------------------------|------------------------|---|-------------------------------|--|
| PERIOD - FISCAL YEAR - 1973   |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| SEIZURES  | TOTAL SEIZURES         |  |                               | INS SEIZURES           |                      |                               | JOINT SEIZURES         |   |                               |  |
| 1. Type of Contraband   | (1)<br>No. of Seizures | (2)<br>Amount Seized   | (3)<br>Est. Value of Seizures | (4)<br>No. of Seizures | (5)<br>Amount Seized | (6)<br>Est. Value of Seizures | (7)<br>No. of Seizures | (8)<br>Amount Seized  | (9)<br>Est. Value of Seizures |  |
| (Cigarettes)  |                        |  | \$                            |                        |                      |                               |                        |   |                               |  |
| a. Marijuana (Pounds)   | 239                    | 960  | 828                           | 43                     | 254                  | 234                           | 196                    | 706   | 594                           |  |
| b. Heroin (oz.)   | 59                     | 599.47   | 7,207,428                     | 12                     | 18.40                | 221,223                       | 47                     | 581.07  | 6,985,205                     |  |
| c. Opium (oz.)  | 9                      | 18.24  | 4,633                         | 1                      | 1.50                 | 381                           | 8                      | 16.74   | 4,252                         |  |
| d. Cocaine (oz.)  | 60                     | 634.27   | 618,414                       | 13                     | 194.95               | 190,077                       | 47                     | 439.32  | 428,337                       |  |
| e. Hashish (oz.)  | 426                    | 1,132.02   | 232,803                       | 73                     | 96.32                | 19,263                        | 353                    | 1,035.70  | 213,540                       |  |
| f. Dangerous Drug Pills (units)   | 586                    | 514,408  | 108,028                       | 112                    | 276,808              | 58,131                        | 474                    | 237,600   | 49,897                        |  |
| g. Other (specify)  |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| SEE ATTACHED  |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| TOTAL   | 4,189                  |  | \$ 9,410,512                  | 698                    |                      | \$ 738,212                    | 3,491                  |   | \$ 6,678,900                  |  |
| 2. Number of Intelligence leads furnished to other Agencies regarding marijuana, narcotics, or dangerous drugs.   |                        |  |                               |                        |                      |                               |                        | 575   |                               |  |
| 3. Number of Deportable Aliens Located involved in marijuana, narcotics, or dangerous drugs.  |                        |  |                               |                        |                      |                               |                        | 572   |                               |  |
| 4. Number of Exclusions under Section 212(a)(23).   |                        |  |                               |                        |                      |                               |                        | 1,489   |                               |  |
| The estimated value of marijuana, narcotics or dangerous drugs appearing in columns 3, 6, and 9 is to be reported as indicated below:   |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| 1. Marijuana - \$100 per pound  |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| 2. Hashish - \$200 per ounce  |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| 3. Potests - \$5 per pound  |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| 4. Dangerous Drug Pills - \$10 per thousand on seizures of over 5,000 pills or capsules. On smaller seizures use the estimated cost on the retail price of 10 cents for each capsule or pill. If a valuation is readily obtainable from Customs or BIOD and differs from the above estimated value, use the values reported by Customs or BIOD. |                        |  |                               |                        |                      |                               |                        |   |                               |  |
| 5. The value of other hard narcotics, (i.e., heroin, opium, and cocaine) shall be reported in accordance with the valuation placed by Customs or BIOD.  |                        |  |                               |                        |                      |                               |                        |   |                               |  |



was introduced in his criminal trial. Analogous searches have been upheld in: *Theriault v. United States*, 401 F. 2d 79 (8th Cir. 1968), *Garrett v. United States*, 382 F. 2d 768 (9th Cir. 1967) and others.

*Q. 19. In last year's hearings on illegal aliens INS was to implement a computer system to monitor the arrival and departure of the nonimmigrant alien. Could you explain briefly the operation of this system to the Committee?*

A. In November 1971 the Service, using its systems and programming personnel, completed an analysis of the requirements for a system to process records relating to individuals temporarily in the United States. The design of an automated computer processing system to handle these requirements was accomplished, programs written, and final testing completed in February 1972. The gathering of a data base relating to these temporary individuals (nonimmigrants) was started with the records of those who arrived March 1, 1972 and later. This system was fully implemented in early May the same year at which time all current arrivals, departures, extensions of stay, changes of status, and other related actions were entered into the system on a daily basis as received in the Service's Central Office. Beginning in November 1972 the records of those who arrived prior to March 1, 1972, were converted to the automated system. This conversion of prior records was completed by March 1973 and since that time the system (Centralized Nonimmigrant Document Control System) has been fully operational. This system, operating 24 hours daily, five days a week, provides the capability for maintaining data relating to nonimmigrants in a current condition and permits immediate retrieval of information from the automated records.

The Service utilizes terminals consisting of monitors and keyboard devices connected by communications lines to the Department of Justice computer center to key data from the nonimmigrant aliens' arrival and departure documents and the various action notices. Data keyed for each nonimmigrant includes personal identifying data (coded family name, partial given name, date of birth, and country of nationality), date of his admission, date to which he is admitted, state to which he is destined, and the class of his admission. In addition, a unique numerical address is added which is the filing location of the paper document which carries the total data relating to the particular alien's admission to and/or departure from the United States. Periodically (presently monthly) the entire automated file is reviewed automatically and the records of those nonimmigrants whose dates to which admitted have expired (no records of either departures or extensions) are flagged to indicate their status as apparent overstays (possible illegal aliens). From this group of apparent overstays certain selected categories are processed for referral to the Service office having jurisdiction over the nonimmigrant's U.S. address in order that investigative action may be taken.

In conjunction with the automated Centralized Nonimmigrant Document Control System the Service extensively utilizes microfilm to reduce storage of paper documents relating to these nonimmigrants and maintains indexes of resolved nonimmigrant arrivals and departures from the automated system on computer output microfilm for future inquiries.

*Q. 20. In what foreign countries, U.S. territories and possessions are INS personnel assigned and what are the functions and duties in these areas?*

A. The Service has offices in Guam, Puerto Rico, and the U.S. Virgin Islands and in Japan, Hong Kong, the Philippines, Germany, Austria, Italy, Greece, Mexico, Canada, Bermuda and Nassau, Bahamas.

Guam, Puerto Rico and the U.S. Virgin Islands are by definition, in the Immigration law, part of the United States and the offices located therein have the same functions and duties as offices in the continental United States including inspections and control of aliens, investigation, deportation and naturalization.

In general, all Service offices abroad except those in Nassau, Bermuda, and Canada are authorized to perform the following functions:

Interview witnesses in connection with exclusion, expulsion, or citizenship proceedings being conducted in the United States.

Conduct inquiries, interviews, and record searches to obtain evidence in connection with false claims of United States citizenship.

Collect necessary information to control the illegal movement and smuggling of aliens into the United States, information concerning smuggling operations via mala fide seamen routes in seaport areas abroad, and information regarding aliens who have illegally entered the United States.

Verify by interview or correspondence the departure of nonimmigrants from the United States when documentary evidence of such departure was not submitted.

Arrange for the reception and admission by local immigration officials of deportees from the United States.

Obtain copies of, or extracts from, foreign public records for use in exclusion, expulsion, and citizenship proceedings in the United States.

Give advisory opinions to consular officers on request.

Serve in a liaison capacity for all Service field offices in relation to United States embassies and consulates.

The primary functions of the Service offices in Europe, Asia and Mexico are the adjudication of visa petitions filed by persons outside the United States, orphan petitions and applications for waiver of grounds of excludability under section 212(h) and (i) of the Immigration and Nationality Act; making investigations relating to such matters or as requested by Service offices in the United States; and at offices other than Tokyo, Manila, and Mexico the processing of applicants for refugee status pursuant to the provisions of section 203(a)(7) of the Act. In addition the office in Manila supervises the recruitment and preinspection of Philippine nationals for temporary employment in Guam.

Personnel are assigned in Bermuda, the Bahamas and Canada primarily to preinspect passengers and crew of airplanes departing nonstop for the United States. However, the Montreal office processes applications for waivers of grounds of excludability under sections 212(h) and (i) and applications for permission to reapply for admission after deportation or removal when filed in conjunction with the foregoing. The Service Attache at Ottawa acts in a liaison capacity between the various Canadian Government agencies in Ottawa and this Service, including requesting for Canadian letters of consent to accepting persons being deported to Canada.

*Q. 21. What has the Service done about its unverified departures? We have been informed that the nonimmigrant index has been computerized. Could not this computerized system be used to expedite verification of departures?*

A. Periodically (presently monthly) the Service reviews the entire automated file automatically for records of those nonimmigrants whose dates either to which admitted or last extended have expired and their departures have not been verified. Certain categories of these records, identified as apparent overstays, are then processed for referral to the Service office having jurisdiction over the nonimmigrant's U.S. address for investigative action. As a part of the field office investigation letters are written to the nonimmigrant's U.S. and foreign addresses for information regarding his status and whereabouts. The replies and negative responses form a basis for either closing the case or intensifying the overstay investigation. When sufficient identifying information is available the Service also makes inquiries to the Social Security Administration for any information relating to the nonimmigrant's possible employment. Service officers also personally check the U.S. address for information concerning the apparent overstay nonimmigrant. If all efforts fail to locate the nonimmigrant his case is placed in a callup status for later follow-up by the investigating field office.

Several changes are being made to improve and expedite verification of departures. Beginning in March 1974 the Arrival-Departure Record, Form I-94, will be prenumbered. This prenumber will be an additional data element keyed into the nonimmigrant's record in the Centralized Nonimmigrant Document Control System and will be used to match the arrival and its relating departure record more efficiently. This prenumber will always be legible to the keying clerk while the nonimmigrant's handwriting is often subject to misinterpretation. Also a unit has been established and is presently systematically reviewing and searching all unresolved records, both arrivals and departures, in the Centralized Nonimmigrant Document Control System to expedite verifications of departures where critical data elements had been keyed incorrectly at initial entry.

Plans have also been completed and will soon be implemented to automatically write letters to the U.S. and foreign addresses of apparent overstay nonimmigrants immediately after they are identified by the computer as having no record of either an extension or verified departure. This will be done from the Service's Central Office and will greatly expedite the initial investigative steps presently accomplished in field offices. The second large change in this plan is that letters will be written to *all* identified apparent overstays instead of only certain selected categories.

*Q. 22. How many intercepts have been made by use of the Service's "Lookout Book" in the last year? What exchange is made between the Service and consular officers on suspect intending nonimmigrants?*

A. Numerous intercepts have been made by use of the Service Lookout Book in the last year of cases of interest to the Service and to other agencies of the Government that furnish information for inclusion in the lookout book and notification or other action as a result of interception. No specific data on the number of interceptions is accumulated.

The Department of State lookout book is available to and is used by Service personnel. The Service lookout book is available to the consular officers and such information is used by the Visa Office on a selective basis. All Service lookout information relating to nationals of Mexico is furnished to the Visa Office for inclusion in its book.

All "Category One" cases are placed in the Visa Office lookout book and in the State Department computer bank which is accessible to many consular posts. These generally cover criminal, narcotic, immoral and subversive cases, but they are characterized as grounds of ineligibility for visas and inadmissibility for entry.

Consular posts abroad are furnished information on individuals in the following categories:

Admission authorized pursuant to section 212(d)(3) of the Immigration and Nationality Act is revoked and an unexpired nonimmigrant visa is cancelled.

Applicant for admission is ordered excluded and deported and an unexpired nonimmigrant visa is cancelled.

Applicant for admission is notified pursuant to section 235(b) of the Immigration and Nationality Act by an immigration officer at a port of entry that he appears to be inadmissible to the United States, and the applicant requests and is granted permission to withdraw the application for admission, and the nonimmigrant visa is cancelled.

A final order of deportation or a final order granting voluntary departure with an alternate order of deportation pursuant to 8 CFR Part 3, or 8 CFR Part 242 is issued and the nonimmigrant visa is cancelled.

The alien has been permitted to depart voluntarily from the United States pursuant to 8 CFR 242.5 and the nonimmigrant visa is cancelled.

The visa is presented in connection with an application for admission to the United States by a person other than the one to whom the visa was issued, and the nonimmigrant visa is cancelled.

Border crossing card, issued by a consular officer is voided at time of service of an order to show cause and notice of hearing. (Form I-180, Voidance of Form I-186 may be endorsed, in lieu of I-275, to the Service District Director, Mexico City in cases where the Form I-186, border crossing card was issued by a consular office, to permit consultation between the District Director and consular personnel.)

Consular posts regularly furnish to the Service information obtained or developed subsequent to the issuance of a visa indicative of fraudulent application for such visa or a basis for inadmissibility occurring subsequent to the issuance of a visa.

When nonimmigrants apply in the United States for adjustment to the status of permanent resident the consulates at which the visas were issued, or the consulates of jurisdiction over the applicants' residence in cases in which visas were not required, are notified. This results in a check of the consulate internal records and a report of adverse information and/or information as to grounds of inadmissibility, if any.

Consular officers use the facilities of the Fraudulent Document Center, Yuma, Arizona, on a continuing basis. This center maintains a record of fraudulent documents which have been used by nationals of Mexico in support of false claims to U.S. citizenship. Whenever a consular officer has a question as to the bona fides of a visa application or supporting documents in such application this Service is requested to conduct an appropriate inquiry. Also, when derogatory or adverse information is uncovered during a post audit of a visa application, this Service is notified of the matter in order that Service proceedings may be instituted where warranted.

*Q. 23. What procedures does the Service follow to identify illegals when apprehended so as to locate repeaters? Are all repeaters prosecuted? Are all apprehended aliens fingerprinted? When aliens are apprehended is there any effort made to check with local, state or federal authorities as to whether or not the alien is wanted for other violations of law?*

A. All violators arrested or located are closely questioned concerning any prior immigration or criminal record. With very few exceptions, a "Record of Deportable Alien" is prepared immediately upon apprehension or location of an alien illegally in the United States. An alphabetical index is maintained of aliens for whom a record is prepared. The names of all violators are checked against this index and the Service lookout book with exceptions made where large numbers of aliens are located and quickly removed from the United States. In cases in which additional action is contemplated, i.e. criminal prosecution, deportation hearing or other, the violator's fingerprints are sent to the FBI and a search is made of Central Office indices. Copies of any pertinent records located as a result of the searches are returned to the requesting office for use in whatever action is contemplated.

During Fiscal Year 1973, about 150,000 deportable aliens located were identified as repeaters. The decision to prosecute repeaters and other immigration law violators rests with the United States Attorney of the judicial district where venue lies. In some districts the United States Attorneys have established guidelines and conditions under which chief patrol agents and district directors may waive prosecution. In other judicial districts the United States Attorney requires each case to be presented to his office for a decision on whether to prosecute. During Fiscal Year 1973, Service officers presented about 40,000 cases to United States Attorneys for possible prosecution and of that number, including an undetermined number of flagrant repeaters, prosecution was authorized in 40% of the cases.

Because of the large numbers of aliens being arrested and the length of time that would be required to hold them before a report from the FBI could be received, the fingerprinting of all apprehended aliens is not feasible. Therefore, in order to release manpower for other duties, avoid overloading Service detention facilities, and to hold non-Service detention costs to a minimum, illegal alien processing was streamlined in 1967 by waiving fingerprinting of certain classes of aliens. Memorandum instructions supplementing current regulations have also been issued requiring that, unless there are extenuating circumstances, aliens processed for immediate departure will not be fingerprinted nor should fingerprint searches be requested when there is little likelihood results of the search would be received prior to departure of the alien.

In a report entitled "Need for Improvements in Management Activities of the Immigration and Naturalization Service" (B-125051 dated August 14, 1973), the Comptroller General recommended (page 20) that the Attorney General require the Immigration and Naturalization Service to examine its procedures and practices for requesting fingerprint searches on illegal aliens to eliminate searches which serve no useful purpose. The Service is examining its procedures and practices for requesting such searches on illegal aliens. We agree fingerprinting is the ideal solution to the problem of positive identification of all aliens arrested. However, factors other than positive identification must also be considered. Included among these are the number of aliens apprehended, the types of violations committed, available manpower and detention facilities, and costs. For example, the Comptroller General's report of August 14, 1973, (page 19) states the 80,250 criminal fingerprint analyses made for the Immigration and Naturalization Service by the FBI in Fiscal Year 1972 cost the government about \$300,000. If all of the approximately 500,000 illegal aliens apprehended that year had been fingerprinted, the cost would have exceeded 1.8 million dollars. Projecting the same unit cost to the more than 650,000 aliens apprehended in Fiscal Year 1973, the cost would have been more than 2.4 million dollars.

When aliens are apprehended, they are closely questioned concerning any criminal record they may have. In addition, their names are checked against the Service lookout book which includes lookouts posted with this Service by other agencies. Other lookouts placed with individual offices by local authorities are also checked to determine whether the individual is wanted for other law violations. During Fiscal Year 1973, Border Patrol Agents encountered and released to appropriate agencies 3,342 violators of other laws. Included in this number were 2,544 violators who were either United States citizens or nondeportable aliens. Border Patrol Agents also recovered and transferred to appropriate agencies merchandise valued at more than 2.6 million dollars, including firearms, vehicles used in smuggling, and other contraband.

*Q. 24. Has the emphasis of the last two years upon the illegal alien problem resulted in any change in policy by district attorneys and courts as to prosecution of immigration violations?*

A. The number of cases in which prosecution has been authorized has increased 419% since passage and implementation of the Federal Magistrates Act of October 17, 1968. The increase is attributed to the availability of magistrates for timely trial of misdemeanor violations which formerly had to be declined by

United States Attorneys due to overcrowded calendars and related conditions. In Fiscal Year 1973, the number of prosecutions for all immigration violations authorized by United States Attorneys increased 3,597 or 27% over the number authorized in Fiscal Year 1972. The number of violations of 8 U.S.C. 1324 prosecuted and convicted as principals for violation of 8 U.S.C. 1325 also increased by 1,898 or 37%.

In the Southern District of California one of the largest alien smuggling rings ever exposed in the United States was prosecuted during 1973. Twenty-five defendants were indicted and 12 of the 13 arrested were convicted. The 13th, the leader of the ring, is a fugitive from justice after posting \$175,000 cash bond. At the suggestion of the United States Attorney for the Southern District of California, the Service has established major case units in Chula Vista and Los Angeles, California, to concentrate on major smuggling cases looking toward the prosecution of conspirators who arrange for the entry of aliens and those who receive them in the United States. Both units will work closely with a similar unit set up in the United States Attorney's office.

*Q. 25. Has there been any improvement in the degree of cooperation by local governmental agencies: schools, welfare services, etc. in reporting illegal aliens to the Service?*

A. Local law enforcement agencies in all instances are and have been giving excellent cooperation to this Service. Currently local welfare agencies, schools, etc. do not report illegal aliens to this Service. The Los Angeles County Welfare Department requests information from this Service regarding welfare recipients but generally does not grant requests for information from their records by this Service. The Los Angeles Bureau of Resources and Collection does cooperate to the extent of reporting indigent aliens who have received funds from them. The District Director of this Service in San Francisco met with State welfare officials on November 30, 1973, to discuss further cooperation. The New York State welfare agency has recently changed State forms to include alien registration numbers.

Illegal status aliens in schools come to this Service's attention only when their parents are apprehended, schools do not furnish this type of information of their own accord.

The Department of Health, Education and Welfare has announced that effective January 1, 1974, federal funds cannot be used for public assistance for illegal aliens. That Department's regulation, published in the Federal Register of November 1, 1973, gives the states 60 days to furnish the number of illegal aliens on the welfare rolls. Liaison is now being established both on a field office and seat of government level to determine if information concerning illegal aliens will be made available to this Service. It is anticipated that some benefit will accrue therefrom.

*Q. 26. What are the statistics relating to the number of adjustment of status applications filed, approved and disapproved for the three last fiscal years?*

A. Shown below are the statistics relating to the number of adjustment cases processed during the last three fiscal years.

|  | Received | Approved | Disapproved |
|--|----------|----------|-------------|
| <b>Fiscal year 1971:</b>                                       |          |          |             |
| Total applications for change to permanent status.....         | 94,154   | 75,920   | 1,905       |
| Sec. 245 adjustment of status.....                             | 59,028   | 51,369   | 1,640       |
| Sec. 249 creation of record of admission.....                  | 1,564    | 1,358    | 28          |
| Sec. 1, Cuban Refugee Act adjustments.....                     | 30,484   | 20,513   | 228         |
| Sec. 214(d) creation of record of admission, fiances(ees)..... | 3,033    | 2,667    | 8           |
| Sec. 13 adjustment of status, Government officials.....        | 45       | 13       | 1           |
| <b>Fiscal year 1972:</b>                                       |          |          |             |
| Total applications for change to permanent status.....         | 106,349  | 89,146   | 2,458       |
| Sec. 245 adjustment of status.....                             | 64,740   | 62,290   | 2,129       |
| Sec. 249 creation of record of admission.....                  | 1,943    | 1,668    | 54          |
| Sec. 1, Cuban Refugee Act adjustments.....                     | 32,532   | 18,366   | 159         |
| Sec. 214(d) creation of record of admission, fiances(ees)..... | 7,084    | 6,765    | 105         |
| Sec. 13 adjustment of status, Government officials.....        | 50       | 57       | 11          |
| <b>Fiscal year 1973:</b>                                       |          |          |             |
| Total applications for change to permanent status.....         | 113,545  | 90,708   | 3,318       |
| Sec. 245 adjustment of status.....                             | 68,889   | 59,582   | 2,831       |
| Sec. 249 creation of record of admission.....                  | 1,598    | 1,347    | 72          |
| Sec. 1, Cuban Refugee Act adjustments.....                     | 34,223   | 21,479   | 350         |
| Sec. 214(d) creation of record of admission, fiances(ees)..... | 8,779    | 8,250    | 59          |
| Sec. 13 adjustment of status, Government officials.....        | 56       | 50       | 6           |

*Q. 27. To what extent are consular posts notified when nonimmigrants are found to be working in violation of status, when they are deported or required to depart voluntarily?*

A. Immigration officers are authorized to cancel nonimmigrant visas and border crossing cards when aliens are found in violation of their status. A copy of the record of apprehension and a designated form which reflects the reason for such cancellation and disposition of the case is forwarded directly to the visa issuing consular officer. In cases of nationals of Mexico, border crossing cards are lifted and a report of the violation is provided to the issuing office.

*Q. 28. Are consular posts contacted for information on a nonimmigrant who has filed an application for adjustment of status? If so, is the post contacted in each case or is it done on a case-by-case basis?*

A. On each application for adjustment of status to that of a permanent resident the consular post at which the applicant's entry visa was issued is requested to furnish any information having a bearing on the alien's eligibility for adjustment. If the applicant entered without a visa, the consular post having jurisdiction over the applicant's place of residence immediately before his entry into the United States is requested to furnish adverse information. At the same time, if the applicant has resided for six months or more after reaching the age of 16 in more than one consular district, similar requests are made of each such consulate.

## APPENDIX 6

DEPUTY UNDER SECRETARY OF STATE FOR MANAGEMENT,  
Washington, December 28, 1973.

HON. JOSHUA EILBERG,  
*Chairman, Subcommittee on Immigration, Citizenship, and International Law,  
Committee on the Judiciary, House of Representatives.*

DEAR MR. CHAIRMAN: During the Subcommittee's hearings on September 13 and 18, several subjects were raised on which you asked Dr. Tarr to provide additional information. Some of this information was provided shortly after the hearings and further material was contained in answers to the questions you submitted to Dr. Tarr in your letter of October 12, to which he replied on October 31. The balance of the information which you requested is enclosed with this letter. We believe the separate questions and answers enclosed are self-explanatory.

In the course of the hearings it was suggested that someone from the Bureau of Security and Consular Affairs in the Department might provide a lecture or two on consular matters to the case workers in Congressional offices who work on these matters. Please let us know when this might be convenient. We stand ready at any time to provide speakers to meet with the case workers.

Please let us know if we can be of further assistance.

Sincerely,

JOHN M. THOMAS, *Acting.*

Enclosures.

*Q. Has the recent coup in Chile caused an increase in the consular workload over there, or do you expect an increase in the consular workload as a result of it? Will there be a refugee situation developing out of the coup in Chile which might come under scrutiny in the event our 981 becomes law?*

A. The consular workload involving protection of American citizens increased dramatically during and for sometime after the events of September 11. This increase in protection work has now tapered off somewhat. Dislocation resulting from the change of government may eventually produce a number of Chileans applying "for political asylum" or for nonimmigrant visas but this has not yet materialized. Some increase in workload has resulted from the requests of non-Chileans to be paroled from Chile to the United States as refugees.

Enactment of H.R. 981 would broaden the definition of "refugee" by deleting the existing geographical and political limitations. It is therefore possible that Chilean nationals who are opponents of the present regime in Chile might seek to qualify as refugees under this broader definition. It is not possible to speculate in advance how many might actually qualify as refugees since this would be dependent on the facts and circumstances in each individual case.

*Q. There is a need for improved communications between SCA and consular officers in the field. What is SCA doing about this?*

A. The SCA Administrator has begun a program of regular and periodic correspondence with all posts using circular letters sent directly to all ranking consular officers. These letters cover general items of interest such as training information, current consular trends and developments, legislative and Congressional concerns, SCA affairs, and new ideas or procedures originating at one post which might be useful elsewhere.

The circular letters complement and reinforce existing channels of formal communications such as airmails and operations memoranda which continue to be used for more technical matters, including analyses of legislation, prepared by the Visa Office. Consular officers are encouraged to respond to these letters so that SCA may have the benefit of their informal views and reactions. It is hoped that this may be productive, too, of useful thinking and ideas on current policy problems. Judging from the response to a previous circular letter in August to consular officers, we expect a substantial increase in incoming correspondence. We would, of course, be pleased to share any responses as appropriate with the committee members or staff.

SCA also anticipates getting additional coverage in the Department of State's monthly *Newsletter* for articles on current consular activities. Consular officers in the field are being requested to submit items covering the more interesting or challenging aspects of consular work suitable for use in the *Newsletter*. This should be of morale value to consular officers and useful in stressing the importance and complexities of consular work to others.

As still another method of achieving a wider exchange of information, we also intend to have all incoming and outgoing consular officers routinely stop by SCA for a short discussion in addition to normal consultations with SCA constituent officers. Some consular officers are already doing this but we are making the practice universal. Furthermore, to keep pace with rapidly developing activities overseas, we hope to continue an active program of overseas travel by SCA personnel with specific focus on the achievement of more effective consular operations.

*Q. How great is the need for additional investigatory personnel to look into questionable cases or cases involving fraudulent documentation? The need is demonstrated by the increasing number of mala fide nonimmigrant visa applications. In this regard, has there been any attempt to provide U.S. Consulates with investigatory personnel in either American or local positions? (Situation in Hong Kong noted.) How often are security people at the Consulate used to perform investigations of visa applicants?*

A. The manpower available at most Foreign Service posts to investigate questionable cases or cases involving fraudulent documentation is very limited and, of course, the need for investigatory personnel varies significantly from post to post, e.g., at London, Bonn and Tokyo, the need is slight; at Santo Domingo and Manila the need is substantial. Investigations involve anything from simple telephone checks regarding employment letters, bank books, etc., to extensive investigation requiring on-site examination of birth records, commercial licenses and other documents. They are done primarily by American and local consular personnel to the extent available manpower permits. American and foreign personnel of the Office of Security (SY) often assist although visa investigations do not normally fall within that Office's jurisdiction unless there are indications or allegations of malfeasance by American or local personnel. Other Embassy personnel may also be called on from time to time as appropriate. The attitude of the host country may be an important factor as to how thorough an investigation is possible.

Availability of personnel to carry out investigations is always the key problem as thorough investigatory work may be very time consuming. The situation in Hong Kong is illustrative. A fraud problem of massive size involving visas, U.S. passports and Social Security beneficiaries developed there during the late forties and reached its zenith in the middle fifties. At the height of the fraud, the Department assigned 21 officers to Hong Kong who did nothing but investigations. The huge incidence of fraud was reduced dramatically and the large personnel resources then assigned to Hong Kong have been re-allocated to other posts with more urgent needs. Today there is only one full-time American officer doing fraud investigations in Hong Kong. Recent indications are that the pendulum may be again swinging the other way and one man may not be enough.

*Q. Is there some procedure that can be worked out to financially assist U.S. citizens in bringing home the remains of U.S. citizen friends or relatives who die abroad?*

A. The Department is not authorized and no funds are appropriated to the Department by the Congress to defray, either on a reimbursable or nonreimbursable basis, the costs of the return to the United States of the remains of U.S. citizens who die abroad. Whether this Government, ultimately U.S. taxpayers, should pay the costs in such cases is a difficult question. We believe that the answer is peculiarly one for Congressional judgment.

*Q. What percent of consular officers dealing with visa applications in non-English speaking countries speak the language of the country in which they are stationed?*

A. There are approximately 170 consular officers responsible for visa work at posts where one of the five "world" languages are spoken. The five languages are French, German, Spanish, Portuguese and Italian. Of these 170 officers, 53% have a tested 3 or better rating in the spoken language; 31% have a tested rating of 2 or 2+; and 16% have a tested rating between 0 and 2.\*

\*2—Limited working proficiency in speaking and ability to read simple prose.

\*3—Minimum professional proficiency and ability to read routine correspondence reports and technical material in his special field.

About 88 consular officers are responsible for visa work at posts where one of the "esoteric" languages are spoken. These languages include Japanese, Korean, Thai, Malaysian, Vietnamese, Burmese, Arabic (Eastern and Western), Singhalese, Turkish, Greek, Hindi, Bengali, Tamil, Persian (Iranian), Hebrew, Nepalese, Urdu, Dutch, Flemish, Bulgarian, Czech, Danish, Finnish, Hungarian, Icelandic, Norwegian, Polish, Romanian, Swedish, Russian, Serbo-Croatian, Chinese (Mandarian), and Indonesian. Of these 88 officers, approximately 22% have a tested 3 or better rating in the spoken language; 31% have a tested 2 or 2 + rating and 47% have less than a tested 2 rating.

It should be noted that in many of the countries where an esoteric language is the principal language of the country, English is the secondary language and is widely used as well.

In determining which consular officers handle visa work, consular officers—general were counted in the smaller posts where there is no breakdown by specific consular function and in larger posts, only those officers specifically noted as visa officers were counted.

*Q. Do you do any screening with respect to requests for political asylum that come to your consular offices?*

A. There is attached a paper entitled "General Policy for Dealing with Requests for Asylum by Foreign Nationals." Pages 6 and 7 of this paper deal with requests for asylum made at our diplomatic and consular establishments. Attachment: As stated.

(January 4, 1972\*)

#### GENERAL POLICY FOR DEALING WITH REQUESTS FOR ASYLUM BY FOREIGN NATIONALS

##### POLICY

Both within the United States and abroad, foreign nationals who request asylum of the United States Government owing to persecution or fear of persecution should be given full opportunity to have their requests considered on their merits. The request of a person for asylum or temporary refuge shall not be arbitrarily or summarily refused by U.S. personnel. Because of the wide variety of circumstances which may be involved, each request must be dealt with on an individual basis, taking into account humanitarian principles, applicable laws and other factors.

In cases of such requests occurring within foreign jurisdiction, the ability of the United States Government to give assistance will vary with location and circumstances of the request.

##### U.S. OBJECTIVES

A basic objective of the United States is to promote institutional and individual freedom and humanitarian concern for the treatment of the individual.

Through the implementation of generous policies of asylum and assistance for political refugees, the United States provides leadership toward resolving refugee problems.

##### BACKGROUND

A primary consideration in U.S. asylum policy is the *Protocol Relating to the Status of Refugees* (19 United States Treaties and Other International Agreements 6223), to which the United States is a party. The principle of asylum inherent in this international treaty (and in the 1951 Refugee Convention whose substantive provisions are by reference incorporated in the Protocol) and its explicit prohibition against the forcible return of refugees to conditions of persecution, have solidified these concepts further in international law. As a party to the Protocol, the United States has an international treaty obligation for its implementation within areas subject to jurisdiction of the United States.

United States participation in assistance programs for the relief of refugees outside United States jurisdiction and for their permanent resettlement in asylum or other countries helps resolve existing refugee problems. It also avoids extensive accumulation of refugees in asylum countries and promotes the willingness of the latter to maintain policies of asylum for other arriving refugees.

The President has reemphasized the United States commitment to the provision of asylum for refugees and directed appropriate Departments and Agen-

\*Updated January 10, 1973 to conform with the Foreign Affairs Manual.

cies of the U.S. Government, under the coordination of the Department of State, to take steps to bring to every echelon of the U.S. Government which could possibly be involved with persons seeking asylum a sense of the depth and urgency of our commitment.

**PART TWO—HANDLING ASYLUM REQUESTS BY PERSONS IN THE UNITED STATES OR IN OTHER AREAS OUTSIDE ANY FOREIGN JURISDICTION**

All U.S. Government personnel who may receive a request from a foreign national for asylum within territory under the jurisdiction of the United States, or aboard a U.S. vessel or aircraft in or over U.S. territorial waters or on or over the high seas, should become thoroughly familiar with procedures for the handling of such requests. Implementing instructions issued by Government agencies to establish these procedures should receive the widest dissemination among such personnel.

**PROCEDURES**

A. Upon receipt of a request for asylum from a foreign national or an indication that a request from a foreign national is imminent, U.S. Government agencies should immediately notify the Department Operations Officer at the Operations Center of the Department of State (telephone area code 202, 632-1512). The Department Operations Officer will refer any request to the appropriate offices in the Department of State and will maintain contact with the U.S. agency involved until the designated action officer in the Department of State assumes charge of the case.

The following information should be forwarded to the Department Operations Officer at the Operations Center when available but the initial report must not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in the individual's possession.
4. What foreign authorities are aware that the individual is seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, estimated time of arrival at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy, or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

Telephone notification to the Operations Center should be confirmed as soon as possible with an Immediate precedence telegram to the Department of State summarizing all available information.

B. Safe protective custody will be provided to the asylum seeker and, where indicated, appropriate law enforcement or security authorities will be brought in as early as possible. Interim measures taken to assure safe custody may include the use of force against attempts at forcible repatriation where means of resistance are available, taking into account the safety of U.S. personnel and using no greater force than necessary to protect the individual. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been referred to headquarters for instructions.

C. U.S. Government agencies should also immediately inform the nearest office of the U.S. Immigration and Naturalization Service (INS) of any request for asylum, furnish all details known, and arrange to transfer the case to INS as soon as feasible. Agencies should continue to follow any procedures already in effect between themselves and INS. (*For INS only:* Where INS has received a direct request for asylum and has assumed jurisdiction over a routine case in which forcible repatriation or deportation is not indicated, INS may follow existing notification procedures in lieu of the special alerting procedure to the Department of State described above.)

**PART THREE—HANDLING ASYLUM REQUESTS BY PERSONS WITHIN FOREIGN JURISDICTION**

**I. GENERAL PROCEDURES**

These regulations set forth procedures for all U.S. Government agencies abroad in dealing with asylum requests at U.S. installations, vessels or aircraft in foreign jurisdictions.

#### A. Granting asylum

While it is the policy of the U.S. not to grant asylum at its units or installations within the territorial jurisdiction of a foreign state, any requests for U.S. asylum should be reported in accordance with the procedures set forth herein.

#### B. Granting Temporary Refuge

Immediate temporary refuge for humanitarian reasons, however, may be granted (except to board aircraft because of their vulnerability to hijacking) in extreme or exceptional circumstances wherein the life or safety of a person is put in danger, such as pursuit by a mob.

When such temporary refuge is granted, the U.S. Embassy or consular post having jurisdiction, the Washington headquarters of the concerned agency, and the Department of State should be immediately notified. Military units under direct Embassy jurisdiction will report through the Embassy, unless the senior diplomatic official determines otherwise.

To the extent circumstances permit, persons given temporary refuge should be afforded every reasonable care and protection. The measures which can prudently be utilized in providing this protection must be a matter for decision of the senior U.S. official present at the scene, taking into consideration the safety of U.S. personnel and the established security procedures for the unit or installation concerned.

Protection shall be terminated when the period of active danger is ended, except that authority to do so shall be obtained from the Department of State. Where a military installation not under direct Embassy jurisdiction is involved, such authority shall be obtained from its Washington headquarters upon concurrence of the Department of State. Any inquiries from interested foreign authorities will be met by the senior official present with a response that the case has been referred to Washington.

#### C. Notification to Department of State of Asylum Requests

Upon receipt of a request for U.S. asylum made by any foreign national, U.S. personnel within foreign jurisdiction should notify immediately the nearest U.S. diplomatic or consular post in the country in which the request is made. Embassies or consulates will forward this information to the Department of State by an immediately precedence telegram. Agencies having their own rapid communications systems with direct contact with their headquarters in the U.S. may notify those headquarters, with information copies to the nearest Embassy or consular post and the Department of State, by immediate precedence message.

#### D. Information to be transmitted

With respect to requests for temporary refuge (whether or not granted) or for asylum, the following information should be furnished when available, but the initial report should not be delayed pending its development:

1. Name and nationality of the individual seeking asylum.
2. Date, place of birth, and occupation.
3. Description of any documentation in the individual's possession.
4. What foreign authorities are aware that the individual is seeking asylum.
5. Circumstances surrounding the request for asylum.
6. Exact location. If aboard vessel or aircraft, estimated time of arrival at next intended port or airport.
7. Reason for claiming asylum.
8. Description of any criminal charges known or alleged to be pending against the asylum seeker. Indicate also any piracy at sea, air piracy, or hijacking background.
9. Any Communist Party affiliation or affiliation with other political party; any government office now held or previously occupied.

## II. DIPLOMATIC AND CONSULAR ESTABLISHMENTS

#### A. Requests for asylum (restrictions on extending asylum)

As a rule, a diplomatic or consular officer shall not extend asylum to persons outside of the officer's official or personal household. Refuge may be afforded to uninvited persons who are in danger of serious harm, as from mob violence, but only for the period during which active danger continues.

With the concurrence of the Department, refuge shall be terminated on receipt of satisfactory assurances from the established national government that the refugee's personal safety is guaranteed against lawless or arbitrary actions and that the refugee will be accorded due process of law.

### *B. Routine requests.*

Requests of third country nationals for asylum made to diplomatic and consular posts need not be reported immediately to the Department of State when all of the following conditions exist:

(a) Adequate host government machinery is well established which, in the opinion of the Embassy, assures satisfactory protection of the asylum seeker's rights.

(b) There is no evidence of danger of forcible repatriation.

(c) Local authorities can be expected to assume responsibility for the asylum seeker.

### *C. Coordination with host country authorities*

Action with regard to third country nationals seeking asylum should normally be taken within the over-all policy that the granting of asylum is the right and responsibility of the government of the country in whose territory the request is made. Unless the Embassy deems that there are cogent reasons for not doing so, these authorities should be informed by the Embassy as soon as practicable of the request for asylum.

Activities should also be coordinated by the Embassy with representative of the United Nations High Commissioner for Refugees (UNHCR), where such a representative is resident and the Embassy deems it appropriate. The UNHCR is a valuable instrument for providing international protection and securing adequate legal and political status for refugees. In addition to providing guarantees against forcible repatriation, the UNHCR seeks to secure for refugees legal, political, economic and social rights within asylum countries.

### *D. Available U.S. assistance*

The United States is prepared in the cases of selected refugees to provide care and maintenance, and to assist in local settlement in the country of first asylum or in another country of resettlement, including the United States. Such assistance is normally provided through voluntary agencies under a contract with the Department of State. In cases where the Embassy or consular post has determined that U.S. assistance is warranted, it should telegraph the Department of State recommending the type and extent of initial aid and ultimate resettlement considered most suitable.



