

**U.S. REPRESENTATIVE LAMAR SMITH (R-TX) HOLDS HEARING ON
ADOPTED ORPHAN CITIZENSHIP ACT; IMMIGRATION AND CLAIMS
SUBCOMMITTEE, HOUSE JUDICIARY COMMITTEE**

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HOUSE COMMITTEE ON THE JUDICIARY SUBCOMMITTEE ON
IMMIGRATION AND CLAIMS HOLDS HEARING ON ADOPTED ORPHAN
CITIZENSHIP ACT

FEBRUARY 17, 2000

SPEAKERS: U.S. REPRESENTATIVE LAMAR S. SMITH (R-TX),
CHAIRMAN

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U.S. REPRESENTATIVE SHEILA JACKSON LEE (D-TX),

RANKING MEMBER

U.S. REPRESENTATIVE HOWARD L. BERMAN (D-CA)

U.S. REPRESENTATIVE ZOE LOFGREN (D-CA)

U.S. REPRESENTATIVE BARNEY FRANK (D-MA)

U.S. REPRESENTATIVE MARTIN MEEHAN (D-MA)

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ACT; IMMIGRATION AND CLAIMS SUBCOMMITTEE, HOUSE JUDICIARY COMMITTEE

U.S. REPRESENTATIVE MARK **FOLEY** (R-FL)

GERRI RATLIFF, ACTING DIRECTOR, OFFICE OF

CONGRESSIONAL RELATIONS, **IMMIGRATION**

AND NATURALIZATION SERVICE

EDWARD BETANCOURT, DIRECTOR, OFFICE OF POLICY

REVIEW AND INTERAGENCY LIAISON,

STATE DEPARTMENT BUREAU OF CONSULAR AFFAIRS

JAMES COSTELLO, ASSOCIATE DEPUTY ATTORNEY GENERAL,

JUSTICE DEPARTMENT

SUSAN SOON-KEUM COX, VICE PRESIDENT, PUBLIC POLICY

AND EXTERNAL AFFAIRS, HOLT INTERNATIONAL CHILDREN'S SERVICES

MAUREEN EVANS, EXECUTIVE DIRECTOR, JOINT COUNCIL, INTERNATIONAL CHILDREN'S SERVICES

RICHARD KRIEGER, PRESIDENT, INTERNATIONAL EDUCATIONAL

MISSIONS, INC.

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INSERT:

(WRITTEN OPENING STATEMENT OF THE CHAIRMAN)

SMITH: This morning, we will hear testimony on two **bills**, H.R. 2883, the "Adopted Orphans Citizenship Act," and H.R. 3058, the "Anti- Atrocity Alien Deportation Act."

Regarding the issue of citizenship for adopted children, the **Immigration** and Nationality Act currently provides a mechanism for granting U.S. citizenship to the children of American citizens who were born outside of the United States, including children adopted by American citizens.

To qualify, the following conditions must be fulfilled:

- 1) At least one parent must be a U.S. citizen, either by birth or naturalization;.
- 2) The child must be physically present in the U.S. pursuant to a lawful admission.
- 3) The child is under the age of 18 and in the legal custody of the citizen parent.
- 4) If the child was adopted , the child must have met the definition of "child" under the provisions of the **Immigration** and Nationality Act which provide for the admission of adopted children.
- 5) The citizen parent must have met certain physical presence requirements.

Many adoptive parents would like to see a more streamlined process for naturalizing the adopted children of U.S. citizens born outside of the U.S. They point to several problems with the current law:

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- 1) The process is redundant. Although U.S. citizen parents submit numerous documents to the Immigration and Naturalization Service and the Department of State in connection with the child's immigrant visa application, they must resubmit many of the same documents again in connection with the child's citizenship application.
- 2) The process takes too long. Parents should be able to complete the process within few weeks or months. However, lengthy backlogs at the INS have caused the process to take a year or longer in some instances. In cases involving children who are approaching their 18th birthday, the delay could result in some children losing the opportunity to acquire citizenship under this provision of the law.
- 3) The process is dependent the parent acting on behalf of the child. While most U. S. citizen parents try to ensure that their foreign-born children acquire citizenship before reaching age 18, some fail to take the necessary action required under current law. In such instances the children, through no fault of their own, find themselves disadvantaged because they are not U.S. citizens.

H.R. 2883 would amend the current law regarding the acquisition of citizenship by the adopted children of U.S. citizen parents. The bill would automatically extend citizenship to the adopted alien child of a U.S. citizen in the following circumstances:

The adopted person must be unmarried and under the age of 18;

The person must be physically present in the United States, have been admitted to the U.S. as lawful permanent resident and have met the requirements for the admission of an adopted child of a U.S. citizen. The person must seek documentation as a United State Citizen while under the age of 18.

The Department of Justice and the Department of State have expressed concern that H.R. 2883 is inconsistent with long-standing principles of nationality law:

- 1) It attempts to make individuals retroactively citizens "at birth" based on events and conditions occurring after birth.
- 2) It favors adopted children over certain biological children of U.S. citizens, in that certain adopted children will receive citizenship at birth while biological children would not.
- 3) The retroactive conferral of citizenship on adopted children would create differences between adopted children and other persons who acquire U.S. citizenship by naturalization.

Today, we will hear from witnesses from the Departments of Justice and State regarding H.R. 2883. We also will hear from representatives of the adoption community.

The second bill on which we will hear testimony today is H.R. 3058, "Anti-Atrocity Alien Deportation Act," introduced by Representative Foley of Florida.

Recent media reports state that some aliens who allegedly participated in human rights violations in their home countries have taken refuge in the United States. Former officials from repressive regimes in countries such as Haiti and Yugoslavia have apparently escaped justice and established comfortable lives in American communities, sometimes right next to other immigrants who were victims their repression.

Human rights violators may be able to take refuge in the United States because their conduct was not criminal in their home countries or because their wrongdoing is not known to U.S. law enforcement authorities.

The Immigration and Naturalization Service is the agency primarily responsible for locating and deporting aliens based on their past wrongdoing. Also, if an alien has obtained U.S. citizenship by concealing his past wrongdoing, the INS may denaturalize and then him.

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Another, more specialized branch of the Justice Department is the Office of Special Investigations, which was created in 1979 to track down Nazi war criminals. The OSI's mission has been winding down as the few remaining Nazi war criminals pass away due to illness and old age.

H.R. 3058 has three provisions. The bill would amend the Immigration and Nationality Act to make aliens who have committed acts of torture inadmissible and removable. H.R. 3058 would also establish OSI as a permanent agency responsible for investigating, removing, denaturalizing, or prosecuting aliens guilty of Nazi persecutions, genocide, or torture. Finally, the bill would authorize additional appropriations for OSI.

At least three issues have been raised by H.R. 3058. First, some advocates have suggested expanding the bill beyond torture to include other kinds of repression and wrongdoing. Some have also advocated going beyond deportation to make alien war criminals amenable to criminal prosecution in the United States as well.

Finally, there is the issue of which agency is the appropriate one to enforce the bill's provisions. Advocates of OSI - including American Jewish organizations that value OSI's Nazi-hunting mission, think highly of OSI's work, and maintain close affiliations with OSI - favor the approach taken by H.R. 3058 and claim that the INS has been ineffective in dealing with foreign war criminals.

Others argue that immigration enforcement should be carried out by the Immigration and Naturalization Service, which has the necessary jurisdiction and expertise. Splitting the jurisdiction between INS and OSI could complicate enforcement actions where, for example, alleged war criminals try to claim asylum or other immigration benefits.

Representative Foley deserves great credit for bearing the standard on such an important human rights issue.

(END WRITTEN OPENING STATEMENT OF THE CHAIRMAN)

INSERT:

(WRITTEN OPENING STATEMENT OF THE RANKING MEMBER)

JACKSON LEE: The Immigration and Nationality Act has a provision which makes participation in Nazi persecutions or genocide a basis for refusing to admit an alien into this country. If a person who has engaged in Nazi persecution or genocide manages to enter the United States, he or she is deportable under another provision of the Immigration and Nationality Act. The Anti-Atrocity Alien Deportation Act would add a third category to those provisions, aliens who have committed an act of torture.

Surely there are other offenses that would warrant inclusion on these lists. Consequently, I think a more general, more comprehensive provision would be better, but I have no objection to providing for the exclusion or deportation of aliens who have committed an act of torture.

This bill also would establish an office of special investigations to investigate and remove people who are on these lists. That would include people in all three categories. Once again, I question the narrowness of the provision. Why have an office to investigate and remove people in just these three very narrow categories? It would make more sense to have an office that would find and remove aliens in a much larger group, such as aliens who have committed serious crimes of violence.

Nevertheless, this bill deserves our support with only one reservation. The Anti-Atrocity Alien Deportation Act should incorporate a provision that when someone has sufficiently satisfied the requirements of torture under its definition, and this individual cannot be removed from the U.S. because they are at risk for torture, such persons should be prosecuted under existing U.S. law.

I have a number of more serious concerns with the Adopted Orphans Citizenship Act. This bill would blur the fundamental distinctions between the acquisition of citizenship at birth and the acquisition of citizenship through conferral after birth, or "naturalization." It would do this by conferring citizenship retroactively to birth based on actions taken after an alien's birth.

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Moreover, in addition to contradicting the statutory definition of naturalization, it would create a legal fiction in which the alien child would be deemed always to have been a United States citizen. . While after the adoption, it is entirely fitting and proper that the adopted child be considered equal to the adoptive parents' natural children for citizenship and other purposes, we do not believe it is appropriate to attempt to extend the claim retroactively back to birth.

This bill along with current sections of the INA would allow some adopted children to become citizens at birth, which other adopted children would receive citizenship after birth. In addition, certain adopted children acquiring citizenship after birth would receive citizenship automatically, while other adopted children would receive citizenship only after their parents took affirmative steps to apply for citizenship on their behalf.

Further, it is entirely possible that an adopted child, through the legal fiction created by this bill could be considered to have been a citizen "at birth" not only before the adoption, but even before his or her parents became naturalized citizens.

Finally this bill would provide that certain adopted children would receive citizenship at birth, while biological children, potentially of the same United States parents would not. For these and other reasons that will be set forth by the Department of Justice, I oppose this bill.

(END WRITTEN STATEMENT OF THE RANKING MEMBER)

INSERT:

(WRITTEN OPENING STATEMENT OF REPRESENTATIVE FOLEY)

FOLEY: Mr. Chairman, I would like to thank you and the members of your Subcommittee for giving me the opportunity to testify before you today on the Anti-Atrocity Alien Deportation Act. This truly bipartisan legislation which I introduced with Gary Ackerman and Bob Franks now has 24 cosponsors in the House. On the Senate side, Senator Leahy joined forces with Senator Hatch to pass the bill at the end of last session. It is my hope that you and your Subcommittee will also look favorably on the legislation and expedite its consideration.

The United States has always been a safe-haven for those fleeing political persecution abroad and this policy should continue. However, brutal criminals who have gone on violent rampages in Haiti, Yugoslavia and Rwanda have been able to gain entry to the United States through the same doors that we have opened to deserving refugees. We need to slam the door shut on these thugs and rid our country of those who have already managed to make their way here.

I didn't become aware of the need for this until I learned last year that Carl Dorelien -- a key member of the brutal military dictatorship that ruled Haiti from 1991-1994 -- is now living in comfort in my own congressional district. He even won the Florida lottery and -- amazingly -- has described his current standard of living as "a step down" from his former life in Haiti.

Initially, I assumed this case was just an isolated and bizarre episode. But, once I began to look into the issue more, I soon realized that we have a big problem on our hands. Richard Krieger, who we will hear from today and whose non-profit organization is dedicated to exposing and ridding our country of war criminals living in the United States, brought my attention to the fact that the U.S. is becoming a haven for brutal human rights abusers.

According to the Center for Justice and Accountability in San Francisco, at least 60 alleged human rights violators are currently living in the United States. And these are just the ones who have been identified.

In 1998, Canada began an aggressive campaign to locate and act against human rights abusers who found their way into the country. As of July, 1999, the Canadian government indicated that 400 cases are being processed toward removal, 307 suspected war criminals have been denied visas, and 23 were deported. That's a total of 700 war criminals that Canada has detected.

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Based on Canada's figures -- and taking into account the much bigger population in the United States and other socio-economic factors -- I think the Center for Justice and Accountability's claim that we could have as much as 7,000 human rights abusers living in this country is a fair contention.

We owe it to our country -- and ourselves -- to locate and take action against these modern-day war criminals. After all, statutes like Megan's Law allow communities to find out if known sex-offenders move into the area. These same communities, however, could be oblivious to the fact that a brutal thug -- who went on a rampage in places like Haiti or Kosovo -- is living anonymously among them.

Canada seems to have been successful in tracking down modern-day war criminals -- and so can we. The U.S. Justice Department has a model program -- the Office of Special Investigations (OSI) -- we can build upon to deny entry to those who have abused human rights in their home countries.

OSI was created to hunt down, prosecute, and remove Nazi war criminals who secretly slipped into the United States. Since OSI's inception in 1979, 61 former Nazis have been stripped of U.S. citizenship, 49 have been deported, and more than 150 have been denied entry into the United States.

Clearly, OSI has been extremely successful. But the snag is, it's only authorized to track down Nazi war criminals and no one else. As a Congress, we need to give OSI specific statutory authority to ensure we have effective means of dealing with the new generation of international war criminals who want to spend their golden years in the United States.

That is why I joined with Gary Ackerman and Bob Franks in introducing the House companion bill to Senator Leahy's Anti-Atrocity Alien Deportation Act (H.R. 3058). H.R. 3058 would: bar admission into the United States and authorize the deportation of aliens who have engaged in acts of torture abroad; provide statutory authorization for and expand the jurisdiction of the OSI within the Department of Justice to investigate, prosecute and remove any alien who participated in torture and genocide abroad -- not just Nazis; and authorize additional funding to ensure that OSI has adequate resources to fulfill its current mission of hunting Nazi war criminals.

"Torture" is already defined in the Federal criminal code and means any act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering upon another person within his custody or physical control. Under this definition, torturers include both those who issue the orders to torture innocent people as well as those who implement those orders. Consequently, the Anti-Atrocity Alien Deportation Act would cover those thugs like Carl Dorelien who -- as Head of Personnel for the Haitian army -- oversaw the brutal campaign that led to the deaths of approximately 5,000 Haitians between 1991 and 1994.

Mr. Chairman, I implore you to support the Anti-Atrocity Alien Deportation Act so that we may prevent other Carl Doreliens of this world from infiltrating our country so they can retire peacefully in beautiful communities like Port St. Lucie in my district.

Thank you.

(END WRITTEN TESTIMONY OF REPRESENTATIVE FOLEY)

(AUDIO GAP)

RATLIFF: Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, my name is Gerri Ratliff. I am the director of Business Process and Reengineering at the Immigration Services Division of INS. And I'm also excited to be the new acting director of INS Congressional Relations. But I am here at this moment under my old hat of working on the (OFF-MIKE).

Thank you for the opportunity to appear today to discuss H.R. 2883, the Adopted Orphans Citizenship Act. We appreciate the subcommittee's interest in the views of the INS.

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Our nation, Mr. Chairman, has a unique history of generosity in granting the precious benefit of citizenship to millions of individuals from every country around the world. The INS views its role in administering the naturalization and citizenship statutes as one of our most important responsibilities. We do recognize the need for legislation to reduce the current complexity of citizenship laws for children.

However, INS cannot support H.R. 2883 for several reasons. First, it would retroactively grant citizenship at birth to adopted children who were not citizens. Second, it ironically even creates additional differences in acquisition of citizenship by various categories of biological and adopted children, even children who have the same parents. Third, the **bill** could create the perception that individuals who acquire citizenship by naturalization are in essence second-class citizens. There is a fundamental difference in the law between the acquisition of citizenship at birth and the acquisition of citizenship by conferral after birth, which we call (OFF-MIKE) naturalization.

H.R. 2883 blurs this distinction by attempting to confer citizenship retroactively to birth based on actions taken after a child's birth. As a result, the **bill** creates a legal fiction in which the child is deemed always to have been a U.S. citizen, although the United States did not have a claim to the allegiance of the child at any time prior to the child's naturalization. H.R. 2883 also does not streamline the current citizenship provisions for children.

If enacted, some adopted children would automatically become citizens at birth. But other adopted children, and even some biological children, ironically would receive citizenship after birth and only after their parents took affirmative steps to apply for naturalization. Further, in some cases the adopted child could be considered to have been a citizen at birth not only before the adoption, but even before his or her adopted parents became naturalized citizens themselves.

H.R. 2883 strains to place adopted children into a citizens at birth category in which they simply, factually do not fit. This action could create the perception that adopted children who currently are subsequently naturalized don't enjoy the same rights and privileges as children born to U.S. citizens. However, when individuals acquire U.S. citizenship they do receive all the rights associated with that status, regardless of whether citizenship was acquired by birth in the United States or abroad, or voluntary naturalization. To imply, even unintentionally, that naturalized citizens do not share all these privileges sends an unfortunate message to the millions of proud Americans who are naturalized.

The only exception to this principle is that naturalized citizens cannot run for president under Article II of the Constitution, which limits that office to native born. However, the Supreme Court has never definitively ruled on this issue, and we believe that H.R. 2883 would not and could not resolve these questions.

It has been suggested that the retroactive citizenship approach of this **bill** is necessary to conform with state laws on adoption. However, we believe that our approach is more consistent with adoption laws that create and terminate legal relationships as of the date of the adoption but do not attempt to change the relationships retroactively or try to rewrite the past.

We would be more than happy to work with Congress on alternative ways of streamlining the naturalization of adopted children. We support legislative language, such as the adoption provisions of H.R. 3667 recently introduced by Congressmen Delahunt and Gejdenson, which would eliminate the currently required second documentation process for parents to naturalize the child they have just adopted. The adopted child would become a U.S. citizen automatically upon entry into the United States as a legal permanent resident.

This legislation also untangles the complex provisions of the law by creating a standard set of conditions for both foreign-born adopted and biological children of U.S. citizens to acquire citizenship.

In conclusion, we strongly supports efforts to streamline the acquisition of U.S. citizenship by adopted children and simplify the related provisions of the law. Unfortunately, we believe that H.R. 2883 as currently drafted does not achieve its stated goal of treating adopted and biological children the same, fails to streamline the current citizenship procedures and could even offend some naturalized citizens by the implication that they do not enjoy the same rights as citizens from birth.

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Thank you for the opportunity to present the views of the INS to the subcommittee. And I would be happy to answer any questions.

SMITH: Mr. Betancourt.

BETANCOURT: Mr. Chairman and members of the subcommittee, my name is Edward Betancourt. I currently serve as director of the Office of Policy Review and Interagency Liaison in Overseas Citizens Services in the Department of State's Bureau of Consular Affairs. I have worked with citizenship issues within the Department of State for more than 20 years.

I'm please to have the opportunity to provide the views of the Department of State on H.R. 2883, the Adopted Orphans Citizenship Act. I will limit my remarks to five minutes and submit a formal statement for the record.

The Department of State agrees that citizenship procedures for children adopted abroad should be simplified, but we have serious concerns about the approach taken by H.R. 2883. When we seek to amend our citizenship laws, we must take great care to ensure that the result is fair and equitable. We believe H.R. 2883, though well intentioned, will produce inequities and other undesirable consequences. We strongly support the alternative draft legislation that was proposed by the Department of Justice amending sections 320 and 322 of the Immigration and Nationality Act, rather than Section 301 of the Act.

The present process for adopting foreign-born children already includes a rigorous and thorough examination of the relevant circumstances prior to issuance of the immigrant visa. We do not propose to alter this process in any way.

We do, however, support statutory changes that would permit an adopted child who qualifies for an immigrant visa to acquire U.S. citizenship much more expeditiously than is currently permitted. In this sense, we are in agreement with one of the important aims of H.R. 2883. Specifically, the department believes that U.S. citizenship should be conferred automatically upon adopted children born overseas upon the fulfillment of the conditions set forth in the draft legislation proposed by the Department of Justice.

While the Department of State strongly advocates diminishing the procedural burdens placed on adoptive parents seeking U.S. citizenship for their children, we feel it is important that measures toward this end should be taken within the context of our naturalization statutes rather than those pertaining to citizenship at birth. This would be consistent with the INA's definition of naturalization as the acquisition of citizenship after birth by any means. Thus, the incorporation of these measures within Chapter 2 follows logically from the provisions of Section 321 and 322 pertaining to the naturalization of adopted children.

One of our greatest concerns about H.R. 2883 is that it would make citizenship for adopted children retroactive to birth. In the view of the department, to confer citizenship at birth upon an adoptive child born overseas is to engage in a legal fiction that would create undesirable inequities between adopted children and other persons who acquire U.S. citizenship through naturalization. And would, in effect, create two classes of naturalized citizens: those who acquire citizenship retroactively to birth and those who do not.

H.R. 2883 would also disadvantage biological children. It would bestow greater benefits upon adopted children with no connection to the United States at their birth than the INA currently gives to certain biological children born abroad to a U.S. citizen parent who do not automatically acquire U.S. citizenship from that parent because of the latter's inability to meet the physical presence requirements of Chapter 1 of Title III.

Another of our concerns about H.R. 2883 is that retroactive conferral of citizenship upon a class of adopted children might be viewed by the child's country of origin as an unwarranted interference that could prejudice future adoptions from that country by American citizens.

We understand, and support fully in our daily operations abroad, a concept that must underlie all citizenship legislation: that it is totally unacceptable to discriminate in any way against U.S. citizens based upon the manner in

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which the person acquired U.S. citizenship. Whether a person who is in fact a U.S. citizen had that status as of birth does not in any way affect our treatment of that person.

We stress in our consular training and at every appropriate opportunity the need to combat discrimination of this kind. Our vigorous efforts in this area will continue, of course, regardless of the fate of H.R. 2883, given the importance we attach to equitable treatment of all U.S. citizens whether they acquire U.S. citizenship by birth or naturalization.

Thank you very much. I welcome questions from the chairman or any member of the subcommittee.

SMITH: Thank you, Mr. Betancourt. Mr. Costello.

COSTELLO: Thank you very much. Mr. Chairman, members of the subcommittee, I am very pleased to be here. I'm James Costello from the Deputy Attorney General's Office. And I'm pleased to have this opportunity to discuss with you H.R. 3058, the bill that Congressman Foley described earlier this morning.

The Department of Justice supports efforts to enhance our ability to remove individuals who have committed acts of torture abroad. The department also recognizes, however, that our current immigration laws do not provide strong enough bars for human rights abusers. We very much appreciate Congressman Foley's efforts, your efforts in holding this hearing today. And we look forward to working with you on legislation of this type.

The Immigration and Naturalization Service -- and I want to make clear I'm testifying on behalf of the department, but I wanted to talk a little bit about what INS has been doing in this area -- has long used its resources under its existing mandate in an attempt to deny human rights abusers safe haven in the United States. Until now, the legal tools necessary to hold human rights abusers accountable for their action have been limited.

So while the department welcomes the efforts of this bill to provide an additional tool to combat torturers who are present in the United States, it feels strongly that other forms of human rights abuse should also be included. In addition, the department has concerns about removing jurisdiction over cases relating to human rights abuse from the INS.

The department is developing a draft legislative proposal of its own to address our concerns that we hope to be able to share with you in the near future. And as I said, we hope to work with the subcommittee on legislation of this type.

Let me start by stepping back and giving a little bit of a background on our recent efforts in this area. In December of 1998, the president issued an executive order to commemorate the 50th anniversary of the signing of the Universal Declaration of Human Rights, which was basically aimed at making sure that all of the relevant executive agencies would be carrying out their responsibilities under our various international treaty obligations in the area of human rights.

Pursuant to that executive order, an interagency working group was formed which is chaired by the NSC. It has representatives from the State Department, Justice Department, Defense and Labor. And the order also asked each of the relevant Cabinet officials to designate in his or her department a single contact officer who will be responsible for overall coordination of the implementation of the order. The attorney general has designated me as the contact officer for the Department of Justice.

So when we set about, pursuant to the executive order, looking at the things that we should focus our efforts on in implementing our human rights obligations, one of the first things we did was we formed a working group within the Department of Justice which would be devoted to enhancing our ability to identify human rights abusers who have found their way into this country and to taking appropriate action against them. The INS is a key participant in that working group, as is the criminal division and the FBI.

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Current law covers a few things as bars to admissibility to the United States. They include -- and it also provides, obviously, protection for people who are seeking refuge here, both asylum and refugee status for people who are seeking refuge here from persecution abroad.

To the extent feasible under current law, the INS does not knowingly extend legal immigration status to foreign nationals who are violators of human rights. In the event that information arises indicating that such individuals have been granted immigration status, the department has a few options. Depending upon the facts, these may include criminal prosecution, extradition or removal.

With respect to removal, however, the present state of the immigration law often does not provide the INS with the necessary tools to remove individuals from the United States. Right now, only three types of human rights abuse could prevent someone from entering or remaining in the United States. These are genocide, particularly severe violations of religious freedom and even -- and Nazi persecutions. Even these types of conduct are narrowly defined. And I've gone into more detail in my written testimony exactly how those definitions are narrowed.

But even with the limitations in the current law, the department continues to fight against human rights abusers and has taken actions to improve the handling of cases involving allegations of serious human rights abuse. In the regular course of its work, INS continues to screen applicants for admission to this country to identify possible human rights abusers, and it has defeated immigration claims of a significant number of human rights abusers and has additional cases under investigation. And to strengthen its efforts in this area, over the past year and through the work of the working group that I mentioned before, we've taken a number of steps. And I just want to briefly tick them off. I've described them in more detail in my written testimony.

First, INS has designated two specialized units at headquarters here in Washington to handle cases involving alleged human rights abusers. The National Security Unit of the Office of Field Operations is responsible for coordinating the field office investigations of national security cases, and these now include human rights abusers cases. Most of the field agents handling these cases, by the way, happen to be the INS agents who are identified to joint terrorism task forces. And they, therefore, have a close working relationship, for example, with their corresponding agents of the bureau.

Recently, after months of discussion, the INS, in fact, and the FBI have signed a memorandum of understanding regarding the investigation and prosecution of human rights abuse crimes to make clear what the lines of communication are, and to improve the coordination of investigation of these cases between the two agencies.

The INS Office of General Counsel has also recently created a National Security Law Division, and this division is responsible for cases involving national security, including those relating to human rights. The consolidation of these cases in a distinct unit will facilitate the coordination in handling these cases both within and outside of the INS.

In September of last year, the INS held a comprehensive training conference in Albuquerque, New Mexico, for special agents who are assigned to investigate these cases. And the presentations made there included presentations from the Center for Justice and Accountability, an organization that Congressman Foley mentioned earlier this morning. And we agree with him, they have done some significant work. And we have been in cooperation with them.

SMITH: Mr. Costello, are you nearing the end of your testimony here?

COSTELLO: Nearing the end. I'm sorry. Yes, thank you.

Let me just briefly turn to the bill. We, as I said, welcome the efforts of Congressman Foley to expand the bars to human rights abusers. As I've said, we're working on legislation which would go beyond -- and Mr. Chairman, you got to this in your question -- torture to include some other things such as crimes against humanity, war crimes and so forth.

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The bill, as you've noted -- also the second thing it would do would be expand jurisdiction of the Office of Special Investigations in the Criminal Division of the department to investigate and take enforcement action against aliens who have committed acts of torture and genocide. Currently, OSI's jurisdiction generally pertains to locating, investigating, and, when appropriate, de-naturalizing and removing Nazis from the World War II period who are present in the United States. The department opposes this proposed reallocation of those responsibilities. We think that the criminal jurisdiction in this area should rest with the Criminal Division's Terrorism and Violent Crime Section of the Criminal Division. And we think that the INS should continue to have responsibility for immigration cases in this area.

Let me just in closing note that Congressman Foley, in describing the background for his bill had referred to OSI as an entity that was up and running. And that was a strong argument, he felt, for designating OSI to move into the present day human rights abuser cases. I just want to point out that the INS has over 450 asylum officers who hear asylum claims every day. It has over 600 trial attorneys around the country who appear in immigration courts in asylum cases and other cases every day. And it has over 2,500 investigators around the country. And therefore, we think that the INS, given enhanced tools especially, can continue to do this job.

SMITH: OK. Thank you, Mr. Costello.

Ms. Ratliff and Mr. Betancourt, let me address my first question to you. As I understand it, and I'll try to summarize your three areas of concern: One, the bill, H.R. 2883, attempts to make individual citizens retroactively citizens at birth based entirely on events and conditions occurring after birth. Two, it blurs the distinction between acquisition of citizenship at birth and naturalization. And three, it favors adopted children over certain biological citizens. My question to you both is simply this, even if that's all true, what are the negative consequences of those provisions?

RATLIFF: Mr. Chairman, I think, at the heart of the matter...

(CROSSTALK)

I'm sorry.

BETANCOURT: No, you go ahead.

RATLIFF: ... is that, we're not raising merely a drafting objection. Yes, we want to see these provisions streamlined, not by amending section 101, but by amending section 320 and 322. However, it goes beyond what may sound like just a technical drafting objection to sort of the heart of citizenship philosophy, which really has two levels.

One, we cannot support creating a legal fiction where children become citizens at birth who were not citizens at birth, who had not fulfilled the requirements for their citizenship at the time of their birth. And secondly, the important perception that then could flow from that legal fiction.

Why is it so important to create this legal fiction? If a naturalized citizen sees that adopted children needed to be created citizens at birth even though they weren't, aren't they then going to feel, well, it must not be good enough to be a naturalized citizen. Why is it that I can't pretend to be a citizen at birth? And just the whole philosophy that we're saying there is no difference between the rights and privileges of a citizen from birth or through naturalization, so there's no need to create this legal fiction and squeeze adopted children into section 301 who don't fit there.

SMITH: OK. Thank you.

Mr. Betancourt.

BETANCOURT: In addition -- and there's another point that we alluded to in our testimony. Adoption of children often occurs in a foreign country in a rather fragile environment in terms of the public perception of persons in that country. Countries often revisit their adoption laws.

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And were the United States to extend citizenship retroactively to birth to children born in that country, there could be unpleasant consequences in terms of the perception in that country, both officially and at a public level as to whether this represented some kind of a statement about the adequacy of the citizenship that had been conferred by that country on its children. It may well be a perception issue, but it could cause some difficulties.

SMITH: OK. Thank you, Mr. Betancourt. And Mr. Costello, in regard to H.R. 3058. As I understood you to say in your testimony, one of the advantages of having INS oversee the investigations is because -- I think you mentioned something like 2,800 investigators across the country and so forth. On the other hand, OSI has a good track record of having the appropriate expertise and at having done a good job in the past. So, is that what it comes down to, personnel versus expertise? Or is there some other reason why OSI is not the appropriate agency or department to handle the investigations?

COSTELLO: No, I don't think it's just a comparison of personnel versus expertise. I want to say, obviously the department is very proud of the work that OSI has done. And I think they've really taken on a very difficult task with commendable efforts.

I think -- the two points I would make, Mr. Chairman, are, one the INS does have a lot of expertise in this area. The Nazi era war crimes have tended to be a discrete unit of cases. They have involved a lot of historical documentation, which we often do not have in the case of modern human rights abuser cases. So a lot of the information that we acquire with respect to modern human rights abusers comes to us in the course of, for example, asylum hearings. People say remarkable things in asylum hearings, not only about others, but sometimes about themselves.

And the INS adjudicates, through its hearing officers or peers before the immigration judges in many thousands of cases every year, and through those cases has become very adept at judging what is persecution, what are human rights abuses, and learning a lot about country conditions in individual countries. And I think actually, they are very well positioned to continue to take on this duty.

SMITH: OK. Thank you, Mr. Costello. I don't have any other questions. The gentleman from Indiana, Mr. Pease, is recognized for his.

PEASE: Thank you, Mr. Chairman. Mr. Costello, following up the chairman's question. I understand your position about the personnel that deal with asylum matters now. It would appear to me though that those personnel most often deal with people who are oppressed rather than oppressors. Is that not the case?

COSTELLO: Well, most often I think that's correct. Because, as I said, we have thousands of asylum cases every year. But they do come in contact with people who we believe are human rights abusers.

PEASE: Is it possible to share that information within units of the Department of Justice now? Do you need statutory assistance to be able to do that, if you can't presently?

COSTELLO: Well, we certainly can, I think, share information among jurisdictions. Of course, like any large agency, we always face the problem of coordination. We've worked very hard in the last year to improve the coordination within the INS. If we were to pass, for example, Mr. Foley's bill in its current incarnation, I think what we'd see, for example, is among all the cases that INS is currently looking at for human rights abuses, if they thought that the allegation involved torture, then they would suddenly shift it over to a unit that's not even within INS. It's in the criminal division. And I think we just feel that it makes much more sense to have a cadre of people in the INS who are in touch with all the different proceedings in which human rights abuse information might come to light, and then can focus their efforts.

PEASE: What's the current status of coordination between OSI and the INS?

COSTELLO: Well, there is obviously coordination on the cases that OSI handles. Because sometimes there's assistance. For example, INS has detention authority. So, there certainly is coordination between OSI. But in

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terms of developing the cases, the work there has been focused really within OSI. And I -- you know, there's been a great deal of documentary evidence that's been accumulated by OSI from the Nazi era.

PEASE: If this additional responsibility -- assuming the bill passes and the additional responsibility then were created, would it not be necessary to add additional personnel in the units that you're suggesting, just as it would be important to add them in OSI? I mean, is it -- it doesn't appear to me that we're going to avoid -- nor should we avoid -- adding personnel in either scenario that's presented today.

COSTELLO: Well, Congressman Pease, you know, no agency says that it doesn't want more money. So you put me in an awkward position. But I think that given the resources we have right now, INS is working on a significant number of cases. And OSI is also working on a significant number of cases. I mean, they're working at full level right now.

Whether more resources would be useful, I leave that to the members of Congress. But...

PEASE: OK. Well, I want to ask some questions of the other witnesses. If there's time left, I'll come back.

Ms. Ratliff, I do understand the philosophical -- or I think I understand, the philosophical argument you made about distinctions between naturalized citizens who are made citizens retroactively and other naturalized citizens. But I'm thinking of the practical experience in my own state -- at least it was when I was still practicing law, I don't know if it still is -- in adoptions. And that is that we do create a legal fiction, at least in my state, and issue birth certificates after an adoption that lists the adoptive parents as the parents of the child at the time of the birth. How does the department reconcile your argument with that practice, which I assume pertains in most states?

RATLIFF: I'm not an adoption law expert. And I don't know if what you're describing in your home state applies in every state. But I do know that that is true at least in some states. They do issue birth certificates retroactively. But we still feel that, in general, the trend of state adoption laws is not to completely rewrite the past, but to treat the child the same as a biological child from the date of adoption.

And there are factual aberrations, such as the one you're pointing out with the birth certificate. But in general, if you look at sort of the overarching adoption philosophy, it's not to completely erase the past. In fact, there even is a trend to honor that child's original heritage and not wipe it out, not pretend it never happened. And we're just trying to strike the right balance between treating the child equally and not inappropriately retroactively creating this legal fiction.

So we agree there is a balance there. But we really do feel that our legislative proposal strikes the better balance between those two competing factors.

PEASE: Mr. Betancourt.

BETANCOURT: Also, we have searched to see if there's some specific, tangible benefit that would accrue by making citizenship retroactive. I can understand certainly in the adoption area that there would be. But we haven't been able to identify a particular specific benefit that would be accorded that would not otherwise be present.

PEASE: Fair enough. But it seems to me that the philosophical argument you make could be reversed with the argument that children born in the United States and adopted, at least in my state, have a birth certificate issued that's -- that lists their adoptive parents and the naturalized citizen then would be treated differently from those who are American born. And so there's still going to be a distinction in the perception between the two, unless they're all treated the same, at least in my state. It just seems to me that the philosophical argument can go the other direction as easily as the way you have presented it.

BETANCOURT: There is a certain tension, in effect, between citizenship law and adoption law, it's true. They're different premises.

PEASE: OK. Mr. Costello.

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I don't know. Have I used my time up, Lamar?

SMITH: No time limit.

PEASE: Do you think it's -- since we're in the subject of broadening -- potentially broadening OSI's authority, do you think even if we didn't do the things that Congressman Foley proposes -- which, as you've already heard me say, I support -- do we need to be doing other things in the existing law to assist the OSI's work in its Nazi cases? Have you found that you have statutory -- need for statutory change to strengthen your ability to do the things you're currently doing?

COSTELLO: I'm not aware of any proposals from the Criminal Division to expand their current jurisdiction.

PEASE: Could you check and see if they have run into circumstances where they believe there are individuals that should be pursued but because of the way the statute is currently drafted, or limited in its scope, that they're unable to proceed? And if that is the case, advise the committee.

COSTELLO: Sure. And can I just mention, in further answer to your earlier question, one of the ways in which we've tried to reach out and improve our coordination on these human rights abusers cases is to develop a closer working relationship with our counterparts in Canada. And one thing that's been interesting has been to see the way they have developed their program. And for the Nazi-era war criminals, the lead agency in Canada is the Department of Justice. But for the contemporary human rights abusers of the contemporary era, the lead agency has been Citizenship and Immigration Canada, which is a separate agency in Canada.

So, I think, you know, they have found somewhat the same thing we have: That when it comes to the wide range of human rights abuses in the current era, that it makes sense to have immigration officials take the lead.

PEASE: Thank you. Thank you, Mr. Chairman.

SMITH: We will now go to the third panel consisting of Susan Soon-Keum Cox, vice president of Public Policy and External Affairs, Holt International Children's Services and Maureen Evans, executive director, Joint Council on International Children's Services.

COX: Good morning.

SMITH: Good morning. We welcome you both.

COX: Thank you.

SMITH: And Ms. Cox, we'll begin with your testimony.

COX: Thank you. First of all, Mr. Chairman, and members of the committee...

SMITH: Could we -- OK, we had the names wrong, I apologize.

COX: Oh, OK.

SMITH: Either we had the names wrong, or you sat in the wrong seat. I'm not sure. But in any case, Ms. Cox, please proceed. Thank you.

COX: Mr. Chairman and members of the committee, I want to thank you for the opportunity to be here today and testify on behalf of H.R. 2883, the Adopted Orphans Citizenship Act.

And I especially wish to thank you, Mr. Chairman, for your important role in this significant legislation. And I can tell you, on behalf of the international adoption community, we're very pleased to have you so involved in this issue.

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My name is Susan Soon-Keum Cox and I'm am vice president of public policy for Holt International Children's Services in Eugene, Oregon. I have been an adoption professional for more than twenty years. Holt International pioneered inter-country adoption from Korea in the mid 1950s. And in that time, we've placed about 50,000 children for adoption.

Inter-country adoption has become an accepted global institution which unites homeless children with permanent loving families. And it is a process which requires compassion, commitment and enormous perseverance on the part of parents adopting children from abroad.

An ongoing issue for inter-country adoptees and the families who adopt them is the necessity to always validate that you are real. Children adopted internationally are almost always a different culture and ethnicity of their adopted family. And this very fact makes their adoption very publicly unique.

And for adopted children to truly be equal and full participants in their family as their non-adopted children, they must be assured the same rights and benefits. And this of course includes the privileges of citizenship in their adopted country.

There are few acquisitions more precious or valued than that of citizenship. However, for international adoptions, adoptees securing citizenship requires enormous effort, time and expense. The present process of naturalization for adopted children is cumbersome, not only for the adoptive families, but for the governmental authorities required to implement them. There is no benefit to the present system. There's no value added, no additional safeguards or protections. It is another layer of bureaucracy that creates a barrier to internationally adopted children of U.S. citizen parents becoming full participants in our society.

The current process also contradicts the intent of sending countries who assume that children who leave for the purposes of adoption will share with their adoptive parents the citizenship of their newly adopted country and nationality. As someone who is adopted, it is difficult to adequately express the great determination and longing that adoptees feel to be considered as real as any other family who comes together.

Adoptive parents are consistently called upon to prove that the relationships of their family are not somehow less than those families who come together by birth. And providing automatic citizenship is an enormous step in the right direction.

I also wish to express strong support for H.R. 3667, the Citizenship Act of 2000, introduced by Representative **Bill** Delahunt. This legislation further extends the right of automatic citizenship to all children born abroad to U.S. citizen parents, whether by birth or by adoption. And this provides equity to all children and respects the true relationships, both legal and emotional, of children to their parents, without distinction of how this family was formed.

Like most adoptees, I prefer to be considered as an individual, outside the restrictions identified purely by adoption.

Another aspect of this **bill** aids adoptive families in the special relief it provides for foreign-born children of U.S. citizens who failed to complete the naturalization process before they turned 18. H.R. 3667 responds to the concerns that have been expressed about the retroactive citizenship provisions in 1485 and H.R. 2883. H.R. 3667 provides for automatic citizenship as of the date on which the statutory criteria have been met.

In the past few years there have been a number of very positive advances in adoption reform which benefits adoption practice and, most importantly, the children who need adoptive families. And from an international adoption perspective, granting automatic citizenship for adopted children is the highest priority and has strong support throughout the adoption community.

And again, Mr. Chairman, I very much want to thank you for your important role in this effort.

SMITH: Thank you, Ms. Cox. Ms. Evans.

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EVANS: Thank you very much for the opportunity to testify today about H.R. 2883. We also believe that this important legislation provides pragmatic, reasonable, and long overdue solutions to the problems facing U.S. citizens who seek citizenship for their internationally adopted children.

The Joint Council on International Children's Services from North America is the oldest and largest affiliation of licensed, nonprofit international adoption agencies. For more than 20 years, we've advocated for homeless children around the world. We promote ethical practices by adoption agencies and effective services for children.

One highly significant means to better meet the needs of children is to improve the process through which they acquire U.S. citizenship. We applaud Congressman Smith for his leadership in recognizing the need for improvement and in taking concrete, feasible steps to help thousands of families. We also appreciate Congressman Delahunt's legislation, the Child Citizenship Act of 2000. These bipartisan, indeed non-partisan, efforts reflect an understanding of child welfare issues and the realities of families today in our global community.

The legislation being considered today, H.R. 2883, recognizes that adopted children of U.S. citizens are entitled to the same treatment under the law as children born to U.S. citizens.

This **bill** simplifies the current process by which adopted children of U.S. citizens acquire citizenship. While expeditious citizenship for the adopted children of U.S. citizens is ostensibly a priority of the INS, adoptive families currently wait 12 months, or often longer, to acquire citizenship for their children. This process has been burdensome and expensive for many, many years.

In 1999, Joint Council did a survey on a range of INS services. Over 1,000 U.S. families responded from 49 states and from overseas. Over 60 percent of the families waited more than 6 months from the time of filing for citizenship until they received the citizenship certificate. About 40 percent waited close to a year or more. And we've certainly heard many cases that take two years or more.

The current citizenship survey process, even when it goes relatively smoothly, is time-consuming and expensive. Further, it is a duplicative process, with parents having to produce essentially the same documents that have already been shown in the course of the adoption. There is, then, little question about the need to streamline and improve the process for acquisition of citizenship for children adopted by U.S. citizens. And there is tremendous support in the adoption community as well for this.

Joint Council is pleased that the U.S. Department of Justice, which oversees INS, supports measures to streamline the acquisition of U.S. citizenship by the adopted children of U.S. citizens. We look forward to the INS's ongoing commitment to the implementation of this long overdue citizenship legislation. And we would welcome the opportunity to work to ensure that the process does indeed become streamlined and equitable.

While our primary advocacy here is for internationally adopted children, we support automatic citizenship measures that provide equity to the biological children born to U.S. citizens overseas as well as to the adopted children of U.S. citizens. We endorse legislation that is fair to and respectful of families regardless of how the family was formed.

In the past, some adoptive families have been under the unfortunate and incorrect impression that the U.S. grants automatic citizenship to internationally adopted children. As a result, their children have grown up only to be penalized for their parents' inadvertent failure to make them U.S. citizens, by not being eligible for some post-placement services, or access to scholarships, or admission to certain colleges. We would like to see compassionate legislation that addresses the needs of these families.

We understand that there is some controversy regarding the provision to make citizenship effective as of the date of an internationally adopted child. Joint Council has considered the arguments both for and against the provision, which we believe is motivated by patriotism and a desire for fairness. Both laudable motivations. However, we also believe that the realities, legal and otherwise, of an adopted child's origins must be respected and acknowledged.

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We understand that there are complex legal arguments surrounding this. We urge your thoughtful consideration of the legal implications, both here and abroad, for the equitable resolution of this issue.

At a minimum, we would like to see citizenship become effective immediately and automatically after 2 circumstances: finalization of an adoption and entry into the U.S..

Citizenship is a complex and vitally important matter, not to be taken lightly. Parents of internationally adopted children, and I am honored to be a parent, should acknowledge and honor their child's country of origin. It is a gift we give to our children in return for the joy they have given us.

At the same time, enfolding a child into our families and our country, upholding the virtues of being a good citizen, is also a gift to our children. Joint Council now works hard to ensure that adoptive parents gain U.S. citizenship for their adopted children as quickly as possible. We encourage your recognition of the need to make this process more efficient and equitable, and thank you for your support of this valuable and significant legislation.

SMITH: OK. Thank you, Ms. Evans. Let me ask you a question. And it's a question I don't know the answer to. It seems to me that one of the -- and I don't know if it's a problem and it may be unavoidable, but one of the concerns people have about current law, which may be a concern we have about this legislation, is that it still requires an affirmative action on the part of the parents. They still need to take steps. And if they fail to do so, the child is disadvantaged. Is there any practical way to address that problem?

EVANS: I would expect that making the citizenship as automatic as possible upon entry into the United States and eliminating...

SMITH: But my point is, even if you do that, it still is going to require some action on the part of the parent, is it not?

EVANS: I suspect there would be a way to implement that at the point of entry into the United States, for example, if I'm understanding your question correctly, whereupon the child's arrival into the United States, entry in through Customs, if there were a mechanism that could be in place at that point.

SMITH: OK. Something we can take a look at.

Ms. Cox, I believe you addressed most of the concerns expressed by the administration about the bill. I know one in particular, and that is about having automatic citizenship for the adopted children when they enter the United States. Are there any other concerns by the administration that you did not address that you want to address?

COX: I think that's probably the most significant, yes.

SMITH: They had -- they had those three primary concerns.

COX: Right.

SMITH: OK.

COX: Correct.

SMITH: And you think that that responds to all of them?

COX: I think so. One of the things that, you know, we struggle with -- we've talked about this certainly in within Joint Council, and that is the part of the legal fiction. And Congressman Pease, I really very much appreciated your comments, because, in fact, adoption is a legal fiction. It's not -- the incident that you talked about with the birth certificate is not only in your state.

So from a philosophical perspective -- I'm not a lawyer, so I can't talk to it in legal terms. What we're most concerned about is their automatic citizenship provision. It's incredibly expensive for families and cumbersome. And takes two years, often.

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SMITH: OK. Thank you, Ms. Cox.

The gentleman from Indiana is recognized for questions.

PEASE: Mr. Chairman, I appreciate the questions you've asked. And your responses. Thank you very much. I have no further questions.

SMITH: OK. You want to end on the compliment you've just received.

(LAUGHTER)

PEASE: Quit while you're ahead.

SMITH: OK. Thank you all for your testimony. Appreciate it.

We'll go to our last panel. Richard Krieger, president, International Educational Missions, Inc.

KRIEGER: Mr. Chairman, Mr. Pease, ladies and gentlemen, it is a privilege to appear before you today in support of the Anti-Atrocity Alien Deportation Act. I am Richard Krieger, president of International Educational Missions, a non-profit, bi-partisan organization. Our purposes and distinguished board are listed at the end of the written testimony.

KRIEGER: IEM has been in existence since 1987, and many of our members have been involved in the issues concerned here today for decades. I personally, have been involved with bringing -- helping to bring Nazi War Criminals to justice since early 1970s, and was proud to be part of the process that gave birth to OSI, as well as helping to bring many thousands of refugees to freedom.

IEM is deeply grateful to Senators Leahy and Hatch, and particularly to Congressmen Foley and Ackerman and Frank, for bringing this matter to the attention of Congress with the pending legislation. We are also grateful to the Senate for passing the bill under suspension with unanimous consent and would hope that the House would also in an expeditious manner.

Mr. Chairman, before going on with my testimony, Mr. Costello made some remarks that I would like to respond to at the end of my testimony with your permission, sir. Or if you would prefer, I'll just...

SMITH: Since you're limited to five minutes for the testimony, what I'll do is during the question period ask you to respond to what Mr. Costello said.

KRIEGER: OK. Thank you, sir.

To the utter dismay of all at IEM, indeed to the revulsion of most Americans, at this very moment, many of the individuals who perpetrated war crimes, torture and other foreign atrocities are availing themselves of our freedoms and liberties right here in the United States.

Rwandan war criminals, Cambodian, Sudanese, Somalian, Indonesian, Ethiopian, Haitian, Chilean, Argentinian, the question is why have any of them been allowed to enter the United States? And why have they been allowed to stay? Why has no successful action been taken against the perpetrators of atrocities in Bosnia and Kosovo who now reside here? Where was the INS?

I bring this issue before you since a few people have suggested that the INS administer the Anti-Atrocity program and not OSI. OSI has placed thousands of Nazi-era war criminals on the border control watch list, which enabled our government to keep more than 150 of these odious monsters out of the United States. They have denaturalized 63 Nazi war criminals and deported 52. In 35 years, between the end of World War II and OSI's

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creation, the INS succeeded in removing just one Nazi war criminal from the United States, and has placed few, if any, perpetrators of other foreign atrocities on the watch list, nor have they de-naturalized or deported any of them.

OSI is currently investigating over 200 cases. And they're working quite well in it. They have won numerous awards: the Founders Award from the American Immigration Lawyers Association, the International Human Rights Award from the ADL. And in testimony before another subcommittee, the World Jewish Congress stated, no agency of our federal government has done more for the cause of righting historic wrongs than the Office of Special Investigation.

At the same time, how can the INS accept a new program until it has fixed its current program debacle. As Chairman Smith himself has stated: We are hearing from every part of the country that the INS has now edged out the IRS for the agency Americans most want reformed.

Paraphrasing Senator Leahy in his statement before the Senate on November 4, 1999: I have been appalled that this country has become a safe haven for those who exercise power in foreign countries to terrorize, rape, and torture innocent civilians.

For example, three Ethiopian refugees proved in an American court that a former senior government official in Ethiopia engaged in numerous acts of torture and human rights abuses against them in the late 1970's when they lived in that country. The court's descriptions of the abuses against them are chilling. The court's determination was subsequently affirmed by an appellate court. Yet, while the INS knew that this appeal was going on, they granted him citizenship.

Professor William Aceves of California School of Law has noted, this case is not unique. Other aliens who have committed gross human rights violations have also gained entry into the United States and been granted immigration relief.

We are all opposed to illegal immigration. I've worked with Alan Simpson on it when he was here. Yet one has to ask how the INS can deny citizenship or permanent residence to individuals whose only crime was entering our country, often with their children in tow, but no legal documentation, yet grant citizenship and permanent residency to the perpetrators of human rights violations. It's not logical.

The comment that we cannot do anything against them is untrue, sir. We are signatories to the International Convention against Torture and the International Convention on Human Rights. They permit us to try people found in this country who have committed torture, and to exclude them from the -- and from this country. And I'd like to submit to you some of the articles of the commonly held universal law and its principles.

The INS failed with the Nazi war criminal issue and perpetrator of atrocity issues because of the bureaucratic and political inefficiency of their structure and operation as it's currently structured. A problem that's still pervasive. But this was not the only failure of the INS when assigned other special tasks, look at the 1930s to 1950s and their program on organized crime, during the 1970s with Iranian students. Those are just two of them. Look at the hundreds of Russian Mafia that have entered the U.S. in the '70s and the '80s. And look at some of the problems that have occurred in our dealings with them, and in the committee's dealings with them.

They mentioned -- Mr. Costello mentioned the National Security Field Office...

SMITH: Mr. Krieger, let me go to my questions, if I may.

KRIEGER: OK, sir.

SMITH: Since you're bringing up Mr. Costello. And the first question was just what you anticipated, which is you wanted to respond to something that he said. And you're welcome to do so.

KRIEGER: OK. Thank you, sir. He mentioned the National Security Unit. That field office is under the direction of Walter D. Cadman (ph), who was the director of the Miami district office when in June 1995, a congressional

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delegation, including members of this subcommittee, made a fact-finding visit to Miami to examine INS operations there. The Office of the Inspector General found that certain INS employees had engaged in an elaborate scheme to mislead and deceive the delegation with respect to INS operations in Miami. The OIG also found that certain INS employees attempted to obstruct the OIG's investigation in this matter.

They found that Mr. Cadman (ph) was a willing participant in efforts to mislead INS headquarters and then to mislead and delay the OIG investigation. On the basis -- quoting them, "On the basis of the evidence gathered here in this investigation, we believe the appropriate punishment for Miami District Director Walter Cadman (ph) falls within a range from 30 day suspension to termination of employment."

SMITH: Mr. Krieger, let me go to my next question, if I may.

KRIEGER: Yes, sir.

SMITH: And -- you mentioned, and you quoted me, as pointing out that I have real frustrations with the INS and their performance in a number of areas. Nevertheless, I'm sure the administration would say that they're still the agency of jurisdiction. And why wouldn't the answer be to hold them accountable for their actions and make them perform, rather than giving the responsibility to someone else?

KRIEGER: Well, sir, the OSI has the most experience of any office in our government in obtaining information on war criminals and in actively deporting them. INS really doesn't have this kind of experience. And though Mr. Costello spoke about all the asylum offices-- as the Center for Justice and Accountability -- and their investigations - - as the Center for Justice and Accountability, who is one of our cooperating agencies, has stated, there are thousands of perpetrators of atrocities who are this country right now.

And with that -- I don't know if you have it...

SMITH: Why in that case wouldn't we give the responsibility to the department that has, again, the most personnel rather than just expanding the size of the OSI?

KRIEGER: Because personnel don't -- does not necessarily demonstrate qualifications. It would be -- I think it would be advisable, sir, that some of the people that INS would like to see head this operation serve with OSI -- with the people at OSI, and learn proper methodology.

KRIEGER: Some of the people, as a matter of fact, much of the people that are currently being investigated by the INS, were not given to them by asylum officers, but were given to them by Gerald Gray (ph). This paper that I am also presenting the chairman, lists the 60 individuals -- 60 individuals and speaks of the thousands of other cases here.

Two of our board members -- just to demonstrate that I am biased on this issue. Two of our board members are former directors of OSI. And we do feel that that agency is absolutely qualified.

But coming back to a point that I wanted to make, there -- the Minneapolis Center for Rehabilitation of Torture Victims has indicated that there are 400,000 people, refugees, in this country right now who are victims of torture. And we have only 15 centers for rehabilitation in the country here.

In Texas, as an example, there's one in Dallas but they can't cover all of Texas. And there's no others. There's none in Florida. There's none in New Jersey. There's a counseling center here in Washington D.C., but not a full center.

As such, my agency has been asked by the international committee, to form holistic rehabilitation centers in areas that -- where there are none right now. And as such, to find more of the victims and to try to help these victims. And to try, therefore also, to get more witnesses and information on this for the government.

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SMITH: Thank you, Mr. Krieger. My time is up so I'm going to recognize Mr. Pease for his questions.

PEASE: Thank you, Mr. Chairman. Mr. Krieger you made reference on a couple of occasions to a document that you brought with you. Is it your request -- do you wish to submit that for the record of this hearing? And if you do, Mr. Chairman, I would ask unanimous consent that we do so.

SMITH: OK. Without objection, it will be made a part of the record.

KRIEGER: Thank you very much.

PEASE: Thank you. I want to ask you the same question -- one of the same questions that I asked Mr. Costello. And that is whether in your experience under the existing law as it's used by OSI regarding Nazi era war criminals, you see a need for change in the existing law? If there are areas where we need to strengthen to law to give broader jurisdiction, to give greater flexibility?

KRIEGER: Yes, sir, I do. As I was reading my statistics to you, I spoke of the number of people that have been de-naturalized and the number of people that have been deported for trial. There are some instances when we are not able to deport. And the reason they cannot be deported is that there are countries right now where these atrocities were committed or where these people came from, such as Germany, that do not want to receive these war criminals. So even though they're de-naturalized, they stay here.

Later on in my prepared statement, I had said that if we went along with the torture convention, we would be able -- and tried some of these people that were here because we had no place to send them, then we would be sending the word out to the world, say, if you come here and we catch you and we have no place to send you, we will try you and we will put you in jail, because whether they are here as citizens or non-citizens in taking away some of their privileges, the fact is that they are still relishing the freedoms of this country.

And, sir, it's my belief that some of them -- some of them were brought here by the U.S. government as well. We know some of the Nazis were brought here, but some of the others, such as the Haitians.

PEASE: Thank you very much. I have no further questions.

SMITH: OK. Thank you, Mr. Pease. Mr. Krieger, thank you for your testimony. It's been helpful. And we thank all the witnesses who were here today. And we will give due consideration to the bills that we considered.

Before we adjourn officially, I'd like to thank members of the immigration staff who are here and who helped prepare for this hearing. To my right is Jim Willen (ph) to my left is Bill Griffith (ph). And Kelly Jensen (ph) -- where is Kelly? Kelly to my left in the red is under doctor's orders not to get out of bed today. And despite that, she obviously went beyond the call of duty to help us prepare, setup and complete a successful hearing. So thank you all and we stand adjourned.

END

Notes

Unknown - Indicates speaker unknown.

Inaudible - Could not make out what was being said.

off mike - Indicates could not make out what was being said.

Classification

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ACT; IMMIGRATION AND CLAIMS SUBCOMMITTEE, HOUSE JUDICIARY COMMITTEE

Language: ENGLISH

Subject:

Company: HOLT INTERNATIONAL CHILDREN'S SERVICES (54%)

Organization: HOLT INTERNATIONAL CHILDREN'S SERVICES (54%)

Person: LAMAR SMITH (90%); ELTON GALLEGLY (74%); SHEILA JACKSON-LEE (59%); HOWARD L
BERMAN (59%); ZOE LOFGREN (59%); BARNEY FRANK (59%); MARY BONO MACK (59%); CHRIS
CANNON (58%); BOB GOODLATTE (58%); LAMAR SMITH (90%); ELTON GALLEGLY (74%); SHEILA
JACKSON-LEE (59%); HOWARD L BERMAN (59%); ZOE LOFGREN (59%); BARNEY FRANK (59%); MARY
BONO MACK (59%); CHRIS CANNON (58%); BOB GOODLATTE (58%)

Geographic: TEXAS, USA (94%); UNITED STATES (95%)

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