

GAO

Report to the Chairman, Subcommittee on
Immigration and Refugee Affairs,
Committee on the Judiciary, U.S. Senate

September 1988

REFUGEES

Overseas Processing of Admissions Applications



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**National Security and
International Affairs Division**

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September 9, 1988

The Honorable Edward M. Kennedy
Chairman, Subcommittee on Immigration
and Refugee Affairs
Committee on the Judiciary
United States Senate

Dear Mr. Chairman:

In response to your letter of June 11, 1987, we are submitting this report on overseas determinations of refugee status by the Immigration and Naturalization Service. We discuss the cost and operational effectiveness of the current refugee determination process, including an assessment of whether the Department of State should have responsibility for this function.

Copies of this report are being sent to the Senate and House Committees on the Judiciary and the Subcommittee on Immigration, Refugees, and International Law of the House Committee on the Judiciary. Copies will also be sent to the Attorney General, the Secretary of State, the Director of the Office of Management and Budget, the U.S. Coordinator for Refugee Affairs, the Commissioner of the Immigration and Naturalization Service, and other interested parties upon request.

Sincerely yours,

for Frank C. Conahan
Assistant Comptroller General

Executive Summary

Purpose

The Chairman, Subcommittee on Immigration and Refugee Affairs, Senate Judiciary Committee, asked GAO to review the wisdom and cost-effectiveness of the Immigration and Naturalization Service (INS) of the Department of Justice being responsible for processing refugee admissions applications, while the Department of State processes all other requests for permits to enter the United States. The objectives of GAO's review were to determine

- the rationale for and cost to INS to make refugee eligibility determinations,
- whether INS officers are uniquely qualified to determine refugee eligibility and have made such determinations uniformly and consistently, and
- the feasibility and cost-effectiveness of transferring all or a portion of the refugee eligibility determination responsibility to the Department of State.

Background

The Refugee Act of 1980 incorporates the refugee definition contained in the U.N. Convention and Protocol relating to status of refugees, and authorizes the Attorney General to "admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible...as an immigrant under this Act."

The admission authority, "in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe," is subject to a numerical limitation. This is the number and groups of refugees that the President, at the beginning of each fiscal year in consultation with the Congress, determines is justified by humanitarian concerns or else is in the national interest. In fiscal year 1987, the United States admitted 65,000 refugees.

Under authority delegated by the Attorney General, INS determines at overseas locations which applicants are eligible to enter the United States as refugees. The Department of State provides personnel, administrative support, and funds for voluntary agencies to assist with pre-screening and processing, including overseas care and maintenance, transportation, reception, and placement.

Results in Brief

While it is legally feasible, GAO found no reason to conclude it would be desirable or cost-effective to transfer the role of making refugee eligibility determinations from INS to the Department of State. GAO could not

determine the cost of INS refugee processing or whether the Department of State could perform this function more economically than INS because cost and planning data needed for such a determination were not available. However, it is unlikely that significant savings would accrue to the government unless such transfer resulted in a closing of INS overseas offices. GAO found no clear indication that State consular officers are better suited than INS officers to make accurate, fair, and consistent refugee eligibility determinations.

Principal Findings

Delegation of Authority

Under the text of current law, the Attorney General appears to have broad discretionary authority to delegate responsibility for admission of refugees into the United States. Thus, it may be feasible for the Attorney General to delegate this authority, in whole or in part, to the Secretary of State.

Cost of INS Overseas Refugee Processing

INS overseas offices conduct other activities besides refugee eligibility determinations and neither they nor the INS central office maintain financial records or prepare reliable workload data which break out refugee processing costs. Further, INS has no performance standards for measuring overall refugee processing efficiency and cost-effectiveness. The type of processing activity varies significantly by office, so that the volume of refugees admitted or denied cannot be used as a factor to estimate costs. Consequently, GAO could not determine the cost of INS refugee processing.

Qualifications of Officers

INS officers do not receive systematic preparation or formal training for overseas refugee processing. INS primarily relies on their experience and on guidance from overseas supervisors for such preparation and training. Department of State officials informed GAO that Department consular officers could make refugee determinations with appropriate training and supervision.

Consistency of INS Determinations

INS does not maintain records on individual officers' refugee approvals and denials. GAO's analysis showed significant variations of approval rates within and between offices. GAO identified several reasons for

these variations and concluded that they would likely exist regardless of whether INS or the Department of State performed refugee eligibility determinations.

Policy Issues in Refugee Eligibility Determinations

GAO found conflicting views among affected agencies regarding the responsibility for refugee eligibility determinations. INS maintains that its role of applying legal standards for aliens' admission to the United States serves as a "check and balance" to human rights and foreign policy concerns of the Department of State. Conversely, the Department of State contends that refugee policy is deeply linked to and interrelated with foreign policy concerns.

Cost-Effectiveness of Transfer

GAO concludes that it is not apparent that significant overall savings would accrue to the government if refugee eligibility determinations were transferred from INS to the Department of State. However, it is possible that it would be cost-effective and more efficient to delegate limited refugee adjudication authority to State consular officers at certain remote overseas posts with limited numbers of refugee applicants. The costs of preparing them for this task are not known.

Recommendations

GAO makes no recommendations.

Agency Comments

The Office of the Attorney General did not address the question of which agency should decide refugee admissions but commented on program weaknesses identified in GAO's report. It cited improvements that INS is developing, in cooperation with the Department of State, in training and providing orientation to INS officers stationed or assigned overseas, and in coordinating their overseas training programs. It also agreed that workload performance data does not adequately reflect work performed in overseas offices and stated that procedures for capturing the data would be revised.

The U.S. Coordinator for Refugee Affairs took issue to some extent with how GAO characterized the choice between agencies in determining eligibility for refugee admission—whether from "law enforcement" interests of INS or from "foreign policy" interests of the Department of State. The Coordinator stated that the decision is more complex and should be

based on which agency can most accurately and fairly determine whether refugee applicants meet stated requirements.

GAO agrees that the choice of agency to decide refugee admissions is very complex, partly because of differences in perception of agency interests. GAO revised its report to reflect that it found no clear indication that State consular officers would make refugee determinations more accurately, fairly, and consistently than INS officers do.

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Abbreviations

BRP	Bureau for Refugee Programs
CORAP	Central Office of Refugees, Asylum, and Parole
GAO	General Accounting Office
INA	Immigration and Nationality Act
INS	Immigration and Naturalization Service

Introduction

The United States admitted about 65,000 refugees in fiscal year 1987. The Immigration and Naturalization Service (INS) of the Department of Justice determines, at overseas locations, which applicants are eligible for U.S. refugee status. The Department of State provides personnel and funds for voluntary agencies to assist with pre-screening, overseas care and maintenance, transporting, receiving, and placing refugees to be resettled in the United States. We examined the costs and operational effectiveness of the current refugee determination process and assessed whether the Department of State should have responsibility for this function.

Background

Before the Refugee Act of 1980 was enacted, the U.S. refugee admissions policy was largely ad hoc. Refugees were admitted basically in two broad categories, some under normal immigration procedures as a seventh preference category in a numerically limited worldwide system but most of them through discretionary parole authority granted to the Attorney General. Although the parole authority was intended solely for individual cases and emergency or humanitarian situations, it was also used, in consultation with the Congress, to cover the admission of large groups, such as the Cubans in the 1960s, Soviet Jews starting in 1973, and 250,000 Indochinese between 1975 and 1980.

The continued and increased use of the parole authority in the late 1970s, as well as a desire to be able to address refugee concerns without regard to ideological or geographic restrictions, served as the main impetus for congressional action in 1980 that established a regular and permanent framework for determining and admitting refugees.

Legislative Authority for Determining Refugee Status

The Refugee Act of 1980 amended the Immigration and Nationality Act (INA), setting forth new procedures for regular and emergency admission of refugees into the United States. It incorporates into U.S. law the internationally accepted definition of refugee contained in the U.N. Convention and Protocol and authorizes the Attorney General (who has delegated the authority to INS) to

“admit any refugee who is not firmly resettled in any foreign country, is determined to be of special humanitarian concern to the United States, and is admissible...as an immigrant under this Act.”

The U.N. Convention defines a refugee as a person who is unable or unwilling to return to his or her home country because of persecution or

a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The admission determination, while "in the Attorney General's discretion and pursuant to such regulations as the Attorney General may prescribe," is subject to a numerical limitation. This limitation is the number and groups of refugees that the President, at the beginning of each fiscal year after consultation with the Congress, determines is justified by humanitarian concerns or is otherwise in the national interest.

U.S. Refugee Admissions Program

The 1980 act also legislated the position (first established administratively) of U.S. Coordinator for Refugee Affairs, appointed by the President and responsible, among other things, for

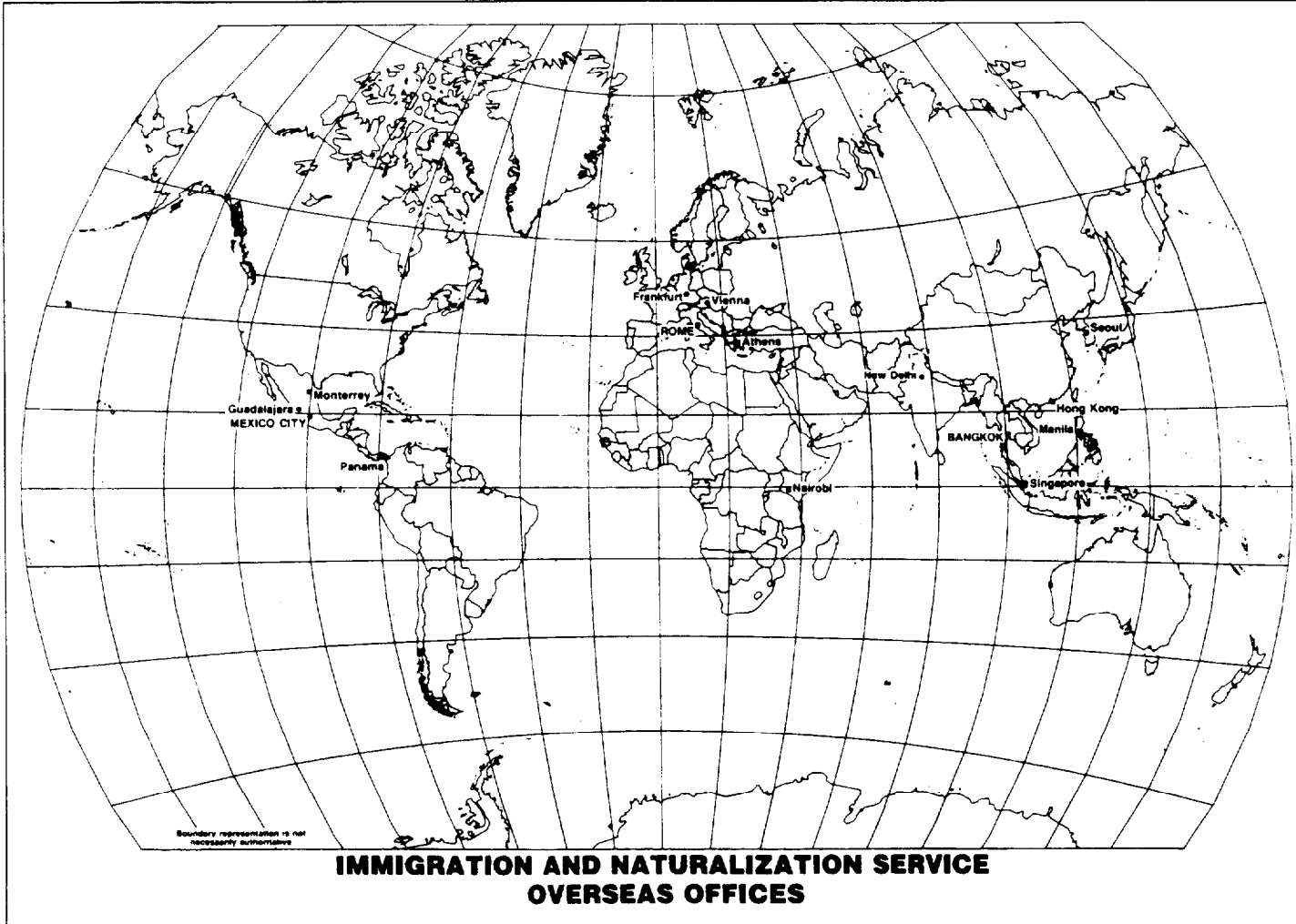
- developing an overall U.S. refugee admission and resettlement policy,
- coordinating all U.S. domestic and international refugee admission and resettlement programs, and
- advising the President and affected executive agencies on the relationship of overall U.S. refugee policy to admission and resettlement of refugees in the United States.

The present incumbent also was appointed by the Secretary of State in March 1987 as Director of the Department of State's Bureau for Refugee Programs. In conjunction with INS and other offices, the Bureau establishes refugee policies, priorities, and numerical allocations governing admissions. It also provides assistance directly or through cooperative arrangements with private voluntary agencies and the Intergovernmental Committee for Migration. This assistance includes policy advice and field support, such as pre-screening refugee applicants, financing their transportation to the United States, and administering reception and placement grants for initial U.S. resettlement. State's Bureau of Consular Affairs administers and enforces U.S. immigration and nationality laws relating to passports and visas, including those provided to spouses and unmarried minor children of persons approved for refugee admission by INS.

INS conducts refugee processing and other activities at field offices within its three districts overseas—Rome, Bangkok, and Mexico City. Refugee processing, under policy guidance of the Assistant Commissioner for Refugees, Asylum and Parole, constitutes the major activity in Rome and Bangkok. The office in Rome covers refugee admissions from Eastern Europe and the Soviet Union, Africa, and the Near East/South Asia. Bangkok covers East Asia; and Mexico City covers Latin America

and the Caribbean. The district directors have considerable discretion in distributing available admissions numbers among the 15 overseas processing offices (see fig. 1.1), but cannot exceed those approved for each region or change applicant eligibility rules.

Figure 1.1: Immigration and Naturalization Service Overseas Offices



Other priorities of the INS overseas offices include detecting smuggling operations, identifying fraud, and deterring illegal entry. However, INS work measurement reports did not accurately show workload volume and costs were not accounted for by functional activity, so we could not

identify the level of effort or cost directly associated with refugee processing. (See ch. 3.)

The refugee program is the largest of three INS-administered programs—refugee, asylum, and parole—through which persons with a compelling humanitarian need to be resettled in another country may be legally admitted to the United States. The INA, as amended by the Refugee Act of 1980, also authorizes the granting of asylum to any qualified applicant physically present in the United States who meets the statutory definition of “refugee.” The Attorney General requires that the Department of State (through the Bureau of Human Rights and Humanitarian Affairs) provide INS with an advisory opinion on the applicant’s eligibility. Although INS and State preliminary opinions on asylum decisions are nearly always in agreement, disagreements are predominantly resolved in favor of State. Persons granted asylum (for which there is no annual numerical ceiling) may adjust their status to that of permanent resident (for which there is a 5,000 annual numerical ceiling) after one year of U.S. residency.

Parole is now used sparingly to permit entry of persons on a case-by-case basis for emergent reasons or for reasons deemed to be strictly in the public interest. The use of parole authority is discretionary.

Refugees admitted to the United States are charged against the annual ceiling established during congressional consultations. Every alien entering the United States as a refugee is required to appear before an immigration officer a year after entry to determine his/her admissibility as a lawful permanent resident. Table 1.1 compares refugee admissions with the annual ceilings, by region, and table 1.2 shows the number of refugee applications approved by INS, by country, since the Refugee Act of 1980 took effect. The tables cite the following information.

- Admissions have been at or near the ceiling except for Latin America and Africa in recent years, although transfers of numbers from these regions permitted increased admissions for Eastern Europe and the Near East/South Asia in fiscal year 1987.
- Ceilings have stabilized at about 70,000 since fiscal year 1984.
- INS has approved over 631,000 refugee applications since the Refugee Act of 1980 took effect on April 1, 1980, with the bulk of refugee approvals representing only a few national groups.
- In recent years, applications granted have been markedly lower than admissions.

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Lower numbers of granted refugee applications than admissions occur because of language training and orientation for some refugee groups, and subsequent processing of immediate relatives. A 6-month period of English language training and cultural orientation is provided to Southeast Asian refugees following INS approval. During this period, many refugees are found to be eligible for immigrant status because family members in the United States become qualified to petition for them through normal immigration channels. This may, in certain cases, render these applicants ineligible to enter as "refugees."

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Table 1.1: Comparison of Actual Refugee Admissions With Consultation Ceilings^a by Region, Fiscal Years 1975-1987

Fiscal year	Africa		Asia		Eastern Europe	
	Ceiling	Actual	Ceiling	Actual	Ceiling	Actual
1975	•	0	•	135,000	•	1,947
1976	•	0	•	15,000	•	1,758
1977	•	0	•	7,000	•	1,758
1978	•	0	•	20,574	•	2,247
1979	•	0	•	76,521	•	3,397
1980	1,500	955	169,200	163,799	5,000	5,027
1981	3,000	2,119	165,600	131,139	6,900	6,707
1982	3,500	3,326	96,000	73,522	11,000	10,787
1983	3,000	2,648	64,000	39,408	15,000	12,087
1984	2,750	2,747	52,000	51,960	11,000	10,287
1985	3,000	1,953	50,000 ^c	49,970	10,000	9,357
1986	3,000	1,315	45,500 ^d	45,454	9,500	8,717
1987	2,000 ^e	1,994	40,500 ^d	40,115	12,300 ^e	8,607
Total		17,057		849,462		82,647

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Soviet Union		Latin America		Near East and South Asia		Total	
Ceiling	Actual	Ceiling	Actual	Ceiling	Actual	Ceiling	Actual
•	6,211	•	3,000	•	0	•	146,158
•	7,450	•	3,000	•	0	•	27,206
•	8,191	•	3,000	•	0	•	19,946
•	10,688	•	3,000	•	0	•	36,507
•	24,449	•	7,000	•	0	•	111,363
33,000	28,444	20,500	6,662	2,500	2,231	231,700	207,116
33,000	13,444	4,000	2,017	4,500	3,829	217,000	159,252
20,000	2,756	3,000	602	6,500	6,369	140,000	97,355
(^b)	1,409	2,000	668	6,000	5,465	90,000	61,681
(^b)	715	1,000	160	5,250	5,246	72,000	71,113
(^b)	640	1,000	138	6,000	5,994	70,000	68,045
(^b)	787	3,000	173	6,000	5,998	67,000	62,440
(^b)	3,694	1,000 ^e	315	10,200 ^e	10,107	70,000 ^f	64,831
	108,878		29,735		45,239		1,133,013

^aFirst established by the President in fiscal year 1980 pursuant to provisions of the Refugee Act of 1980.

^bSince fiscal year 1983, the Soviet Union ceiling has been grouped with Eastern Europe's regional admission ceiling.

^cIncludes separate ceiling of 10,000 for the Orderly Departure Program for Vietnam.

^dIncludes separate ceiling of 8,500 for the Orderly Departure Program for Vietnam.

^eOn June 18, 1987, the administration transferred 1,500 admissions from the African ceiling and 3,000 from the Latin American ceiling to Eastern Europe/Soviet Union (2,300) and the Near East/South Asian (2,200) regions.

^fIncludes unallocated reserve of 4,000 for "contingent refugee admission needs" to be used only after consultation with Congress and only to the extent that private funding is available to finance the admissions.

Source: Department of State and INS

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**Table 1.2: Applications for Refugee Status Granted by INS, by Country
Fiscal Years 1980-1987^a**

Country	1980	1981	1982	1983	1984	1985	1986	1987	Total
Afghanistan	668	4,456	3,425	2,896	2,268	2,234	2,450	3,221	21,618
Albania	10	28	14	69	48	48	84	48	349
Angola	0	175	111	10	84	60	7	41	488
Bulgaria	62	116	140	136	140	136	154	116	1,000
Cambodia	9,295	38,194	6,246	22,399	21,444	11,380	2,084	1,187	112,229
China	732	324	8	29	30	20	13	0	1,156
Cuba	1,784	1,208	580	710	57	1,865	47	69	6,320
Cyprus	20	16	0	0	0	0	0	0	36
Czechoslovakia	502	1,251	811	1,297	859	984	1,461	1,060	8,225
Egypt	51	65	0	0	4	0	0	0	120
El Salvador	0	0	0	0	96	0	0	0	96
Ethiopia	939	3,513	4,019	2,592	2,536	1,771	1,285	1,808	18,463
Greece	178	243	0	0	0	0	0	0	421
Hong Kong	171	827	189	90	137	101	201	15	1,731
Hungary	189	441	410	656	548	534	662	695	4,135
India	0	3	0	0	7	0	0	0	10
Iran	184	358	0	947	2,969	3,496	3,231	6,658	17,843
Iraq	861	1,220	2,025	1,588	157	259	304	203	6,617
Laos	32,769	19,777	3,616	5,627	8,189	4,305	13,421	17,518	105,222
Lebanon	239	203	0	0	0	0	6	0	448
Lesotho	0	0	0	0	12	10	0	4	26
Libya	5	4	0	0	0	5	1	2	17
Macau	18	52	3	2	5	1	0	0	81
Malawi	0	9	9	1	14	6	4	2	45
Mozambique	0	17	6	11	27	9	2	7	79
Namibia	0	28	15	3	21	12	4	3	86
Nicaragua	0	0	0	0	3	3	0	30	36
Pakistan	1	0	0	0	9	0	0	0	10
Philippines	0	4	23	42	17	10	0	0	96
Poland	387	1,995	6,599	5,820	4,288	3,001	3,734	3,568	29,392
Romania	1,549	3,077	2,982	3,991	4,301	4,650	2,630	3,105	26,285
South Africa	0	13	11	14	12	31	12	70	163
Sudan	2	13	17	0	0	0	0	0	32
Syria	309	378	40	4	5	4	5	0	745
Taiwan	0	0	0	0	0	12	0	0	12
Turkey	309	411	0	0	0	1	0	0	721
USSR	8,136	11,151	2,820	1,407	721	639	789	3,695	29,358
Uganda	0	1	0	0	2	8	7	25	43

(continued)

Country	1980	1981	1982	1983	1984	1985	1986	1987	Total
Vietnam	30,072	65,537	27,396	23,287	28,875	23,799	19,474	18,362	236,802
Yugoslavia	11	30	2	6	12	6	1	3	71
Zaire	0	14	10	11	34	31	8	12	120
Zimbabwe	0	0	0	0	0	5	0	0	5
All others	127	139	0	0	1	0	0	2	269
Total	89,580	155,291	61,527	73,645	77,932	59,436	52,081	61,529	631,021

^aApprovals under Public Law 96-212, section 207, which took effect April 1, 1980. Numbers approved during any year will differ from the numbers actually entering during that same year because of processing factors.

Source: INS

The INS Refugee Decisionmaking Process

According to INS regulations, every refugee applicant aged 14 years or older is required to appear in person before an immigration officer for inquiry under oath to determine eligibility for admission as a refugee. However, INS may waive the need for an INS interview for the spouse and child of a refugee who qualifies for U.S. admission if the relationship can be verified. These individuals are not recorded as approvals but are charged against the numerical limitation on admissions. The purpose of the INS interview is threefold.

1. To determine whether the applicant has the requisite background or family relationship to qualify for one of the resettlement processing priorities established during the congressional consultations process. The priority system is an operational device intended to ensure that admissions conform to current policies and ceilings.
2. To determine whether the applicant is a refugee as defined by the INA and interpreted in pertinent INS guidelines and field instructions.
3. To determine whether or not the applicant is otherwise eligible for admission to the United States under sections 207 (admission of refugees) and 212 (grounds of inadmissibility) of the INA, as appropriate.

To assist the immigration officer in making these determinations, INS published Worldwide Guidelines for Refugee Processing in August 1983 and issues field instructions; and the Department of State annually prepares Country Reports on Human Rights Practices and periodically issues other briefing materials. According to the INS guidelines, the Attorney General has directed that INS officers give "substantial weight"

to country condition reports in making determinations of refugee eligibility. In addition, to assist the immigration officer during the INS interview, American private voluntary agency staff and/or ethnic affairs, refugee, or consular officers of the Department develop a case file during pre-screening. (Some ethnic affairs officers work for the Department as consultants.)

To further assist in expediting the processing of Indochinese refugees, the President approved a National Security Decision Directive on Refugee Policy and Refugee Processing in Indochina in May 1983. This directive provides that the Attorney General shall determine whether there are categories of persons who, under the Refugee Act of 1980, share common characteristics that identify them as targets of persecution in a particular country. These categories are set forth in the INS guidelines. The categories are applied by an INS officer in a two-step process on a case-by-case basis. The officer first determines whether the applicant fits into any of the designated categories of persons who are likely targets of persecution and then examines the question of whether the applicant has expressed a fear of persecution or conditions amounting to persecution. This is believed to save time and to result in fairer assessments. However, the establishment of such categories does not prejudice applications by those who may not fall into such categories.

INS field office decisions on refugees are final and cannot be appealed at the applicant's initiative to another authority. However, cases may be reopened for further consideration if new evidence is presented. This process is less formal than that for asylum applicants, because applicants denied asylum may apply for asylum to both an INS District Director and an immigration judge and may also appeal an immigration judge's unfavorable decision to the Board of Immigration Appeals and the U.S. court system.

Objectives, Scope, and Methodology

Senator Edward M. Kennedy, Chairman, Subcommittee on Immigration and Refugee Affairs, Senate Committee on the Judiciary, requested that we review the wisdom and cost-effectiveness of the Attorney General's assignment of responsibility for processing refugee applications to INS instead of to the State Department. He asked that we consider in our review a report on refugee processing overseas that was separately requested from the INS. (See app. II.) We focused our review on three major objectives.

1. Determining the rationale for and cost to INS to maintain offices overseas to make refugee determinations.
2. Assessing whether INS immigration officers are uniquely qualified to make refugee determinations and whether they have made such determinations uniformly and consistently.
3. The feasibility and cost-effectiveness of transferring all or a portion of the refugee determination responsibility to the Department of State.

Our work was conducted at INS and the Department of State in Washington, D.C., and at selected refugee processing centers overseas, and included contacts with officials of voluntary agencies, the U.N. High Commissioner for Refugees, and the Refugee Policy Group, a Washington-based research center dealing with refugee matters. We reviewed correspondence, audit reports, processing guidelines, and training materials; interviewed those responsible for the matters discussed in this report; and analyzed budget and expenditure data, administrative support agreements, workload reports, and statistical reports on refugee and asylum approvals, denials, and admissions. The INS report on refugee processing overseas had not been prepared at the time we completed our study and thus was not available for our review.

We selected INS suboffices and Department of State posts within the INS Bangkok and Rome districts for our fieldwork based on the volume and recent approval trends of refugees processed by these facilities. We visited Bangkok, Hong Kong, and Singapore because INS offices at these locations processed most of the refugees from Southeast Asia, but at varying approval rates. Also, we visited Rome, Vienna, and Frankfurt because they process the rising number of applicants from Eastern bloc and South Asia countries and conduct "circuit rides" to remotely located processing centers, also with varying approval rates. In addition, we sent questionnaires to 38 other posts seeking information on their refugee processing activity and their views on the system's effectiveness. (See app. I.)

It should be noted that we did not consider whether there is a need for the INS overseas offices aside from the issue of whether it is appropriate and cost-effective for INS officers to be making refugee determinations. Also, we did not audit the overseas offices to determine whether there are controllable expenses (such as travel and overtime) which could be reduced through improved management efficiency.

We provided a draft of this report to the Attorney General, Secretary of State, and U.S. Coordinator for Refugee Affairs and received written comments from the Office of the Attorney General and the U.S. Coordinator (see apps. III and IV) and oral technical comments from the Department of State's Bureau for Refugee Programs. These responses have been incorporated into the report where appropriate.

Our work was performed between July 1987 and February 1988 in accordance with generally accepted government auditing standards.

Rationale for INS Determination of Refugee Status

Under broad discretionary authority provided by law, it appears that the Attorney General may delegate the responsibility of determining refugee status to any executive agency with the latter's consent. The Attorney General has used this authority to delegate the function to INS. This chapter discusses the authority for the delegation and examines the rationale for and views opposed to delegation of this responsibility to INS.

Delegation of Authority to Admit Refugees

The Attorney General's authority to delegate his responsibility to admit refugees is derived from Section 103(a) of the Immigration and Nationality Act (8 U.S.C. 1103 (a)). According to an INS General Counsel opinion we received in February 1988, the section appears to give the Attorney General broad authority to delegate authority to employees of the United States outside of the Department of Justice, as long as the heads of their departments or agencies consent. The INA provides that the Attorney General may confer "any of the powers, privileges, or duties" imposed by the act; thus the authority apparently may be used selectively. The INS General Counsel further concluded, however, that "it is not entirely clear that Congress intended that such delegation be permitted with regard to the admission of refugees." The law on its face, however, appears to grant the Attorney General the authority to delegate the responsibility of determining refugee status to any executive agency.

The Refugee Act of 1980, which added the framework for refugee determinations and admissions to the Immigration and Nationality Act, makes no specific reference to delegation of such authority and the legislative history does not indicate that such delegation was considered.

The Attorney General has delegated the responsibility to admit refugees to INS. In accordance with his directive of September 8, 1981, determinations regarding who are refugees within the statutory definition are to be made on a case-by-case basis.

Legislative History on Executive Role in Refugee Processing

During consideration of the refugee reform legislation, which ultimately led to enactment of the Refugee Act of 1980, the Chairman of the Senate Judiciary Committee requested a Congressional Research Service report to explain the law and U.S. refugee policy. In conference report comments included in that August 1980 report, the Chairman stated that:

“Both officers in United States embassies overseas, as well as officers with the Immigration and Naturalization Service should be authorized to process refugees. It would be my strong view that arrangements between the Attorney-General and Secretary of State should be immediately concluded to carry out this provision, so as to avoid unnecessary duplication of work between INS and Department of State personnel—such as in Bangkok, Thailand today, where Embassy officials now complete all the interviewing and screening of Indochinese refugee applicants, but INS officers must nonetheless fly in, on expensive temporary duty, to simply bless the exhaustive paperwork and processing already done by Department of State personnel. There is no need for INS personnel to duplicate or second guess what consular officers have done.

“Also, in individual refugee cases, in the many areas of the world where no INS offices are located, it only makes sense to permit consular officers to process refugee applications.”

However, in the joint explanatory statement of the conference committee, the conferees merely said that it was their expectation that determination of refugee status should be governed by regulations promulgated by the Attorney General in consultation with the Secretary of State.

The House Judiciary Committee, following a fact-finding trip of members to Southeast Asia and Europe in August 1981, reaffirmed its belief in a March 1982 Committee print that Congress did not intend such transfer of authority to the Department of State to take place. However, it cited a need for better training programs for INS officers to enable them to achieve uniformity in refugee determinations.

According to congressional findings regarding INS problems in processing Indochinese refugees, a Senate amendment to the bill authorizing fiscal year 1988 and 1989 appropriations for foreign relations would have required the President to submit a report to the Congress not later than 120 days after the act's passage. The report would assess the merits of transferring the authority to admit all refugees under the INA from the Attorney General to the Secretary of State. Public Law 100-204, enacted December 22, 1987, revised the Senate amendment to require the President to submit a report to the Congress within 180 days of enactment (June 19, 1988) on the respective roles of INS and the Department of State on the refugee program, with recommendations for improving the effectiveness and efficiency of that program.

Views on INS Effectiveness in Determining Refugee Status Overseas

Affected agencies and advocacy groups have expressed varying viewpoints on INS effectiveness in determining refugee status overseas and whether a full or partial transfer of the refugee determination function from INS to the Department of State would be feasible and/or desirable.

On June 30, 1987, the INS Commissioner testified before the Subcommittee on Immigration and Refugee Affairs, Senate Judiciary Committee, during mid-year refugee consultations on a bill (S. 814) which would make the Secretary of State solely responsible for refugee admission decisions in Southeast Asia. He said that the bill's provision dividing the refugee determination function geographically between the Attorney General and the Secretary of State would create a bifurcated system with the prospect of uneven application of refugee admissions law and policy and that it was essential that the process be uniform and consistent. In this connection, he said that the present system of refugee adjudications had produced a "fair, equitable, and uniform pattern of refugee approval" worldwide. He also responded to charges of INS processing inefficiency, stating that the present system was "quite cost effective" and that delays at certain posts were "not overlong and do not place refugee applicants at risk."

At the same time, the chairman of a group representing voluntary resettlement agencies recommended that INS withdraw from refugee processing overseas and delegate its responsibilities to consular officers of the Department of State. He testified that continued INS overseas presence in refugee processing is "anachronistic, costly, and not really necessary." He cited budget problems as creating a chronic shortage of personnel and infrequent circuit rides to certain processing posts, resulting in unnecessary bottlenecks and hardships on refugees.

The Department of State also commented on the proposed legislation, stating in a September 1987 letter to the Chairman, House Committee on Foreign Affairs, that it opposed a regional transfer of the determination function, either in whole or in part. It based its opposition on administration concern that such transfer would create problems regarding consistency and administrative rationality since such law, if enacted, (1) would permit a wholly different admissions procedure for one particular group of refugees and/or region and (2) might result in the law being applied differently, since more than one federal agency would be involved. Further, the Department said that a different procedure in law for one group of refugees could prejudice opportunities for admission of refugees in other areas of the world. This position notwithstanding, the

Department said it shared congressional concern respecting the humanitarian and foreign policy implications of large numbers of persons who do not meet the refugee definition and are unable to return to their countries of origin.

Separately, in a November 1987 Department of State policy paper, the U.S. Coordinator for Refugee Affairs stated that the United States has an historical priority commitment of assistance to refugees. Further, he stated that refugee and U.S. foreign policies are inextricably linked—having reciprocal impacts in terms of attacking the strategic root causes of refugee generation, such as political oppression, violence, and poverty. He also declared that refugee relief can be pursued effectively only if such a relationship is acknowledged and dealt with as integrated rather than separate policy objectives.

Refugee program personnel at the Department of State have expressed concern to INS at various times that assignment of INS personnel is insufficient to ensure fulfillment of the annual refugee admissions program commitments. For example, in December 1986, the Acting Director for the Department of State's Bureau for Refugee Programs (BRP) wrote the INS Commissioner that to:

"enable us to maintain a steady flow of refugees to the United States over the months ahead...I suggest we might look more closely at ways of expanding the role of consular officers in refugee affairs as a way of easing the burden on INS. As we have discussed earlier, consular officers are already in place worldwide, and might usefully be asked to perform a greater part in refugee screening, particularly at posts distant from the main centers of refugee activity. Certain countries in Africa might serve as a test. I would like to discuss this concept with you in greater depth."

In April 1987, the newly appointed BRP Director followed up on this suggestion with a proposal to the INS Commissioner for establishing a 6-month program to delegate authority to consular officers at five refugee processing posts in Africa to conduct interviews and make final determinations of refugee resettlement. He expressed the belief that such an arrangement would represent a substantial economy to INS.

The INS Commissioner responded in May 1987 that INS was unaware of any cases or problem areas at remote posts where refugee applicants have been unreasonably delayed by INS in processing or were harmed during the waiting period. However, he said that INS was considering establishing a small multi-purpose office in Nairobi, Kenya, to ensure

more timely refugee processing in Africa. In addition, he agreed to form a task force to review the BRP proposal.

In establishing the INS office in Nairobi in December 1987, the Commissioner said that it would have jurisdiction for refugee processing at designated consular posts throughout Africa and that the primary rationale for and purpose of the office would be to provide more regular and frequent servicing of these posts. According to an INS official, the task force to review the Department of State's proposal was never formed. The Department, however, endorsed not only the Nairobi office, but also a New Delhi office in January 1987 as means of better serving refugees in those regions.

INS officials told us that it is important that one agency have responsibility for final refugee and asylum determinations and that, because of its close organizational ties with the Attorney General, INS is the logical choice for the job. The officials further pointed to the need for a check-and-balance system which, similar to immigration procedures, divides the functions of visa issuance (traditionally performed by the Department of State) and final eligibility review for lawful entry (performed by the Department of Justice). Also, they observed that INS immigration officers are able to be more objective and to focus on legal concerns than Department of State consular officers, who are more likely to be subject to foreign policy pressures and concerns of the Department and host governments.

Conclusion

The INA, as amended, appears to give the Attorney General discretionary authority to delegate responsibility for admitting refugees to any executive agency. The function has been delegated to the INS. However, it is legally and conceptually feasible to delegate the responsibility in whole or in part to the Department of State. Further, while some affected parties disagree on whether it would be wise and cost-effective to implement such a transfer or limited delegation of authority to the State Department, the principal agencies oppose it on the grounds that it might create an inconsistent system for determining refugee status. Thus, the merits of a full or limited transfer of refugee adjudication authority appears to depend to some extent on whether the U.S. admission program is considered a component of domestic immigration policy or an integral part of American foreign policy.

Agency Comments and Our Evaluation

The U.S. Coordinator for Refugee Affairs took issue with how we characterized the choice between agencies in determining applicant eligibility for refugee admission—whether from the “law enforcement” interests of INS or from the “foreign policy” interests of the Department of State. The Coordinator stated that the decision on refugee admissions is more complex than this and should be based on which agency can most accurately and fairly determine whether applicants for admission meet stated requirements that cannot be mechanically applied.

We agree that choosing which agency should decide refugee admissions is very complex, involving not only cost and policy considerations but also careful judgment in assessing which agency can most accurately and fairly determine whether applicants for admission meet statutory requirements.

Cost-Effectiveness of Determining Refugee Status

The cost that INS incurs in determining refugee status is not readily determinable because INS merges costs for overseas and refugee processing operations and does not separately or completely account for the cost or time spent directly in support of the refugee determination versus other refugee or non-refugee-related functions. We found that the workload data INS used to estimate the level of effort spent by the overseas offices on refugee processing activity were unreliable.

Although the Department of State currently does not determine refugee status, it performs or finances a number of support functions in preparing the refugee applicant for the INS interview and arranges admission to the United States for those who are approved. We found that the ability of Department consular officers to assume the additional responsibility of determining refugee status varied significantly by post, depending on a number of factors.

In the absence of available or readily determinable refugee processing cost data at INS and the Department of State, there is not a sufficient basis to determine whether it would be as cost-effective to have State consular officers make refugee eligibility determinations as INS immigration officers. Any overall savings to the government that might accrue as a result of transferring this responsibility to the State Department would probably primarily depend on whether INS overseas offices would continue to be needed for other activities and what type of administrative mechanism State would establish to issue refugee visas.

INS Cost to Process Refugees

INS does not separately account for costs directly related to reviewing and approving refugee applications. The program for determining refugee status overseas is included in the INS budget category for "Refugees and Overseas," which generally encompasses the costs to operate the agency's overseas offices and the Washington central office for refugee matters. However, some costs related to refugee adjudication are not included in this category while other costs not related to this function are included.

In January 1988, INS established the Office of Foreign Operations to provide policy direction to and oversight of its overseas offices and the Central Office of Refugees, Asylum, and Parole (CORAP). CORAP is responsible for administration and policy guidance for refugee processing, asylum applications, and parole into the United States. Previously, the program for determining refugee status overseas encompassed the costs of managing the overseas offices and the support staff of CORAP.

Although the same Refugees and Overseas budget category has been retained to capture refugee adjudication costs under the new organizational structure, INS' broader mission of controlling illegal entry of aliens into the United States dictates that the function of the overseas offices include (1) investigating fraud, smuggling, and terrorist activity, (2) gathering and disseminating intelligence information, (3) adjudicating applications and petitions for benefits under immigration law, and (4) coordinating policy concerns with U.S. missions abroad, foreign governments, international organizations, and private voluntary agencies. The overlap of activities makes an accurate analysis of money spent on refugee adjudication difficult to isolate. For example, hours spent working with foreign police to jointly investigate forged baptismal certificates could be properly attributed to refugee processing, fraud investigations, or liaison with host government officials.

In fiscal year 1987, INS expended \$8.6 million for Refugees and Overseas activities. Although this cost category includes non-refugee activities, INS does not account for costs by major function, such as refugee processing. We found that cost breakdowns by overseas office for locally funded expenditures were being generated but did not accurately reflect the full costs of operating these offices, because they omit some major centrally funded cost categories such as American salaries and benefits, temporary duty travel, and shared administrative support.

In addition, other agency and government costs benefiting the refugee processing function were not reflected in the Refugee and Overseas expenditures. These other costs include the salaries and benefits of non-CORAP personnel assigned overseas temporarily to assist with refugee adjudications and unreimbursed administrative support provided to INS overseas offices by U.S. mission staff and/or private voluntary agency personnel funded by the Department of State.

Although INS does not systematically try to determine the cost of processing refugees, it has attempted to estimate the level of effort expended by the overseas offices in support of this function. While the estimates were not effectively documented, INS records do show that refugee processing varies significantly in importance between INS districts and offices. (See table 3.1.) For example, the primary mission of the Bangkok and Rome districts is to process refugees while the Mexico City district is principally involved in anti-smuggling operations, fraud prevention, and deterrence against illegal entry. INS estimated that refugee processing comprises only 5 percent of the workload of Mexico City's district and suboffices.

Chapter 3
Cost-Effectiveness of Determining
Refugee Status

Table 3.1: Schedule of Refugee Processing Activity, by INS District and Office, Fiscal Year 1987

District/Office	Approvals	Denials	Otherwise closed	Total	Approval rate (percent)
Rome	24,341	5,398	5,930	35,669	82
Rome	11,939	2,081	2,685	16,705	85
Athens	1,778	859	276	2,913	67
Frankfurt	3,983	1,406	2,003	7,392	74
Vienna	4,341	517	941	5,799	89
Naples	0	0	22	22	0
New Delhi	2,300	535	3	2,838	81
Bangkok	37,080	8,452	7	45,539	81
Hong Kong	351	293	5	649	55
Manila	845	270	0	1,115	76
Bangkok	29,870	6,587	0	36,457	82
Singapore	5,812	1,275	0	7,087	82
Seoul	202	27	2	231	88
Mexico	108	61	189	358	64
Mexico	100	48	189	337	68
Panama	8	13	0	21	38
Guadalajara	0	0	0	0	^(a)
Monterrey	0	0	0	0	^(a)
Total	61,529	13,911	6,126	81,566	82

^aNot applicable.

Source: INS

The refugee processing workload of suboffices within the Bangkok and Rome districts also varied significantly. According to INS records, the Bangkok and Singapore suboffices were almost exclusively involved in refugee processing, whereas the Hong Kong, Manila, and Seoul suboffices performed various other investigative, adjudicative, and refugee processing work. In the Rome district, refugee processing was the main function and reason given for the existence of all the suboffices (including the newly established offices in New Delhi and Nairobi).

INS has not been successful in documenting the percentage of time estimated to be allocated to specific activities (such as refugee processing, enforcement, examinations, and administration) by its overseas offices. We found that the basis for INS estimates of time spent on refugee processing by the individual overseas offices ranged widely and the estimates were either unsupported or appeared to be based on monthly work measurement (G-23) reports. Field inspections conducted in 1984

and 1985 disclosed that the reports were either incorrectly prepared or not prepared at all.

While field offices continue to be required to submit the G-23 reports to INS management and the reports are currently being prepared, we found that the problems disclosed in the prior field inspections regarding them had not been corrected. Although INS officials acknowledged that the reports did not represent a realistic or credible source of workload activity, it nonetheless used them in making a cost analysis of the refugee examinations function for the second quarter of fiscal year 1987 in response to a request by the Chairman, Senate Subcommittee on Immigration and Refugee Affairs. The analysis was not complete at the time of our review; however, we examined the preparation of the G-23 reports in the offices we visited and found them to be unreliable. In examining the data used for the INS analysis, we noted the following problems.

- Only hours for U.S. officers were requested, not those for local foreign service nationals or clerical staff.
- Workload data for district offices were not requested.
- Workload activity for the sample period (the second quarter of fiscal year 1987) was not representative.
- Not everyone involved in refugee processing filled out the supporting daily workload statistics.
- Workload data was based primarily on retroactive monthly and weekly estimates rather than actual daily postings.
- Supervisory review of preparation of the reports was inconsistent.
- The reports were not designed to clearly distinguish the time spent on refugee processing.

Even if reasonable estimates or ratios of hours spent between refugee processing and other activities could be derived and relied upon, determining related costs would remain a problem. This is because overseas offices have a different mix of U.S. and local staff, pay grades, and use of overtime, which would need to be factored into the analysis.

The Rome and Bangkok districts, which have refugee processing as their primary mission, are the largest INS organizational units funded under the Refugees and Overseas budget category. They accounted for \$2,810,000, or 85 percent, of the \$3,321,000 expended locally by the overseas offices (i.e., not centrally funded) in fiscal year 1987. Also, they employed about four-fifths of the overseas workforce and nearly two-thirds of the personnel covered by this budget category. Centrally

funded personnel compensation and benefits represent \$5.3 million, or 61 percent, of the total \$8.6 million spent in the category.

Therefore, while we were unable to find an effective and practical means to identify precise INS refugee processing costs overall or by location, it appears to us that they are a major component of Refugees and Overseas costs.

The Subcommittee Chairman also requested information on the extent and frequency that circuit riders are assigned from INS offices to make refugee determinations at other processing posts. From data supplied by INS posts, we identified Rome District circuit rider activity and travel costs for fiscal year 1987. These costs, comprising transportation and per diem, which we estimated at about \$47,000 (see table. 3.2), were relatively insignificant in relation to the overall amounts INS spends on refugee processing. Although Bangkok district suboffices also perform refugee processing at remote sites, the bulk of this processing is performed at camps where State Department consular officers also would have to travel to make the refugee determinations. An embassy official estimated that there would be little difference in travel costs if the Department assumed the refugee determination function in Thailand.

Chapter 3
Cost-Effectiveness of Determining
Refugee Status

Table 3.2: Schedule of INS Circuit Rides, Rome District Office, Fiscal Year 1987

Originating INS office	Destination	No. of trips	No. of refugees interviewed	Cost of trips ^a
Rome	New Delhi			
	Karachi			
	Islamabad	2	819	\$7,271
	Nairobi	1	88	2,539
	Khartoum	1	1,376	8,256
	Maseru			
Vienna	Gabarone			
	Dukwe			
	Lusaka			
Frankfurt	Nairobi	1	203	6,140
	Madrid	3	373	4,318
Vienna	Belgrade	5	600	4,352
Frankfurt	Paris			
	Brussels	2	585	5,732
	Vienna	1	350	950
Athens	Cairo	2	89	651
	Ankara	1	74	660
	Baghdad	1	51	1,500
	Madrid	2	110	1,583
New Delhi	Pakistan	3	1,170	2,980
Totals		25	5,888	\$46,932

^aBased on transportation and per diem, excluding salary.
Source: INS

State Department Cost to Determine Refugee Status

The Department of State does not determine refugee status and, to our knowledge, has not prepared any cost estimates to determine what would be required to do so. The Department's BRP Director told us that their April 1987 proposal to INS that limited delegation of authority at some African posts would result in "substantial economy" was not supported by a formal cost analysis and that he was not aware of any such Department-sponsored studies.

We did not independently estimate what it would cost the Department of State to determine refugee status, because adequate cost and planning data did not exist to make this determination. To make an effective comparative cost analysis with INS, much would depend on the organizational structure, processing procedures, and training of staff that the Department would use and the transition period involved. During our field visits to 6 refugee processing posts and in questionnaires sent to 38 other processing posts (see app. I), we asked embassy and consular post

personnel whether it would be feasible for the post to assume refugee processing functions, including status determinations, without additional resources. We received 26 responses and 12 of them said that they could do so; however, 8 of these 12 were posts with low processing activity that required a consular staff of 2 or less. More posts (17 out of 26), including those with a higher volume of activity, said that they could perform the functions with additional staff resources. The additional staff resources cited by some posts would appear to largely offset the number of INS immigration officers that would be displaced if the determination function was transferred to the Department of State.

Cost-Effectiveness and Timeliness of Current Refugee Determination Process

The refugee processing/determination function is a highly labor-intensive activity that requires review of individual applications and personal interviews. It involves related, yet separate, processes for pre-screening potential applicants for the U.S. refugee program and determining their eligibility for admission to the United States according to national policy and law.

We found little or no consistency between refugee processing posts in the degree of involvement of Department of State consular personnel and refugee coordinators in pre-screening and processing refugees. However, their activities also encompassed immigration matters and did not include the specific determination of refugee admission eligibility function reserved for INS officers. Such determination function requires not only delegation of authority, but specialized training in refugee law which persons conducting pre-screening of refugee applicants did not have. Further, because the task is probing, it would be difficult, if not impossible, to establish objective standards by which productivity or cost-effectiveness can be measured.

In any case, INS management has not established productivity or timeliness standards for the agency's overseas offices to use as criteria for whether they are carrying out refugee case processing in a cost-effective manner. Total agency outputs, such as completed refugee adjudications, are tabulated but individual work measurement units, such as adjudications per assigned officer work-year, are not determined.

As previously noted, we did not consider whether INS overseas offices would be needed regardless of whether it is appropriate and cost-effective for INS officers to make refugee determinations. Although we

believe that this factor is an important and possibly overriding consideration of cost-benefit analysis, it involves separate policy questions which were beyond the scope of this review.

INS said that its overseas offices and personnel are primarily located at those sites that have the heaviest concentration of refugee flows. We asked the posts that we visited or which responded to our questionnaire to comment on the advantages and disadvantages of a proposed transfer of the refugee determination function to the Department of State. Seven of these 26 posts expressed dissatisfaction with the existing arrangement, including 5 that favored a partial transfer and 2 favored a full transfer of the refugee visa determination function to the Department of State (see app. I). One post, which expressed no preference, said that a transfer was feasible with appropriate training of officers, but would subject the process to increased political pressure by governments of first-asylum countries seeking relief from continuing heavy refugee flows. The remaining 18 posts, which favored the existing arrangement, cited the professionalism of INS immigration officers; the desirability of a check-and-balance procedure (in which those who seek to assist refugees are also not responsible for deciding their eligibility for U.S. admission); and the reduced likelihood that INS refugee determinations would be influenced by foreign policy concerns of the refugee generating countries and of those governments providing initial refugee protection and assistance.

We received no indication from embassy posts in remote or infrequently visited areas (by INS) that refugee applicants in emergency situations encountered harm or distress while waiting for the INS interview. Responses received from 18 posts, which rely on INS circuit riders to process refugee visas, indicated that the processing problems at these posts were unspecified administrative time and cost that could only be resolved by authorizing the local post to make refugee determinations. While one post suggested a concept of Department of State-operated regional processing centers as a way to expedite status determinations, another expressed concern that such centers might create a "magnet effect" for other displaced persons seeking resettlement in the United States, or otherwise draw undesirable political attention to the affected governments. However, on balance and for most situations, 12 of the 18 affected posts that responded reported that the existing system was feasible for their particular circumstances and created no particular difficulty. (See app. I.)

Conclusion

The cost that INS incurs to determine refugee status is not readily determinable because funds for this activity are merged with other agency operations, and estimated cost or planning data for this function was not available at the Department of State. In the absence of such comparative cost and planning data, there is not a sufficient basis to determine what specific cost savings, if any, the government would accrue if the refugee determination function were to be transferred to the Department of State. However, because this function is highly labor-intensive, consisting mainly of salary cost, it appears that no significant savings would be realized unless such transfer resulted in closing INS overseas offices. The extent of any other savings, if any, would depend on (1) the organizational structure that the Department might establish to conduct the function (i.e., whether the current network of refugee processing posts would be expanded), (2) the training and supervision of officers that may be required by the Department, (3) the effect of changes in processing procedures, and (4) the priority that State would give to processing applicants at remote locations or in emergency situations.

While it is possible that it would be cost-effective and efficient for consular officers at certain remote embassy posts with low numbers of refugee applicants to be given limited or provisional adjudication authority, the costs of preparing such posts for this task are not known.

Agency Comments

The Office of the Attorney General did not take issue with our conclusion, but suggested some language changes, which we have made. Primarily, these changes relate to establishing, after completion of our fieldwork, the Office of Foreign Operations to provide policy direction to and oversight of INS' overseas offices and CORAP. We were told that in the future, circuit ride trips formerly conducted from Rome, with the exception of Madrid, would be handled by the Nairobi office at significantly reduced cost. Concerning the inaccuracies in the statistical data, the Commissioner agreed that the G-23 work measurement report presently does not adequately reflect the work conducted in the overseas offices. He said that the G-23 report would be revised to make it more meaningful and that the field offices would be reminded to promptly record hours spent on various activities.

Qualification and Training of Refugee Adjudicators

INS had not implemented any formal training program for its immigration officers assigned overseas and tasked with making refugee determinations. INS principally relied on the officers' experience, and on instructional material and guidance from the overseas supervisors. Generally, the officers were well experienced in inspections and examinations work but had not necessarily been involved in refugee activity. Although we did not attempt to determine the correctness of their decisions, but rather only their consistency (see ch. 5), it was indicated that the INS officers could benefit from improved training and information.

Department of State consular officers, especially at remote refugee processing posts, were generally less experienced than INS immigration officers in examinations work and were unfamiliar with refugee law and policy. More than two-thirds of the posts we visited or which responded to our questionnaire indicated that consular officers could not assume the refugee determination function without additional training. It could be argued, however, that because they are stationed in the region, these officers are better informed about country and area conditions that cause refugees to flee their homelands than are the INS immigration officers who conduct circuit rides.

At many posts, it is the Department's refugee coordinators and network of private voluntary agencies—not consular officers—who pre-screen refugee applicants and assist them in getting resettled to the United States. The coordinators may or may not be extensively trained in consular work.

Importance of Adequate Training

Over the years, the issue of whether INS immigration officers are adequately qualified because of their experience and training to perform the refugee determination function has been raised repeatedly. Better training of INS officers was cited in committee prints of staff trip reports to the House Judiciary Committee in March 1982, and to the Subcommittee on Immigration and Refugee Policy of the Senate Judiciary Committee in January 1982. Also, the President's National Security Decision Directive on Refugee Policy and Processing Refugees from Indochina, dated May 13, 1983, instructed INS to review possible additional training and rotation of its officers to ensure proper refugee processing. In addition, the Refugee Policy Group has attributed what it sees as "notable divergences" in refugee decisions to the absence of systematic training of not only INS officers, but others who are involved in refugee processing.

Training of INS Officers

We interviewed INS immigration officers, officers-in-charge, and district directors in Europe and Southeast Asia to determine their qualifications for making refugee determinations. We found that it is INS' practice to fill its overseas positions with "seasoned veterans" having at least 3, but often 10 or more years of specialized agency experience in various areas. These areas include investigating illegal aliens living in the United States; inspecting the validity of visas and passports of aliens entering at U.S. ports of entry; and examining aliens' petitions and benefits, such as those relating to family reunification and work permits. INS officers that were interviewed acknowledged relying heavily upon on-the-job training and guidance received from supervisors.

Overall, INS believes that the background and on-the-job training of its immigration officers are adequate for making refugee determinations. It has no specific career track for adjudicators, but assigns officers overseas with a broad background in INS inspections, investigations, and examinations. Refugee adjudicators receive no formal training, but serve a short time (usually a few days, depending on experience) in an apprenticeship role until they are comfortable with rendering their own decisions. The officer-in-charge is responsible for monitoring the adjudicator's performance by routinely reviewing denials and spot-checking approval rates for inconsistencies. We found that processing practices vary by location, depending on local conditions, and from the extent of direction by the district office. Also, we found that refugee adjudicators who were on temporary duty overseas assignments did not always have adequate time to become fully familiar with their role before making determinations.

Although the responsibilities of refugee adjudicators and asylum officers are the same in determining whether a refugee or asylum applicant had experienced persecution, their training was different. Specifically, INS/CORAP sponsors a one-week training seminar for asylum officers, emphasizing legal standards and the importance of cross-cultural awareness. The course teaches officers the (1) eligibility requirements under the refugee definition, (2) "specific" refugee groups determined to be admissible to the United States, (3) application of existing laws, regulations, and guidelines, (4) interpretation of recent important cases, (5) effect that country conditions have on refugee determinations, and (6) application of interviewing techniques. A section of the course on interviewing techniques emphasizes the importance of cross-cultural understanding and the need to probe certain details so that the issues covered in the interview are more effectively communicated and understood. Officers are taught that interviewers should be

aware of cross-cultural differences that may cause an applicant to be reluctant to reveal certain information, and that the use of certain words, tones, or gestures may bring about unintended results.

Although INS officials believe that the preparation of officers performing refugee determinations is generally adequate, they acknowledge that improved training would be desirable. According to the CORAP Assistant Commissioner, budget constraints have not allowed the seminar for asylum officers to be extended to overseas immigration officers. Further, this official said that it would be desirable to have more officers with asylum training and experience serve in refugee processing positions overseas and to have closer interchange between them.

Training of State Department Officers

The Department of State, through the Foreign Service Institute, provides formal training to consular officers on making immigrant and non-immigrant (excluding refugee) visa decisions. A typical course lasts for 26 days. During this time, officers are given a series of readings and practical case studies of role-playing and simulated interviews between the applicant and the officer. However, no instruction on refugee law is given.

Unlike INS officers, consular officers (especially those in remote areas), are often junior officers who are receiving initial on-the-job overseas experience. They receive specific training in visa processing and may have access to more information on country and area conditions that cause refugee flows than INS circuit riders who only visit periodically. As previously noted, knowledge of regional conditions is an important consideration in determining the validity of refugee claims. However, overseas posts we contacted acknowledged that additional time and effort would be required to properly instruct and supervise consular officers in refugee policy and law.

Department of State consular officers at the 26 posts we visited or contacted reported widely different familiarity with refugee policies and priorities, ranging from "excellent" (2), "good" (6), "fair" (6), "some" (7), and "none" (5). To assume partial or full authority in making refugee determinations, 18 of the posts, or more than two-thirds, said that their consular officers would need additional training in refugee processing to make a successful transition.

The Department of State's approximately 20 refugee coordinators, mainly concentrated at processing posts in Southeast Asia, are familiar

with refugee laws and issues but are not generally responsible for the consular work of issuing immigrant and non-immigrant visas. Along with the voluntary agencies, they typically process the cases of more persons than will be admitted to the United States as refugees, since their responsibilities also include identifying those who may be eligible for immigrant status. Their role of coordinating the Department's refugee support services and assisting the Ambassador in refugee matters would probably continue regardless of whether INS immigration officers or Department consular officers performed refugee eligibility determinations.

Conclusion

INS immigration officers overseas do not receive formal training in making refugee determinations, but rely on their agency experience and on guidance from supervisors. While INS officials believe that refugee adjudicators are adequately prepared for this task, they concede that additional formal training would be desirable. Department of State officials told us that Department consular officers could make refugee visa determinations with proper training and supervision.

While we found no clear indication that State consular officers would be better suited than INS officers are to make accurate and fair refugee eligibility determinations, we believe that training of officers to make refugee visa determinations for the U.S. admissions program can be improved—regardless of which agency performs the function.

Agency Comments

To improve training, the Office of the Attorney General stated that INS is developing, in cooperation with the Department of State, an enhancement to the structured training and orientation program for INS officers stationed or assigned overseas. He said that ongoing training programs are needed and funds would be used during fiscal year 1988 to achieve consistency in decisionmaking and to provide an opportunity for officers to exchange ideas and to benefit from the expertise of their colleagues.

Consistency of the Refugee Determinations

The INS offices we visited overseas do not maintain approval rates for nationality groups, by officer, but rather rates are summarized by office and month. We analyzed these statistics and found significant variations not only between, but within offices by month and year. We found many valid reasons for these variations and determined that at least some of them were extraneous to the adjudications process. We could draw no fundamental conclusions about the uniformity of INS' approval pattern from a rate comparison. Therefore, since significant approval rate variations may occur regardless of who performs the adjudication function, similar apparent inconsistencies in refugee determinations would probably exist if the function were transferred to the Department of State.

INS Claim of Approval Rate Uniformity

In June 1987, in testimony before the Senate Judiciary Subcommittee on Immigration and Refugee Affairs, the INS Commissioner argued that the present system of singular INS determination of refugee status had produced a fair, equitable, and uniform pattern of refugee approval and admission worldwide. However, no evidence was introduced to support this.

INS has been requested to statistically assess the accuracy of its decisions on refugee qualifications. An internal INS evaluation, made in February 1987 for the Office of Management and Budget, showed that the agency's overseas offices met or exceeded a 95-percent accuracy criterion in making the determinations. However, INS officials have subsequently informed us that this data was incorrect and that the assessment was asserted, and not based on task analysis. The officials further stated that, in fact, INS did not have any objective standards for the inherently subjective process of making refugee determinations, thus negating the possibility of making such an assessment.

Analysis of INS Approval Rate Consistency

The only accurate test of INS consistency would be a comparison of approval rates between officers deciding the same applications. Comparing approval rates between officers or suboffices deciding applications that represent common nationality groups for the same period would not necessarily be a valid test of consistency because of uncontrollable factors (discussed later in this chapter) that influence the rates.

However, we found that the overseas offices do not routinely maintain approval rates by examining immigration officer. Approvals and denials are not tabulated and rates are not calculated until decisions have been reviewed and rendered final. Statistics are not maintained by officer,

but are reported by office and summarized by region and nationality (see table 5.1).

We analyzed statistical reports of decisions made during fiscal years 1986-1987, as shown in tables 5.1 through 5.3. (We were subsequently informed that "approvals" shown on the statistical reports are the number of people who travelled during the month rather than those actually approved, which may be constrained by available admission numbers. This may contribute to some of the variations noted.) We made the following observations:

- Year-to-year approval rates varied significantly within INS offices for certain nationalities between fiscal years 1986 and 1987 (e.g., Rome/Iranians 75 percent vs. 87 percent; Frankfurt/Afghans 91 percent vs. 68 percent; and Singapore/Cambodians 95 percent vs. 70 percent). (See table 5.2.)
- Approval rates for certain nationalities varied significantly between INS offices. For example, fiscal year 1987 approval rates for Iranians between Athens (61 percent) and Vienna (99 percent) varied by 38 percent; for Romanians, the rates between Frankfurt (67 percent) and Rome (97 percent) varied by 30 percent; and for Vietnamese, the rates between Hong Kong (55 percent) and Bangkok (90 percent) varied by 35 percent. (See table 5.2.)
- Approval rates for certain nationalities sometimes varied significantly within offices from month to month. For example, the fiscal year 1987 approval rates for Poles in Vienna and Romanians in Frankfurt fluctuated widely, ranging from 0 percent to 100 percent; the approval rate for Poles in Frankfurt increased from 29 percent in October 1986 to 80 percent the following month; and the approval rates for Vietnamese in Hong Kong showed no consistent pattern throughout the year. (See table 5.3.)
- The number of applications approved and denied each month, by office, for certain nationalities also varied significantly. For example, the Vienna office decided the cases of 4 Iranians and 27 Romanians in October 1986, whereas, in the following month, the same office processed 185 Iranians and 115 Romanians; and the Bangkok office processed 915, 329, and 1,411 Vietnamese applications during May-July 1987, respectively. (See table 5.3.)

Chapter 5
Consistency of the Refugee Determinations

Table 5.1: Refugee Approval Rates for Selected National Groups by Region, Fiscal Year 1987

Region/Country	Number of		(percent)	
	Approvals	Denials	Approval rates	Overall approvals
Africa	1,974	892	69	3
Ethiopia	1,808	868	68	3
Other	166	24	87	0
Asia	37,082	8,451	81	60
Cambodia	1,187	604	66	2
Laos	17,518	4,913	78	28
Vietnam	18,362	2,920	86	30
Other	15	14	52	0
Eastern Europe/USSR	12,290	2,305	84	20
Czechoslovakia	1,060	210	83	2
Poland	3,568	1,384	72	6
Romania	3,105	310	91	5
USSR	3,695	7	100	6
Other	862	394	69	1
Near East	10,084	2,214	82	17
Afghanistan	3,221	959	77	5
Iran	6,658	1,230	84	11
Other	205	25	89	1
Latin America	99	49	67	0
Total	61,529	13,911	82	100

Source: INS

Chapter 5
Consistency of the Refugee Determinations

Table 5.2: Refugee Approval Rates for Selected National Groups, by Region and INS Office, Fiscal Years 1986 and 1987

Region/Country/Year	Rome			Frankfurt			Vienna		
	App.	Den.	% App.	App.	Den.	% App.	App.	Den.	% App.
Africa:									
Ethiopia - '86	995	712	58%	148	10	94%	1	2	33%
Ethiopia - '87	1,379	676	67%	117	32	79%	1	1	50%
Eastern Europe/USSR:									
Czechoslovakia - '86	231	52	82%	235	30	89%	975	206	83%
Czechoslovakia - '87	156	60	72%	159	76	68%	734	74	91%
Poland - '86	1,665	316	84%	1,348	532	72%	290	228	56%
Poland - '87	1,812	446	80%	1,191	706	63%	165	63	72%
Romania - '86	1,504	83	95%	186	31	86%	813	252	76%
Romania - '87	2,191	85	96%	117	57	67%	723	141	84%
USSR - '86	752	3	100%	12	3	80%	22	0	100%
USSR - '87	3,456	2	100%	30	0	100%	205	0	100%
Near East and South Asia:									
Afghanistan - '86	2,287	737	76%	145	14	91%	7	3	70%
Afghanistan - '87 ^a	1,116	504	69%	69	33	68%	1	3	25%
Iran - '86	1,148	389	75%	1,004	499	67%	745	45	94%
Iran - '87 ^b	1,515	232	87%	2,062	361	85%	2,010	20	99%
Asia:									
	Bangkok			Hong Kong			Singapore		
Cambodia - '86	1,845	896	67%				239	12	95%
Cambodia - '87	588	345	63%				598	259	70%
Laos - '86	13,416	2,105	86%						
Laos - '87	17,513	4,913	78%				4	0	100%
Vietnam - '86	9,217	568	94%	1,283	426	75%	7,804	273	97%
Vietnam - '87	11,767	1,329	90%	336	279	55%	5,210	1,016	84%

^aThe bulk of these determinations were made by the New Delhi office.

^bApproval rate for Iranians by the Athens sub-office in FY 1987 was 61 percent (787 approvals, 496 denials).

Source: INS

Chapter 5
Consistency of the Refugee Determinations

Table 5.3: Refugee Approval Rates for Selected National Groups, by Month and INS Office, Fiscal Year 1987

Nationality/Month	Rome			Frankfurt			Vienna		
	App.	Den.	% App.	App.	Den.	% App.	App.	Den.	% App.
Iranians:									
Oct. 86	75	27	74%	72	27	73%	3	1	75%
Nov. 86	77	26	75%	187	5	97%	185	0	100%
Dec. 86	186	18	91%	271	29	90%	95	0	100%
Jan. 87	56	11	84%	84	6	93%	130	0	100%
Feb. 87	117	72	62%	146	42	78%	305	0	100%
Mar. 87	70	2	97%	113	10	92%	462	0	100%
Apr. 87	55	8	87%	57	34	63%	99	0	100%
May 87	80	9	90%	45	8	85%	103	0	100%
June 87	223	2	99%	102	6	94%	48	6	89%
July 87	125	7	95%	249	11	96%	140	6	96%
Aug. 87	131	15	90%	225	147	60%	119	0	100%
Sept. 87	320	35	90%	511	36	93%	321	7	98%
Total	1,515	232	87%	2,062	361	85%	2,010	20	99%
Poles:									
Oct. 86	134	6	96%	53	127	29%	0	8	0%
Nov. 86	118	55	68%	137	35	80%	41	20	67%
Dec. 86	205	62	77%	105	56	65%	15	0	100%
Jan. 87	144	12	92%	66	36	65%	4	2	67%
Feb. 87	167	54	76%	91	97	48%	(2)	0	0%
Mar. 87	178	4	98%	110	22	83%	25	8	76%
Apr. 87	128	30	81%	153	101	60%	17	2	89%
May 87	195	50	80%	63	12	84%	1	0	100%
June 87	249	38	87%	90	29	76%	23	5	82%
July 87	133	58	70%	108	38	74%	8	10	44%
Aug. 87	81	51	61%	128	131	49%	30	7	81%
Sept. 87	80	26	75%	87	22	80%	3	1	75%
Total	1,812	446	80%	1,191	706	63%	165	63	72%

(continued)

**Chapter 5
Consistency of the Refugee Determinations**

Nationality/Month	Rome			Frankfurt			Vienna		
	App.	Den.	% App.	App.	Den.	% App.	App.	Den.	% App.
Romanians:									
Oct. 86	132	4	97%	6	0	100%	0	27	0%
Nov. 86	198	7	97%	25	1	96%	104	11	90%
Dec. 86	183	0	100%	17	0	100%	49	8	86%
Jan. 87	102	23	82%	7	0	100%	76	5	94%
Feb. 87	100	9	92%	11	0	100%	44	11	80%
Mar. 87	96	1	99%	7	0	100%	46	8	85%
Apr. 87	170	4	98%	7	4	64%	93	15	86%
May 87	255	12	96%	7	0	100%	65	7	90%
June 87	227	0	100%	0	8	0%	82	15	85%
July 87	212	0	100%	14	0	100%	102	11	90%
Aug. 87	156	3	98%	8	39	17%	43	20	68%
Sept. 87	360	22	94%	8	5	62%	19	3	86%
Total	2,191	85	96%	117	57	67%	723	141	84%
	Bangkok			Hong Kong			Singapore		
Vietnamese:									
Oct. 86	1,093	128	90%	33	9	79%	165	6	96%
Nov. 86	1,100	41	96%	48	0	100%	487	16	97%
Dec. 86	775	0	100%	49	52	49%	152	29	84%
Jan. 87	936	1	100%	44	32	58%	387	68	85%
Feb. 87	925	5	99%	22	5	81%	346	178	66%
Mar. 87	1,192	149	89%	35	7	83%	1,183	226	84%
Apr. 87	1,217	260	82%	39	25	61%	570	211	73%
May 87	794	121	87%	21	19	53%	399	51	87%
June 87	308	21	94%	20	3	87%	366	78	82%
July 87	1,123	288	80%	0	8	0%	396	51	89%
Aug. 87	1,263	126	91%	10	27	27%	326	28	92%
Sept. 87	1,041	189	85%	15	92	14%	433	74	85%
Total	11,767	1,329	90%	336	279	55%	5,210	1,016	84%

Source: INS

INS officials in the Rome and Bangkok districts told us that the immigration officers performing refugee adjudications are well experienced, that their performance is regularly monitored through review of denied cases, and that a number of factors (some of them uncontrollable) caused variances in approval rates. They thought that, overall, there was consistency in refugee determinations. However, because approval

rates for common nationality groups at the different posts are influenced by many factors, the officials thought that these rates will probably always appear to be inconsistent. The following factors were cited as influencing approval rates:

- The quality of pre-screening varies by location. For example, we were told that voluntary agency screening of applicants was typically better in Paris and Brussels than in Frankfurt, which had a higher incidence of fraudulent cases, and better screening resulted in higher approval rates.
- Approvals are tabulated in the regular flow of work in which determinations are processed; denied applications on the other hand, are held for supervisory review and may be tabulated in clusters following periodic final administrative decisions—skewing monthly statistics.
- There are sporadic policy changes, such as the transfer of admission numbers between regions, which occurred in June 1987 (see table 1.2) and revisions in the worldwide priorities' system, as it applies to specific national groups affected by changing refugee populations and world events.
- Processing priorities may be influenced by available quota numbers within a regional allocation, such as an increased emphasis on Soviet nationals versus other Eastern Europeans.
- Geographical distance and the time interval since leaving country of origin may be indicative of the need for applicant protection (e.g., Afghans processed in Pakistan by the New Delhi office may be more compelling cases than those applicants who have made their way to Europe).
- Host governments have restrictions that limit certain applicant opportunities which tend to strengthen those cases such as in Austria, which only allows Iranians who come from communist countries to apply for the U.S. refugee program in Vienna.
- Some individuals of the same nationality are given processing priority over others if they are covered by certain special provisions and/or have certain characteristics, such as released Cuban political prisoners, Vietnamese "boat people," and Soviet Jews and Armenians.
- There are inconsistent statistical reports on the "denials" and "otherwise closed" categories between INS suboffices (e.g., voluntary withdrawals or "no shows" are reflected in the "denial" statistics for Frankfurt but not for Rome or Vienna).
- Approval rates may be skewed somewhat by large families, since members are adjudicated along with the "principal" applicant.
- There are differences between individual interviewers in levels of experience, knowledge of refugee and country issues, and length of time at post. INS officials at overseas offices told us that temporary or new

officers were stricter in their determinations than the more experienced officers (because more of their cases are denied).

Because of concern about the cause of apparent inconsistency in approval rates across the European District, the district director in Rome conducted an experiment, whereby officers-in-charge of the suboffices were brought together in four locations to conduct simultaneous case processing. The director found that the approval rates remained the same regardless of who processed the cases.

However, this is not to discount the fact that approval rates will vary by individual interviewer. We found indications that approval rates were influenced by the differences in INS immigration officer judgment because of their background, training, and length of duty at post. INS officials told us that such factors would also influence a Department of State consular interviewer.

Conclusions

Although we found some significant variations in approval rates within and between INS offices for the same nationality groups, we believe that they are a phenomenon that will always occur, to a larger or smaller degree, in the agency that performs the adjudication function. Furthermore, we believe that the effect of the factors described above can cause wide disparities in approval rates and therefore, the variances should not necessarily be interpreted as inconsistent INS adjudication nor as evidence of a need to transfer the function to the Department of State which would face many of the same or similar conditions. At the same time, we believe that some of the individual differences that exist can be minimized and more consistent refugee adjudication would be enhanced overall through (1) formal training, (2) heightened awareness of country conditions and cross-cultural issues, and (3) increased emphasis on supervision and review of decisions, as discussed in the preceding chapter.

Views of U.S. Consular Posts on the Assumption of Responsibility for Making Refugee Determinations

Number of Refugee Processing Posts Visited 6 - Rome, Frankfurt, Vienna, Bangkok, Singapore, and Hong Kong

Number of Additional Refugee Processing Posts Solicited by Cable 38 - located in Africa, Europe, the Near East, and Asia

Number of Cable Responses Received 20 - Africa (11); Europe (5); Near East (2); and Asia (2)

Two of these posts have INS offices at the same location; the other 18 posts rely on INS circuit riders to process refugee visas.

Responses to GAO Questions: 1. How does the post rate the familiarity of its consular staff with INS policies and priorities for refugees?

- Excellent - 2
- Good - 6
- Fair - 6
- Some - 7
- None - 5

2. Would it be feasible for the post to assume refugee processing functions if additional resources were not available?

- Yes - 12
- No - 14

3. Would it be feasible for the post to assume refugee processing if additional resources were available?

- Yes - 17
- No - 9

4. Would post consular officers be capable of assuming refugee visa determination function if additional resources for training were not available?

- Yes - 8
- No - 18

**Appendix I
Views of U.S. Consular Posts on the
Assumption of Responsibility for Making
Refugee Determinations**

5. What kinds of difficulties does the existing process of assembling and transporting refugee applicants to posts for periodic INS circuit rider visits create for post or refugee applicants?

Of the affected 18 posts that responded to us, 12 reported no particular difficulties with the process. The 6 posts that did report some difficulties (mainly in Africa) referred to

- additional administrative work for the post because of processing inefficiency and often postponed INS visits,
- long waiting periods for refugee applicants,
- conflict with the U.N. High Commissioner for Refugees over financial responsibility, and
- problems in arranging visas and transportation for refugees on short notice.

None of the posts reported any information indicating that the process jeopardized the safety of refugee applicants.

6. Does the post support a transfer of the refugee visa determination function to the Department of State? If so, a partial or full transfer?

Yes, partial - 5 (including 5 circuit rider posts)

Yes, full - 2 (including 1 circuit rider posts)

No - 18 (including 12 circuit rider posts)

Not clear - 1 (including 0 circuit rider posts)

Letter From the Chairman, Subcommittee on Immigration and Refugee Affairs, Senate Judiciary Committee

United States Senate

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WASHINGTON, DC 20510

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June 11, 1987

Honorable Charles A. Bowsher
Comptroller General
of the United States
Washington, D. C. 20543

Dear Mr. Bowsher:

The Subcommittee on Immigration and Refugee Affairs, as part of its oversight responsibility for the Immigration and Naturalization Service (INS), intends to review the responsibility for overseas refugee processing given to the Attorney General under the Immigration and Nationality Act.

To carry out this and other statutory requirements, INS presently maintains some offices overseas and uses personnel ("circuit riders") to travel to other posts intermittently to interview refugee applicants. The Subcommittee intends to undertake a long overdue review of the cost-effectiveness of establishing and maintaining these parallel INS offices at overseas diplomatic posts to process refugees as opposed to assigning this responsibility to consular officers who now perform visa processing work for all other immigrant and non-immigrant visas.

In this connection, the Subcommittee requests the General Accounting Office to review the anomaly in the law which authorizes consular officers to process all visas except for refugees, and determine the wisdom and cost-effectiveness of having INS officers overseas perform the task of processing refugee visas. It is quite conceivable that consular officers can as easily perform refugee processing and do it at lower overall cost to the government, if the Department of State were given the modest additional resources to upgrade its staff to do so.

The Subcommittee already has requested INS to provide a report on its refugee processing overseas which GAO should consider in its review. The report will include information on the cost of INS overseas operations, the number of officers devoted to refugee processing and description of their training, the availability and use of "circuit riders" to process refugees, and case approval rates including the extent of variation between refugee groups and individual officers.

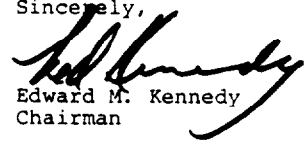
**Appendix II
Letter From the Chairman, Subcommittee on
Immigration and Refugee Affairs, Senate
Judiciary Committee**

- 2 -

I appreciate the assistance you can provide on this matter, and Jerry Tinker or Michael Myers on the Subcommittee staff (224-7877) will be prepared to consult with your staff as needed.

With many thanks for your consideration and cooperation.

Sincerely,


Edward M. Kennedy
Chairman

Comments From the U.S. Coordinator for Refugee Affairs

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



UNITED STATES COORDINATOR
FOR REFUGEE AFFAIRS
WASHINGTON, D.C. 20520

June 14, 1988

Mr. Frank C. Conahan
Assistant Comptroller General
U.S. General Accounting Office
Washington, D.C. 20548

Dear Mr. Conahan:

Thank you for the opportunity to review the draft of your report on overseas refugee processing prepared in response to Senator Kennedy's request of June 11, 1987. I am returning a draft marked with corrections of a technical nature. In addition, I would like to make two broad observations about the general subject matter of the report.

First, the question which agency should make the decisions on refugee admissions is considerably more complex than the report recognizes when it speaks of a dichotomy between the "law enforcement" interests of INS and the "foreign policy" interests of the Department of State. It is not -- as the draft suggests at pages 8-9 and elsewhere -- a question of "the extent to which the U.S. refugee admissions program is viewed as a component of immigration policy and should be kept separate and apart from foreign policy considerations." It is rather a question of which agency can most accurately and fairly determine whether applicants for admission meet statutory requirements that cannot be mechanically applied.

There is in fact a broad consensus within the Congress and the Executive Branch that foreign policy considerations should play an important role in the refugee admissions program. The Refugee Act of 1980 explicitly recognized this. When the President each year consults with the Congress on the number of refugees to be admitted to the United States, for example, the Administration is required to provide information to Congress concerning, among other things, "the nature of the refugee situation," "an analysis of the conditions within the countries from which [the refugees] come," "the extent to which other countries will admit and assist in the resettlement of such refugees," and -- not least -- "the impact of the participation of the United States in the resettlement of such refugees on the foreign policy interests of the United States."

Providing this information requires foreign affairs and policy analysis, which is prepared principally by the Department of State. It would be wrong to assume, however, that the Immigration and Naturalization Service, with its now considerable field experience, is insensitive to or ignorant of the

See pp. 4, 26.

**Appendix III
Comments From the U.S. Coordinator for
Refugee Affairs**

- 2 -

foreign policy concerns that lie behind the President's decision on what level of admissions to approve. Instead, both agencies attempt to reach agreement during the consultations process on the number of qualified refugees who should be resettled in the United States to meet U.S. humanitarian and other foreign policy goals, including the number necessary to help relieve the pressure on countries of first asylum.

Once the admissions numbers are available, it remains to determine which applicants are eligible to use them -- i.e., which are (1) refugees as defined by statute, (2) not firmly resettled as defined by regulation, and (3) qualified as immigrants to the extent required by statute. Deciding which agency should be responsible for making these determinations requires making a judgment whether State Department officials would be more or less likely than INS officials to apply these legal requirements in an accurate, fair, and consistent way. I do not believe that any responsible official, in Congress or the Executive Branch, would argue that "foreign policy considerations" should be allowed to skew the application of these requirements regardless of the merits, yet this is to some extent how the draft characterizes the choice between the agencies.

In addressing this question, it is worth noting that State Department consular officers now issue immigrant visas throughout the world without any significant complaint that the immigrant visa system is abused for foreign policy reasons. Thus there clearly is no reason to think that consular officers would not properly determine whether refugee applicants met the applicable immigrant visa requirements. Nor is it likely that they would not apply the "firm resettlement" provision consistently, since that term is defined in detail by regulation with reference to relatively objective criteria.

The question thus comes down largely to how consular officers would apply the refugee definition -- requiring that the applicant be unwilling or unable to return to his country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. There are several components to this question. One is the question of expertise in country conditions required to determine whether a fear is well-founded; as your report points out, this is in part a matter of training. While consular officers will have an advantage here, it is not clear that immigration officers cannot be adequately trained to make these judgments, just as INS is planning to train its domestic asylum officers.

**Appendix III
Comments From the U.S. Coordinator for
Refugee Affairs**

- 3 -

Another component is the question whether a consular officer would be more likely than an immigration officer to deny refugee status to a qualified applicant out of fear of offending the government of the host country or of the refugee's country of origin. Answering this question would probably require, at a minimum, surveying individual overseas INS officers -- who like consular officers report to the local U.S. Ambassador but who are in a different career and promotion system -- about whether they experience such pressures now and, if so, how they deal with them. It might also require surveying consular officers and ambassadors about whether they would expect such pressures and, if so, how they would propose to deal with them.

A related component is the question whether a consular officer would be more likely than an immigration officer to grant refugee status to an unqualified applicant for foreign policy reasons, such as to respond to pressures from the host government to remove persons to whom it has granted only temporary refuge. This issue -- alluded to by at least one post you surveyed -- is far more difficult to get at. Immigration officers stationed at embassies may equally feel such pressures, and consular officers might equally resist -- or equally fail to resist -- such pressures depending on the circumstances.

It is with respect to this issue that the refugee definition itself is most important. The refugee definition is not as easily applied as the relatively objective immigrant visa requirements and the firm resettlement definition. The word "persecution," for example, is difficult to define, and many people have very different notions of what constitutes persecution. Some might say that everyone living in a communist country or under a dictatorship is persecuted, while others would insist that persecution should entail a severe threat to life or liberty.

While the refugee definition is difficult to apply, it is possible to provide guidance in the hope of achieving its relatively consistent interpretation and application. This need was addressed in part by a 1981 decision of the Office of Legal Counsel of the Department of Justice. It is also addressed by the INS Worldwide Refugee Processing Guidelines and by the Foreign Affairs Manual, and on an on-going basis by INS and the Department of State in routine guidance to the field. Administrative and judicial decisions in the asylum area are also helpful.

**Appendix III
Comments From the U.S. Coordinator for
Refugee Affairs**

- 4 -

As your report acknowledges, the GAO did not really assess whether and how well this guidance is followed in the field. To do so would require a detailed audit by persons with substantive expertise in refugee and asylum law and with access to information about the evidence submitted in support of each individual application and why it was or was not approved.

My second observation is that you have given little attention to the fact that domestic asylum applicants and applicants for overseas refugee admission must both qualify as refugees under the same definition. It therefore is important that those engaged in refugee adjudications understand asylum law and domestic developments and that efforts be made to maintain necessary consistency in eligibility decisions domestically and overseas, lest the integrity of the refugee and asylum programs be undermined. Whether or not INS officers overseas now receive adequate guidance on asylum policies, it is the case that they are more likely to be informed of asylum developments because the asylum and refugee functions are under centralized supervision within INS.

In contrast, within the Department of State, asylum matters are handled by the Bureau of Human Rights and Humanitarian Affairs and refugee admissions matters by the Bureau for Refugee Programs, with the Office of the Legal Adviser providing legal advice on refugee eligibility issues to both bureaus. If the Department of State were to take over refugee eligibility determinations, the function would probably be handled by consular officers. Whether assigned to the Bureau for Refugee Programs or the Bureau of Consular Affairs, the Consular Bureau would presumably play some role in their supervision.

These observations are not meant to point in one direction or the other. They are meant to suggest, however, that the question whether INS or State should make refugee eligibility determinations is an extremely complex one as to which no hasty conclusions should be drawn, particularly in the absence of more detailed information.

Sincerely,



Jonathan Moore

Enclosure:
Marked draft.

See GAO comment, p. 56.

The following is GAO's comment on the U.S. Coordinator for Refugee Affairs' letter dated June 14, 1988.

GAO Comment

We did not directly address in the report the matter that asylum and refugee applicants must qualify for such respective status under the same refugee definition because, as we point out in the report, there are fundamental differences in the manner that the domestic and overseas application and appeals processes work, in how the adjudicators are trained, and in the relative urgency of need for applicant protection. However, we do agree with the Coordinator that it is important that efforts be made to maintain as much consistency as possible in making admission eligibility decisions domestically (asylees) and overseas (refugees). In this connection, we note that the Coordinator stated that asylum and refugee functions are under centralized supervision within INS; whereas within the Department of State, asylum matters are handled by the Bureau of Human Rights and Humanitarian Affairs and refugee admissions matters by the Bureau for Refugee Programs.

Comments From the Assistant Attorney General for Administration



U.S. Department of Justice

JUL 29 1988

Washington, D.C. 20530

Mr. Richard L. Fogel
Assistant Comptroller General
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Fogel:

This letter responds to your request to the Attorney General for the comments of the Department of Justice on your draft report entitled "Refugees: Overseas Visa Processing." Although this draft report, which pertains to the Immigration and Naturalization Service (INS), has no recommendations to address, we have thoroughly reviewed it and suggest that, in the interest of technical accuracy, several changes be made to specific language in the areas of the report noted below. Additionally, we are providing comments on specific program weaknesses noted during our review of the report.

We suggest the following language changes be considered:

1. Throughout the body of the report, the General Accounting Office (GAO) refers to "refugee visas." This term is not technically accurate, since the Refugee Act of 1980 is not a visa issuance authority. References to "refugee visas" should be changed in favor of "refugee status" or "refugee documentation," depending on the context.
2. Page 17, line 1, should read, ". . . responsible for Latin America and the Caribbean."
3. On page 19, paragraph 2, references to "humanitarian parole" should be changed to "parole" and the fourth sentence should be changed to read, "Parole is now used sparingly by the Attorney General (again delegated to INS) to permit entry of persons on a case-by-case basis for emergent reasons or for reasons deemed to be strictly in the public interest."
4. On page 21, add the sentences, "English language training and cultural orientations are provided Southeast Asian refugees following INS approval. During the course of this 6-month training period, many refugees are found to be eligible for immigrant status because family members in the United States become qualified to petition for them through normal

Now on p. 9.

Now on p. 11.

Now on p. 12.

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immigration channels. This may, in certain cases, render these applicants ineligible to enter as 'refugees'."

Now on p. 17.

5. Page 25, line 2, should read, "(grounds of inadmissibility)" instead of "(waivers, parole)."

Now on p. 18.

6. On page 25, last paragraph, strike the language starting with sentence 4 to the end of the paragraph on page 26 and substitute, "The categories are applied by an INS officer in a two-step process on a case-by-case basis. First, a determination is made whether the applicant fits into any of the designated categories or persons who are likely targets of persecution. Then the question of whether the applicant has expressed a fear of persecution or conditions amounting to persecution is examined."

Now on pp. 27-28

7. Page 41, paragraph 2, does not reflect the existence of the Office of Foreign Operations, which was in its infancy when the report was initially prepared. If GAO wishes to incorporate INS' present organizational structure into the report, we suggest the following language:

". . . United States. The Office of Foreign Operations (COFOR) within INS was established in January 1988 to provide policy direction to and oversight of both the agency's 21 overseas offices and the Office of Refugees, Asylum, and Parole (CORAP). CORAP is responsible for administration and policy guidance in matters involving refugee processing, asylum applications, and parole into the United States.

Previously, the program for determining refugee status overseas was included in the INS budget category for 'Refugees and Overseas,' which encompassed the cost of managing the overseas offices and the support staff of CORAP. Some costs associated with refugee adjudications were not included in this category, while other costs not related to this function were included.

Although the same budget structure has been retained under the COFOR program, INS' broader mission of controlling illegal entry of aliens into the United States dictates that the function of the overseas offices include a host of law enforcement initiatives, such as conducting investigations of fraud, smuggling and

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terrorist activity; gathering and disseminating intelligence information, and training foreign government officials. In addition, overseas offices routinely conduct service oriented activities, such as adjudicating applications and petitions for benefits under immigration law, providing guidance to representatives of United States and foreign government agencies, and coordinating policy concerns with United States missions, foreign governments, international organizations, and private voluntary agencies.

The overlap of activities makes an accurate analysis of funds spent on refugee activity difficult to isolate. For example, hours spent working with foreign police to jointly investigate an Iranian refugee scam involving forged baptismal certificates could be properly attributed to refugee processing, fraud investigations, or liaison with host government officials."

Now on p. 30.

Now on pp. 30-31.

Now on p. 35.

Omitted.

Now on pp. 41-45.

8. On page 46, line 16, we suggest revising the language to read, "--workload data was based primarily on . . ."
9. On page 47, paragraph 3, omit sentence 2, as it cannot be substantiated. Remove the word "Also" from the beginning of sentence 3. Amend sentence 4 to read, "Centrally funded personnel compensation and benefits represent the majority of the total \$8.6 million spent in the category."
10. On page 49, it should be noted that all the trips in the Rome category, with the exception of Madrid, will now be handled by our Nairobi Office at a reduced cost. The District Director, Rome Office, has determined that under the new jurisdictional breakdown, these costs would be reduced from \$28,524 to approximately \$19,200.
11. On page 60, paragraph 2, we suggest omitting the last sentence since CORAP is unfamiliar with any proposal to implement a uniform refugee interviewing procedure.
12. On pages 68-71, we assume that the figures shown were taken from the INS G-319 form. It is important to note that "approvals" on the G-319 form are the number of people who travelled, rather than those who were actually approved during the month. Denials on the G-319 form are actual figures for the month; therefore, the figures on the G-319

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form are not compatible as statistical measures or comparisons and do not adequately reflect a month's work. The "approvals" are constrained by available admission numbers. If the basis for these figures was, instead, the monthly cabled report to the Department of State, then accurate monthly action would be reflected.

Although we recognize from our review of the report that no recommendations were made regarding certain program weaknesses, it is our intent to strengthen the program in those areas mentioned in the report.

As for improvement in training, INS is developing, in cooperation with the Department of State, an enhancement to the structured training and orientation program for INS officers stationed overseas. This program will include briefings by appropriate bureaus and officers at the Department of State, meetings with representatives of voluntary agencies involved in refugee affairs, and consultations with personnel from the International Committee for Migration and the United States High Commissioner for Refugees. All officers beginning assignments overseas will spend time in the INS Central Office. During this period, discussions will be held with representatives of the various operating units, including CORAP, Intelligence, Investigations, Anti-Smuggling, and Adjudications. Area studies and language training are already available either in Washington or at the overseas post.

There is a need for on-going training programs to achieve consistency in decisionmaking and to provide an opportunity for officers to exchange ideas and benefit from the expertise of their colleagues. Training funds available to INS during FY 1988 will be utilized for a district-wide working level conference, tentatively scheduled for late September in Frankfurt. In addition, INS and the Department of State's Bureau of Refugee Programs are making efforts to coordinate their periodic conferences and training sessions to allow the maximum degree of interaction between the two agencies.

Training for temporary duty (TDY) officers is also being improved. Officers with adjudications background, especially asylum experience, are selected for these details. INS' Central Office provides advance briefing materials and additional formal training takes place at the overseas post. The Bangkok Suboffice, the principal recipient of TDY assistance, provides a 1-week orientation course before officers are assigned to the field. Officers read briefing folders, review cases, meet with representatives of the Joint Voluntary Agency, receive guidance from the Counselor for Refugee and Migration Affairs and his staff, are briefed by Ethnic Affairs Officers, and have ample

Now on pp. 4, 39.

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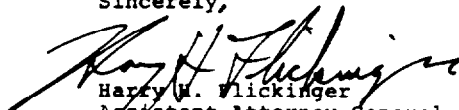
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opportunity for discussions with the INS officers permanently assigned to Bangkok. Once in the field, the TDY officers are first assigned to observe interviews conducted by INS officers, and later are permitted to begin making refugee determinations under the close supervision of an INS team leader.

As for inaccuracies noted by GAO regarding the capture of statistical data, INS intends to send a reminder to all field offices of the importance of promptly recording hours spent on various activities. INS is in agreement that the monthly work measurement (G-23) reports, as presently utilized, do not adequately reflect the work performed in overseas offices. Since the invalidity of statistics argument used by GAO has merit, COFOR will recommend that the G-23 report, especially as it relates to Foreign Operations, be revised by the Office of Plans and Analysis with specific input from COFOR (Budget) and COFOR (Operations).

We appreciate the opportunity to comment on your report while in draft form. Should you have any questions concerning our response, please feel free to contact me.

Sincerely,



Harry W. Flickinger
Assistant Attorney General
for Administration

Now on pp. 4, 35.

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