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United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General

Report of Inspection

Bureau of Consular Affairs
Office of Policy Review
and Interagency Liaison

Report Number ISP-CA-05-62, September 2005

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KEY JUDGMENTS

- The Bureau of Consular Affairs (CA), Office of Policy Review and Interagency Liaison (PRI) has multiple roles, providing legal advice to the Assistant Secretary and serving as the principal drafting office for key regulations to implement the new Hague convention on international adoptions. A separate operational unit provides assistance to victims of crime or terrorism abroad. PRI successfully meets its responsibilities, but resources are barely adequate and future requirements are not entirely clear.
- PRI attorney advisers have responsibilities consistent with other attorney advisers in CA. The position descriptions and grades should reflect this, as well as the fact that they are under the general guidance of the Legal Adviser's Office.
- Liaison with a broad range of federal agencies, particularly the Social Security Administration (SSA), is effective and routine, helping to bridge the gap between these essentially domestic agencies and almost 500,000 overseas beneficiaries. PRI also coordinates other activities such as prisoner transfers and service of process abroad, providing expertise in relatively arcane fields to consular officers in need of guidance.
- The victims assistance unit was grafted on to PRI as a temporary measure, apparently because of an interagency agreement with the Department of Justice. It is a unit unlike others in PRI, and its functions are primarily training and casework. Both functions are outside the usual scope of work of PRI and would be better located in American citizens services (ACS), allowing PRI to focus on its core services.
- PRI is drafting the implementing regulations that will permit the United States to adhere formally to the 1993 Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (Hague Adoption Convention) in the near future. PRI is working with the Offices of Children's Issues, Visa Services and the Office of the Legal Adviser, Consular Affairs (L/CA) to produce the final regulations. To do its share of the work, PRI contracted for specialized assistance and then hired attorneys

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interested in children's issues to assist. The new employees started work without being fully indoctrinated into Department of State (Department) procedures, and CA management did not clearly define Department equities in the regulations. These omissions have led to misunderstandings and slowed the process.

- The process of drafting the regulations was further impeded by preexisting misunderstandings about the roles of PRI and L/CA in drafting, clearing, and approving regulatory language. This working relationship has been problematic in the past and should be addressed at the appropriate level to avoid further problems on this and future taskings.
- While the task of drafting and publishing the adoption regulations will soon conclude, the Office of Inspector General (OIG) believes that there is extensive legal work still to be done. Inevitably, implementation will produce further questions and differing interpretations from other departments and agencies, the public, and from other countries. PRI will need to retain sufficient expert staff in order to respond to these challenges.
- PRI attorney advisers successfully carry out their mandate to provide core clients with legal decisions on citizenship issues and a wide range of other legal matters, but they need additional staff resources to free them from time-consuming support tasks.

SCOPE AND METHODOLOGY

The inspection took place in the Bureau of Consular Affairs, Deputy Assistant Secretary for Overseas Citizens Services, Office of Policy Review and Interagency Liaison (CA/OCS/PRI) between May and June 2005. Senior Inspector Larry Colbert (team leader) and Inspectors Marlene Schwartz and Robert Mustain conducted the inspection. The inspection was one of an ongoing series of inspections of the Bureau of Consular Affairs.

OIG conducted personal interviews and collected data at the Department, other U.S. agencies, and private and semi-private organizations as follows:

- Department of State
 - Bureau of Consular Affairs
 - Executive Office
 - Directorate of Overseas Citizen Services
 - Directorate of Visa Services
 - The Office of the Legal Adviser
 - Office of the Assistant Legal Adviser for Consular Affairs
 - Office of the Assistant Legal Adviser for Private International Law
 - Office of the Assistant Legal Adviser for Diplomatic Law
 - Office of the Executive Director
- Department of Homeland Security
- Department of Justice
 - The Government Accountability Office
 - The Social Security Administration
- Department of Veterans Affairs
 - The Federal Bureau of Investigation
 - The Hague Conference on Private International Law
 - The National Center for Missing or Exploited Children

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OVERVIEW

PRI participates in formulating policies relating to emergency and nonemergency services to Americans residing or traveling abroad and to interested parties in the United States while ACS and children's issues typically respond to case generated specific problems. PRI provides legal advice and technical guidance to CA management relating to OCS programs carried out by all OCS personnel and by consular officers worldwide. All legal guidance is provided under the general direction of L (1 FAM 241.1(1)).

PRI is responsible for formulating, influencing, implementing, and reviewing policy and also drafting and evaluating legislative and regulatory proposals and changes pertaining to the safety and protection of U.S. citizens abroad and U.S. citizenship and nationality. PRI is also responsible, with L and other bureaus, for treaty negotiations, interpretation, and implementation. Other PRI responsibilities include program analysis, formulation of memoranda of understanding pertinent to the protection of U.S. citizens, and administration of the Privacy Act and the Freedom of Information Act in the context of OCS's work. In addition, PRI works closely with L and other bureaus of the Department, other government agencies, nongovernmental organizations, the private sector, and other concerned parties to coordinate programs. PRI brings together U.S. government agencies, nongovernmental organizations, and key stakeholders to achieve public-private solutions to complex consular problems.

PRI's current responsibilities include a lead role in the implementation of the Hague Adoption Convention and the U.S. implementing legislation, the Intercountry Adoption Act of 2000, P.L. 106-279 (2000) (IAA). The convention establishes a framework for regulating adoptions between participating countries with the objective of protecting children and preventing child trafficking.

PRI provides legal advice and counsel on issues confronting the Department in the area of international parental child abduction. The victims' assistance unit works to improve the Department's ability to assist U.S. citizens who are the victims of crime or terrorism while living or traveling abroad. It also administers the service of process provisions of the Foreign Sovereign Immunities Act and provides guidance to ACS and posts abroad to promote consistent interpretation of citizenship laws and uniform evidentiary standards in applying those laws.

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In the legislative and regulatory areas PRI responds to requests received by OCS to comment on proposed legislation; interprets and implements recently enacted statutes; drafts suggested legislation to streamline, make more equitable, or otherwise correct existing statutes affecting consular matters; and drafts regulations needed to carry out CA's OCS functions. PRI is responsible for revising all OCS-related portions of 22 Code of Federal Regulations (CFR) to ensure consistency with law and policy, to reduce the regulatory burden, and to begin compliance with the "plain language" requirements. PRI is also responsible for eliminating regulations that are outdated and/or unnecessary. In recent years, however, this process has slowed, in part due to the emphasis on the adoption accreditation regulations.

PRI participates in the negotiation and interpretation of consular-related agreements including consular conventions, prisoner transfer treaties, stolen vehicle conventions, various multilateral judicial assistance agreements, and treaties related to protection of children. The office also oversees federal agency programs that pay monthly benefits abroad and work closely with federal benefits agencies such as SSA, the Office of Personnel Management and the Department of Veterans Affairs on policies and procedures affecting workloads, servicing of claims, and delivery of checks to beneficiaries abroad. PRI serves as a liaison with high-ranking officials at other U.S. government agencies and the private sector on matters relating to OCS programs, services, and responsibilities.

CA/OCS/PRI was established in 1995. The office is led by a GS-15 director and a supervisory attorney adviser. The director is supported by a GS-14 deputy director/senior policy analyst who assists in the management, program planning, and overall direction of all aspects of PRI's activities and directs the day-to-day operations of the office. The director reports to the CA/OCS managing director and receives policy direction from the CA/OCS Deputy Assistant Secretary.

The office has the following functional groups: Consular law, interagency services, international family law, and crime victim assistance. The functional areas and their major sub-functions are discussed in detail in the report. A full listing of all functions is in Appendix A.

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EXECUTIVE DIRECTION

The dominant issue for PRI during the past three years has been the implementation of the Hague Adoption Convention. More recently the work on new regulations and accession to the convention has become the first priority and the office is imbued with a greater sense of urgency.

To meet the challenge of drafting the adoption regulations, under which the Department will acquire new, domestic responsibilities, the PRI office director recognized the need for lawyers with expertise in state adoption law and procedures in order to produce complex regulations in compliance with the convention and the U.S. implementing legislation. Over time, the director assembled what is now a team of four additional attorneys within PRI to draft the regulations. He earlier played a lead role in an interagency and intra-Department effort to secure consensus on regulations that would permit the United States to move forward to satisfy the requirements that would permit notifying the parties at The Hague of formal adherence to the convention. To respond to the Congressional directive that the Department vigorously solicit public input, the initial stages of this process involved a private contractor who both arranged a series of public meetings and convened a panel of experts in areas such as child welfare, accreditation, and adoption to advise the Department and assist in formulating draft regulations.

Work proceeded for several years, but the passage of time and recent Congressional interest have escalated pressure to complete the current phase - producing a final accreditation regulation. CA leadership has placed a high priority on completing this process. This pressure has had a negative effect on the morale of the attorneys in PRI who have also expressed concern over the process by which L has made changes to the draft regulations while acknowledging L's authority over the final product. In OIG's view, this frustration might have been diminished had they had a clearer explanation of both the clearance process and the extent of L's role in the Department's regulatory process. OIG believes implementation of the Hague Adoption Convention will continue to require a heavy investment of time and energy by CA leadership, PRI, and the Office of Children's Issues (CI) well after the regulations are published and the actual process begins. The expertise of at least some of the team members will be needed for the foreseeable future.

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OIG credits PRI's office director with successfully establishing within his office an entirely new program, an overseas crime victims assistance unit in 2000. This program began with Department of Justice funding for three years for one victim assistance specialist position. The unit is charged with training ACS staff in Washington and consular staff abroad on the federal, state, and local resources available to victims of crime and counseling/follow up with victims upon their arrival home to assure that they are aware of the resources available to them. The unit also conducts regularly scheduled training at the Foreign Service Institute. The unit is a major success - well received by consular staff, who can better assist distressed U. S citizens, and greatly appreciated by Americans who receive assistance.

OIG determined that, despite the challenges of the two new, demanding programs mentioned above, the PRI office director and his deputy assure that its traditional responsibilities are met. Much falls on the deputy director, who also provides institutional memory, derived from more than two decades of overseas citizens services experience, which is highly valued by many in other bureaus and agencies.

CONSULAR LAW GENERALIST ATTORNEY ADVISER TEAM

The consular law generalist attorney team consists of three attorneys, each with a separate portfolio of consular legal issues but who cover for each other as required. They report individually to the PRI office director who reviews their annual appraisals. All three attorneys expressed satisfaction with PRI leadership, ". . . the best boss I have ever had," but universally expressed frustration with the lack of support staff. OIG found this team to be effective and held in high regard within the Department and by other agencies of the U.S. government. This unit's diverse responsibilities are listed in Appendix A.

The team ensures consistent interpretation and application of citizenship laws, judicial rulings, and uniform evidentiary standards by the various geographic units of ACS, posts abroad, and domestic passport agencies. Such standards are particularly important when reviewing findings of loss of nationality from previous years. This unit also adjudicates cases of acquisition and loss of citizenship when cases are submitted for reconsideration or administrative review. In this regard, the team coordinates with the Department of Homeland Security's Office of General Counsel, the Assistant Commissioner for Inspections, and other key Department of Homeland Security offices, and L as appropriate. For example, it negotiated with the Department of Homeland Security on a policy concerning adjudication of acquisition of citizenship claims involving in-vitro fertilization, artificial insemination, and surrogates.

The team administers the service of process provisions of the Foreign Sovereign Immunities Act, regardless of the geographic locale of the defendant foreign state. This function has assumed an increasingly higher profile since the statute was amended to permit suits to be brought against countries engaged in state-sponsored terrorism. PRI leadership believes the office will continue to experience significant workload growth in this area. A senior official in L, who shares subject matter responsibilities with PRI, told OIG that he had a positive working relationship with PRI, praising the capabilities of the director and the experience and knowledge of his deputy, adding that it is, "one of those good and solid, know-what-they're-doing, responsive to others inside/outside of government offices ...that we wish there were many more of around here."

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Working with the geographic desks and L, the unit participates in the negotiation and/or interpretation of consular agreements such as consular conventions, prisoner transfer treaties, stolen vehicle conventions, various multilateral judicial assistance agreements, and treaties related to protection of children. Wider adherence to these treaties greatly enhances the Department's ability to protect and assist citizens, and PRI engages countries in multilateral and bilateral discussions to this end.

The team has three distinct responsibilities with respect to legislative affairs. Responding to frequent requests to OCS to comment on proposed legislation, PRI advises on legal, policy, and operational concerns that ought to be brought to the attention of Congress. Second, in coordination with L as appropriate, the unit provides analysis on interpretation and implementation of recently enacted statutes. Finally, the team is responsible for drafting suggested technical legislation to streamline, make more equitable, or otherwise correct existing statutes affecting consular matters - a function that it has not had time for in recent years.

PRI assists in formulating the U.S. government's response to pending litigation by reviewing facts, explaining operational practices, and drafting legal arguments in conjunction with L. PRI, for example, participated in the recent, successful defense of the constitutionality of Section 309 of the Immigration and Nationality Act¹ before the U.S. Supreme Court.

Another essential element of PRI's work is knowledge management. This includes the complete revision of the 7 FAM and the OCS-related provisions of 22 CFR. In a project begun in 2004, the team has, to date, published more than 700 pages of 7 FAM revisions involving 10 chapters. PRI leadership informed OIG that the projected date of completion of this task is June 2005. Officials in OIG who reviewed the work already completed have commented favorably on its clarity and improvement over the existing 7 FAM. OIG observes that in this instance the clearance process with L has been particularly smooth and efficient. Another senior Department official commented, however, that the drafting of the section on deaths and estates was not advancing at the same pace, because the officer responsible is often selected for other ad hoc assignments and volunteers for emergency temporary duty assignments abroad. OIG believes this may delay the projected overall completion date.

¹Section 309 of the Immigration and Nationality Act refers to children born out of wedlock.

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PRI also has responsibility for drafting regulations required to carry out CA/OCS functions and is in the process of revising all portions of 22 CFR that pertain to OCS functions in order to conform them to legal and policy requirements, reduce the regulatory burden, and to begin compliance with the "plain language" requirement. PRI has not been able to staff this function effectively in recent years, however. Revisions to the death and estates regulations are long overdue, and efforts to undertake a much-needed revision to the nationality regulations have been stalled, even though adverse court decisions make this project particularly important.

A senior L attorney who works frequently with this PRI element, commented that the office was service oriented and cleared material quickly but that it lacked sufficient staff to take the lead on policy issues when to do so was clearly appropriate. In that regard, OIG observed that one of the three attorneys is part-time and that the responsibilities of the unit are both expansive and complex and will continue to grow. Further, the three officers do not have sufficient administrative support, so a portion of their valuable and limited time is spent faxing, scanning, and filing. OIG understands there is a request pending for a paralegal position for this unit to conduct research and assist with support functions. A request for an additional full-time attorney was dropped from the bureau's most recent Bureau Performance Plan.

Recommendation 1: The Bureau of Consular Affairs should create a paralegal position to support the consular law generalist team. (Action: CA)

Recommendation 2: The Bureau of Consular Affairs should include a request for a third full-time attorney position for the unit in the bureau's next Bureau Performance Plan. (Action: CA)

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INTERAGENCY SERVICES TEAM

PRI serves as liaison with other U.S. government agencies and the private sector on matters relating to several federal programs, services, and responsibilities. The office represents the Department in meetings and negotiations with other government agencies. The interagency liaison and federal benefits roles are somewhat arcane and draw little attention unless there are problems. The work is performed efficiently and the stakeholders, especially the public, are well served.

The office is responsible for interagency liaison with all the agencies listed in Appendix B. OIG focused on evaluating the quality and effectiveness of liaison activities with the agencies having the greatest interaction. PRI provides oversight for all the federal agency programs that pay monthly benefits overseas. In this capacity they work closely with SSA, the Department of Veterans Affairs, the Office of Personnel Management, and some smaller agencies on policies and procedures affecting workloads, servicing of claims, and delivery of checks to beneficiaries abroad. The effective management of the Federal Benefits Program overseas requires extensive resources at posts and in Washington.

PRI received praise for its high quality performance from the SSA representative in charge of overseas operations. The PRI director was praised as very effective. The SSA representative used phrases such as, "...problems are addressed when they arise...he acts as an honest broker during disputes...role played by the PRI director has been critical..." Similarly SSA cited the assistance rendered by PRI in arranging the transfer of SSA personnel assigned as regional Federal Benefits Officers abroad.

SSA is negotiating social security totalization agreements with foreign governments. Totalization agreements have two major objectives: to eliminate dual social security coverage and contributions, which occur when a worker from one country goes to work in a second country, and to prevent gaps in the social security protection of a worker who has divided his or her career between two countries. PRI represents the Department in these negotiations and performs key statutory tasks. After concluding a number of these agreements the process has become relatively routine, but there are still opportunities for misunderstandings and problems. PRI has played a critical role in resolving these problems both with the foreign governments and with U.S. missions.

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SSA also offered the following example as representative of the value PRI adds to interagency agreements:

- PRI has helped expand direct deposit overseas. In September 2001 overseas direct deposit stood at approximately 50 percent. Today it is at 80 percent, two percent more than domestically. The original direct deposit arrangements were through the Department of the Treasury and the Federal Reserve. New arrangements are through correspondence banking. PRI helped broker a deal to get the Department of the Treasury and the Federal Reserve to agree to this change.
- The Department of Veterans Affairs works closely with PRI to resolve issues related to veterans living overseas. These number about 18,000, including 400 World War I widows. Complicated, one-of-a-kind claims are a challenge. The Department of Veterans Affairs representative described cooperation with PRI as excellent and very helpful.

INTERNATIONAL FAMILY LAW ATTORNEY ADVISER TEAM

Five attorney advisers form the international family law team. One of these attorneys currently advises OCS/CI on abduction issues. The other four attorney advisers devote their time entirely to drafting regulations preparatory to the United States acceding to the Hague Adoption Convention. Rarely, if ever, however, have all four been working full time. For much of the time implementing the adoption regulations, effective staffing has been one-and-a-half attorneys. This is a massive undertaking and has absorbed much of the energy and many of the resources of PRI, and CI, as well as significant resources from the visa office, the Department of Homeland Security, and L/CA.

The United States signed the Hague Adoption Convention in 1994, and it was transmitted to the Senate in 1998. Congress passed implementing legislation, the IAA. At approximately the same time, the Senate gave its advice and consent to ratification. The United States will not, however, formally ratify the convention until it is able to carry out its responsibilities. Accordingly, extensive changes are needed to preexisting regulations in order to enable the Department to fulfill its entirely new responsibility for designating accrediting entities to, in turn, accredit adoption agencies. Once accredited, the agencies will be authorized to arrange international adoptions of children living in countries party to the Hague Convention.

The IAA significantly changes current visa law on eligibility and procedures for adoption. It further requires that adoptions, both to and from the United States, be tracked and reported. Most of these new regulations are specific to the adoption of children from countries party to the Hague Convention and are not relevant to adoptions in nonparty countries. Currently only about 10 percent of all overseas adoptions by American parents occur from Hague Convention countries. This number is expected to grow as additional countries accede to the convention including major adoption sources like China and Russia.

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The Hague Convention and the IAA contain several unique features. Regulations must be promulgated governing the accrediting entities as they perform the function of accrediting adoption service providers, and new visa regulations must be created for Hague adoptions. The IAA included special provisions requiring preliminary consultation with the adoption community in connection with developing the proposed accreditation regulations. Because the accreditation regulations were outside the prior experience and capacity of the Department, CA started this project by hiring a contractor to consult with the public and develop a notional draft of the regulations. It also brought in attorneys from the Department of Justice and private practice with expertise in state adoption law and children's issues to turn the contractor's draft into an actual proposed regulation. The proposed regulation was published in the *Federal Register* in September 2003 beginning a 90-day public comment period.

Over 1500 comments were received. PRI had the lead in drafting the proposed regulations, in responding to the public comments, and in revising the final regulations. The draft regulations are being shared with the Department of Homeland Security, the Department of Health and Human Services, and the Office of Management and Budget and, perhaps most crucial, must be formally cleared by L/CA.

The above process had a number of distinct phases: (1) the period of consultation with the adoption community, in which the contractor had the lead and was charged with developing a notional proposed rule and held "progress report" meetings with representatives of CA and L/CA; (2) a period in which a PRI-led "working group" reviewed the contractor's notional draft for purposes of making the broad decisions necessary before it could be converted into a draft proposed rule, and a PRI attorney worked on developing the actual draft; (3) a period in which the draft proposed rule went through legal review and revisions for formal L/CA clearance; (4) the public comment period; and (5) a period of evaluating the public comment and preparing the final rule.

When the draft rule was given to L for formal clearance (phase 3 above), it became the subject of exhaustive, full and frank discussions between PRI lawyers and L/CA, which required numerous changes in the regulation to meet rulemaking requirements and complete the required final clearance. PRI lawyers came to this process inexperienced in drafting regulations - particularly regulations of this magnitude and nature - and unfamiliar with the Department's procedures for drafting and clearing regulations and memoranda. The use of decision memoranda

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to define policy issues and seek senior management's approval was not well understood. This has been the source of considerable frustration. In addition, it appears that considerable confusion arose during the first two phases of preparation of the regulation - i.e., the period when the contractor was working and the "working group" period - about the degree of review required of the contractor's work product. Time has been wasted due to the sometimes-strained relationship between L/CA and PRI. Limited staffing and the need to resolve difficult legal and policy issues also lengthened the time needed to complete the project.

Almost five years have passed since the IAA became law. There is a general impression that the process of creating regulations and beginning Hague adoptions is taking too long. CA management has responded and is pushing all concerned to complete the rulemaking process this year. This push has created or added to tensions in the working relationship between PRI and L/CA. L/CA has worked to ensure that CA's front office is fully informed of the policy issues presented by the regulation and, in response to the CA front office's desire to expedite the process, has redrafted PRI's work as necessary to get the regulation as quickly as possible to a point that L could clear it for publication.

At the time of the inspection drafting was nearly complete, and CA hoped the final regulations would be published in the near future. After the required comment period, PRI and CI, acting as the U.S. Central Authority for the Hague Adoption Convention, will move to the next phase of negotiating agreements with the accrediting entities. These agreements will allow the accrediting entities to select adoption service providers who will be accredited to arrange adoptions in other countries that are party to the convention. It is unlikely that this process will proceed without controversy and some delay. Inevitably, some of the stakeholders will feel they are losers in this process. Appeals to Congress and litigation seem almost inevitable. There will also be technical questions to be resolved and liaison with the Hague staff and the central authorities of other signatory countries. All of this will require the attention of attorneys completely comfortable with the regulations, but it is unclear how much work there will be or how it will be allocated. Current plans are to reduce the size of the staff of attorneys once the regulations are published, retaining a small specialist staff in CI to negotiate the agreements with the accrediting entities, oversee the accrediting of adoption providers, and maintain the accreditation process in the future. OIG believes the workload will be more complex, and much more intense, at least for the foreseeable future and will require more resources either in PRI or CI.

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The Hague Adoption Convention, once in force for the United States, will likely generate significant additional legal work for the Department, including supporting litigation efforts of the Department of Justice. OIG believes overseeing the accrediting entities and the providers will continue to create a significant workload, and the process will not be without controversy, particularly in the early years.

Recommendation 3: The Bureau of Consular Affairs should analyze the need for and plan to maintain staffing levels and expertise in the international family law team as necessary to ensure adequate support for oversight of implementation of the Hague Adoption Convention accreditation regulations. (Action: CA)

CRIME VICTIM ASSISTANCE TEAM

Established in 2001, the crime victim assistance team has rapidly gained the respect of consular officers for its training program and assistance in specific cases. It is charged with improving the Department's ability to assist U.S. citizens who are the victims of crime or terrorism while living or traveling abroad. The team has designed several training programs that vary in length and are conducted at posts, at regional conferences, and at the Foreign Service Institute. It also provides caseworker assistance to country officers in CA/OCS/ACS, handle specific individual cases, and helps identify financial and other programs at federal or state levels. The team gathers information from other federal agencies and victim's services agencies to ensure that accurate data is available about services to help victims and their families cope with the physical, psychological, and financial impact of terrorism and violent crime, and provides training to consular officers, Foreign Service nationals, other federal agency coordinators, and nongovernmental organization personnel. OIG believes that this program is a success. It has been well-received by victims and their families, and consular officers now have access to additional resources in aiding Americans in distress.

The team is located in CA/OCS/PRI. When it was created, it was expected to expand and become a separate unit in CA/OCS. Congress did not fund an expansion, and a three-person unit was too small to become a separate office. The team remains in PRI and is supervised directly by the office director. It is partially funded by the Department of Justice by way of a renewable interagency agreement. The initial position was funded by the Department of Justice for three years. That position was subsequently taken over by the Department. A second position is funded by the Department. A third position initially funded by the Department of Justice for three years will likely become the responsibility of the Department at the end of this fiscal year. The Department of Justice also funds one domestic crime victims training program per year but expects this funding responsibility to transfer to the Department in the near future. The Department funds one additional domestic training program and two more overseas training programs.

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Two of the three employees have identical position descriptions. One officer, however, focuses primarily on training and another focuses primarily on researching and identifying resources worldwide and on casework. The casework has increased as awareness of the existence of this program spreads, and this trend is expected to continue. The newest officer, when trained, will focus primarily on casework.

The work of the team is conducted in support of Americans who become victims of crime or terrorism while abroad. It is more closely related to the support provided by CA/OCS/ACS than it is to the functional responsibilities of CA/OCS/PRI. The position descriptions state in part, "...ACS and CI typically respond to case generated specific problems, PRI participates in formulating policies relating to emergency and nonemergency services to Americans residing or traveling abroad...PRI provides legal and technical guidance relating to programs..." Based on these criteria, and on the increasing emphasis on casework in the unit, OIG concluded that the functional responsibilities are now operational and, therefore, do not belong in PRI.

The workload is growing. The staff has received compliments for providing training and support for this important consular function. Kudos for the training run from comments like, "...great session..." to, "...helpful and fine presentation." One consular officer was effusive about the quality of follow up on a sensitive case. He said, "It is very rare that we know what happens after people get back to the U.S. Knowing certainly helps me take our actions here out of a mainly theoretical framework, and helps ground them in the reality of what happens once they get back to the U.S." Although CA has decided that the staff size is too small to support an independent unit within CA/OCS, that decision should be revisited as the workload continues to grow.

Recommendation 4: The Bureau of Consular Affairs should move the crime victim assistance team and responsibilities from the Office of Policy Review and Interagency Liaison to Overseas Citizens Services, Office of American Citizens Services. (Action: CA)

MANAGEMENT ISSUES

In a relatively short period of time, PRI has added two high profile functions with new and unique responsibilities and doubled its staffing. The international family law attorney team, which has the lead role in the drafting of implementing regulations for the Hague Adoption Convention, currently has four direct-hire attorneys who are all new to the Department. Two are from the private sector and focus on adoptions. A fifth attorney, who is from the private sector but has Department experience, focuses on child abduction. Similarly, all three of the officers who staff the crime victim assistance team are from outside the Department.

The new staff are talented and dedicated, but OIG determined that some were put to work without being fully indoctrinated into department procedures or, in the case of Hague implementation attorneys, a clear understanding of departmental equities in the process. Those omissions have led to misunderstandings that have slowed the process. While time and frustration have provided that much-needed experience, staff members who have not yet been enrolled in the Civil Service orientation course and consular training should be scheduled for training. Efforts should be undertaken by senior management to recognize the expertise and contributions made by attorneys working on Hague implementation and provide a clear understanding of why the process has taken its current path. This will help address the frustrations noted by OIG during the inspection. In OIG's view the team's expertise and dedication will be further required after accession, when implementation commences.

Recommendation 5: The Bureau of Consular Affairs should ensure that new Civil Service employees are enrolled in the Civil Service Orientation course and consular training. (Action: CA)

A major problem OIG found was the lack of clarity in the relationship between PRI and L/CA in the drafting, clearing, and approving of regulatory language. This working relationship has been problematic in the past, but the demands of the current efforts to draft regulations necessary for implementation of the Hague Adoption Convention have exacerbated the impact. There clearly were misunderstandings surrounding the initial processes of public consultation, CA's use of a

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contractor, and the working group that developed the initial draft of the proposed rule. Since late 2001, to avoid any confusion about L/CA's clearance, L/CA's comments have been cleared with the assistant legal adviser prior to transmittal to PRI with L/CA at times providing detailed written explanations of the reasons for its changes. Nevertheless tensions remain. While this part of the process is close to completion, the working relationship between PRI and L/CA in this area must be addressed at an appropriate level to avoid similar problems in the future.

Recommendation 6: The Bureau of Consular Affairs, in coordination with the Office of the Legal Adviser, should agree to guidelines governing the working relationship between the Office of Policy Review and Interagency Liaison and the Office of the Legal Adviser. (Action: CA, in coordination with L)

The PRI attorneys are all assigned to attorney adviser position descriptions written and classified in 1998. OIG found several issues with the grade structure and the position descriptions. The grade structure provides a career ladder only to the GS-13 level. No convincing reasons were provided for this limitation. The grades were determined in 1998 when work requirements were very different. The attorney adviser positions in the Department that are outside of L are few and represent highly specialized areas. The position descriptions for PRI attorneys do not reflect present day standards, are not reflective of career potential similar to other attorney advisers in the Department outside of L, do not reflect L's general supervisory role, and therefore warrant a comprehensive review.

Recommendation 7: The Bureau of Consular Affairs, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should rewrite the attorney advisor position descriptions for Bureau of Consular Affairs attorneys and submit them to the Bureau of Human Resources to review for possible reclassification. (Action: CA, in coordination with DGHR and L)

FORMAL RECOMMENDATIONS

- Recommendation 1:** The Bureau of Consular Affairs should create a paralegal position to support the consular law generalist team. (Action: CA)
- Recommendation 2:** The Bureau of Consular Affairs should include a request for a third full-time attorney position for the unit in the bureau's next Bureau Performance Plan. (Action: CA)
- Recommendation 3:** The Bureau of Consular Affairs should analyze the need for and plan to maintain staffing levels and expertise in the international family law team as necessary to ensure adequate support for oversight of implementation of the Hague Adoption Convention accreditation regulations. (Action: CA)
- Recommendation 4:** The Bureau of Consular Affairs should move the crime victim assistance team and responsibilities from the Office of Policy Review and Interagency Liaison to Overseas Citizens Services, Office of American Citizens Services. (Action: CA)
- Recommendation 5:** The Bureau of Consular Affairs should ensure that new Civil Service employees are enrolled in the Civil Service Orientation course and consular training. (Action: CA)
- Recommendation 6:** The Bureau of Consular Affairs, in coordination with the Office of the Legal Adviser, should agree to guidelines governing the working relationship between the Office of Policy Review and Interagency Liaison and the Office of the Legal Adviser. (Action: CA, in coordination with L)
- Recommendation 7:** The Bureau of Consular Affairs, in coordination with the Bureau of Human Resources and the Office of the Legal Adviser, should re-write the attorney advisor position descriptions for Bureau of Consular Affairs attorneys and submit them to the Bureau of Human Resources to review for possible reclassification. (Action: CA, in coordination with DGHR and L)

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INFORMAL RECOMMENDATIONS

Informal recommendations cover operational matters not requiring action by organizations outside the inspected unit and/or the parent regional bureau. Informal recommendations will not be subject to the OIG compliance process. However, any subsequent OIG inspection or on-site compliance review will assess the mission's progress in implementing the informal recommendations.

PRI processes large numbers of documents, some quite substantial in length, both coming from and going to members of the public as well as interested governmental and nongovernmental organizations. The office also deals with over 200 posts abroad. PRI currently has only one old, breakdown-prone copy machine, one old fax machine, one scanner, and no CD ROM burners. This equipment is inadequate for the volume of documentation handled by PRI.

Informal Recommendation 1: The Bureau of Consular Affairs should provide the Office of Policy Review and Interagency Liaison with a new copy machine, an additional document scanner, a new fax machine, and three CD ROM burners.

Recently hired attorneys in PRI do not have a clear grasp of Department process, which has undermined their effectiveness.

Informal Recommendation 2: The Bureau of Consular Affairs should develop a program to ensure that new professional staff members receive orientation about the Department.

Due to the press of business, a number of the recently hired attorneys have not been able to complete the consular course at the Foreign Service Institute.

Informal Recommendation 3: Priority should be given to ensuring that staff members complete the entire Foreign Service Institute consular course.

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PRINCIPAL OFFICIALS

Deputy Assistant Secretary for Overseas Citizens Services	Catherine Barry
Managing Director	Alice Moore
Office Director	Edward Betancourt
Deputy Office Director	Monica Gaw

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ABBREVIATIONS

ACS	Office of American Citizens Services
CA	Bureau of Consular Affairs
CI	Office of Children's Issues
Department	Department of State
IAA	Intercountry Adoption Act
L	Office of the Legal Adviser
OCS	Deputy Assistant Secretary Overseas Citizens Services
OIG	Office of Inspector General
PRI	Office of Policy Review and Interagency Liaison
SSA	Social Security Administration

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APPENDIX A

Consular Law Generalist Attorney Adviser Team

Foreign Sovereign Immunities Act Program
Citizenship and Nationality Laws and Regulations
Arrest Consular Notification and Access and the Death Penalty
Knowledge Management Project (7 FAM, 22 CFR, Intranet, Internet, E-Files)
Family Notification Act Program - Declassification of Documents for Release to Families of Victims of Terrorism
Prisoner Transfer
Notarials and Authentication
Policy, program analysis, and planning
Legislation
Treaty negotiation and interpretation
Litigation
Advisory Opinions
MOUs on Areas of Major Significance
Uniform guidance to U.S. embassies on OCS policy, programs, and services
Unified Agenda, Regulations, Foreign Affairs Manual
Uniform Evidentiary Standards and Consistency of Policy Interpretation
Consular Testimony and Release of Records: Touhy Regulations and Consular testimony
 in U.S. courts; Immunity and Consular Testimony in foreign courts;
 Service on the United States in litigation in U.S. and foreign courts;
 Formulating the U.S. government's response to pending litigation;
Developing strategies for long range CA Bureau, Department and Mission planning on OCS issues
Paperwork Reduction Act and Government Paperwork Elimination Act Program

International Family Law Attorney Adviser Team

Hague Adoption Convention Implementation Legislation
Treaty negotiation and interpretation
Treaty Implementation Project
Hague Abduction Convention

Interagency Services Team

Federal Benefits Program
Aviation Interagency Liaison, Legislation and Regulations
Liaison With Other Agencies and Private Sector Counterparts
Privacy Act and Freedom of Information Act Administration
Developing interagency policy coordination and providing a consular perspective on overall bilateral and multilateral issues, such as law enforcement, antiterrorism, and other consular related matters.
Liaison with U.S. government agencies, nongovernmental organizations, congressional staff, private sector representatives and other concerned parties

Crime Victim Assistance Team

Crime Victim Assistance Program

APPENDIX B

Social Security Administration
Department of Veterans Affairs
Treasury Department
Office of Personnel Management
Railroad Retirement Board
Labor Department
Justice Department
 Criminal Division, Office of Enforcement Operations, International
Prisoner Transfer Unit
Criminal Division, Office of International Affairs
Civil Division, Office of Foreign Litigation
Office for Victims of Crime
Office of Juvenile Justice and Delinquency Prevention
Child Exploitation and Obscenity Section
Department of Health and Human Services
 Office of Refugee Resettlement (Repatriation)
 Office of Child Support Enforcement
Federal Bureau of Investigation
 FBI Office for Victim Assistance
 FBI Criminal Justice Information Services Division
Department of Homeland Security
 Citizenship and Immigration Services
 Immigration and Customs Enforcement
Internal Revenue Service
U.S. Census Bureau
National Transportation Safety Board
FAA