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STATEMENT OF

VICTOR L. LOWE, DIRECTOR, GENERAL GOVERNMENT DIVISION

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP,

AND INTERNATIONAL LAW

HOUSE JUDICIARY COMMITTEE

INVESTIGATION OF ALLEGED NAZI WAR CRIMINALS

RESIDING IN THE UNITED STATES BY THE

IMMIGRATION AND NATURALIZATION SERVICE,

DEPARTMENT OF JUSTICE

Mr. Chairman and Members of the Subcommittee:

Our testimony today deals with our report dated May 15, 1978, entitled "Widespread Conspiracy to Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence--Controversy May Continue." Your letter dated January 13, 1977, requested this report on whether INS personnel deliberately obstructed active prosecution of alleged Nazi war criminals or engaged in a conspiracy to withhold or quash any information in its possession.

In conducting this review, we obtained information from INS, the FBI, CIA, U.S. attorneys, and the Departments of Defense and State. At various times during the past year we employed 6 to 10 staff members on this assignment--a total of about 1,000 direct staff days were expended. We examined case files, interviewed current and former Government employees in the

United States and overseas, and analyzed immigration and naturalization laws. We also visited and interviewed the Chief, Israeli Police Section for Investigation of Nazi War Crimes, Tel Aviv, Israel; Director, Documentation Center for Nazi War Crimes, Vienna, Austria; Director, International Criminal Section of Federal Republic of Germany Justice Ministry, Bonn, Germany; Director, Central Authority of the State Justice Administration, Ludwigsburg, Germany; and the Director of the U.S. Berlin Document Center, Berlin, Germany.

We have no indication that the information provided to us by the various agencies was not accurate and complete. Because of our limited access to the files and the effect of the passage of time on the availability of information, we cannot adequately assure the Subcommittee and the Congress that our findings are complete.

In April 1977, with your assistance, Mr. Chairman, we finally reached an agreement with the Department of Justice whereby INS would screen the appropriate files and cases for third-agency documents and would obtain approval from the third agency, such as the CIA, FBI, and the Departments of Defense and State, to release the documents for our review. However, it was not until August that the majority of the third-agency documents were cleared and provided to us. Also in August, the Department of Justice authorized us, under certain guidelines, access to cases recommended for or under legal proceedings.

We believed that to adequately conduct this review, it was essential that we have access to information in agencies investigative files. However, we recognized the agencies concern for protecting the integrity of their investigative operations and their unwillingness to give us direct access to the files.

As you know Mr. Chairman, we therefore entered into agreements with the CIA and FBI whereby these agencies prepared summaries in lieu of providing original documents of any file holdings on the cases we selected for review. Both agencies provided us the file documents upon our request to support the information included in the summaries. Also, it was understood by all agencies involved in our review, that since a number of the cases were under current or possible future litigation by the Department of Justice, Department guidance would be obtained in providing available information for our review. This understanding was necessary so that the agencies involved would not in any way prejudice any ongoing litigation by the Department. As part of our agreement with the Department, the contents of our report and this statement were reviewed and approved on the basis that its contents would not prejudice any ongoing litigation. In addition, it was agreed that individuals included in our sample would not be named at any time without the concurrence of the Justice Department.

This agreement was made in order that we not prejudice any ongoing litigation and also to protect those individuals against whom allegations either have not been proven or investigations have not been completed. Included in our sample are individuals who died before INS received the allegation about them. INS' investigation ceases when it finds that the individual has died; thus the allegation is neither proved nor disproved.

The above arrangements and agreements appeared reasonable in view of the complicated matter of access to intelligence-type information and the agencies' position regarding their intelligence files. Officials of the various agencies were cooperative and open in our discussions with them.

We believe our approach to this review clearly protected the integrity of all the involved agencies investigative operations.

Also, we believe that despite the limitations on our access, the extensive review we made of INS case files and our discussions with numerous current and former Federal employers were sufficient to support the conclusions we have reached. As stated on the cover of our report, we believe it is unlikely that a widespread conspiracy existed, but we cannot absolutely rule out the possibility of undetected, isolated instances of deliberate obstruction. In any event, the inherent difficulty in establishing the existence of a conspiracy must be recognized.

Mr. Chairman, we recognize that different people will undoubtedly interpret the information we developed in different ways. Some will be persuaded, as we were, that the existence of a widespread conspiracy was unlikely. Others will probably find cause to strengthen their belief that deliberate obstruction did occur. Thus, the publicity, interest, and controversy about INS' lack of progress may continue. The controversy may be further compounded because legal delays, appeals, and other procedures, considered with the age of the individual and potential witnesses make it doubtful that the Government will ever be able to deport many subjects of the allegations.

This concludes my prepared statement. A copy of our report is attached to the statement. We would be pleased to respond to any questions you may have regarding the findings in our report.