

TESTIMONY OF

CATHERINE A. LILLIE

DIRECTOR, HOLOCAUST CLAIMS PROCESSING OFFICE

On behalf of the

NEW YORK STATE BANKING DEPARTMENT

before the

SUBCOMMITTEE ON DOMESTIC AND INTERNATIONAL MONETARY
POLICY, TRADE, AND TECHNOLOGY

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Good morning Madam Chairman Pryce, Ranking Member Maloney, and Members of the Subcommittee. Thank you for this opportunity to testify before you today on Holocaust-era asset restitution. The New York State Banking Department has ten years of hands-on experience working with and advocating on behalf of claimants seeking the return of assets lost, looted or stolen during the Holocaust.

Permit me at the outset to take a step back to recount the reason I am here and to summarize the Banking Department's involvement in these issues since 1996, when the world finally began to pay attention to the fate of assets deposited in Swiss financial institutions. Governor Pataki, at the urging of then-Superintendent Neil Levin, encouraged the Banking Department to use its influence, expertise and international reach to help rationally resolve these emotionally charged and politically complex estates.

The Department has been actively committed ever since, first with our investigation into the wartime activities of the Swiss banks' New York Agencies and then with the establishment in 1997 of the Holocaust Claims Processing Office, as a separate and unique division within the Banking Department. Our involvement was extended further still the following year, with the establishment of the International Commission on Holocaust Era Insurance Claims, also a legacy of the late Neil Levin. Ultimately, the Department took on the task of assisting claimants in their quest for works of art lost, looted or stolen during the Holocaust.

The HCPO has a long tradition of quality and substance. It remains the only government agency in the world to offer Holocaust survivors or the heirs of Holocaust victims and survivors assistance with a vast array of multinational claims processes at no cost. To date, the HCPO has received approximately 5,000 claims from 48 states and 37 countries, and has secured the return of more than \$55 million as well as 13 works of art. The knowledge and assistance of the HCPO staff have alleviated burdens and costs often incurred by claimants who attempt to navigate the diversity of international claims processes by themselves. Our successes are a direct result of the importance attached to and attention paid by the HCPO to individualized analysis of claims. There is no fee for a claimant to utilize our services, nor is a percentage of the value of the assets retrieved taken by the HCPO. All of our services are provided free of charge.

Since September 15, 1997, the Holocaust Claims Processing Office has worked daily with Holocaust survivors and the heirs of Holocaust victims and survivors. Many of the claimants we work with have lost everything and everyone in the Holocaust and its aftermath – resulting in the need for archival and genealogical research to confirm family relationships and to

uncover details regarding the fate of many original owners. A vivid example of the complexities of the claims process is the research the HCPO did for the Claims Resolution Tribunal in Zurich, Switzerland, which sought the heirs to Nettie Koenigstein, a U.S. citizen residing in Vienna at the time of the Anschluss, who committed suicide in 1938. It took the HCPO 18 months to trace her heirs – through a number of Central European and Scandinavian locations, concentration camps, post-war name changes, and the likes; all told, a total of 16 separate archival inquiries to secure municipal birth, death and probate records, as well as copies of wills and certificates of inheritance.

This is the undeniable reality of the Holocaust: when family, friends and neighbors are murdered, when entire communities perish, there is often no one that one can turn to for documentation or assistance with establishing the facts. Based on the HCPO's work, I know only too well how difficult this path has been and how unbearably long the wait for justice can be.

Moreover, true to its mission the HCPO has over the past decade worked directly and intimately with almost all restitution and compensation processes in existence today. As a result, the HCPO has close working relationships with archival and historical commissions, financial institutions, trade associations, and its colleagues in federal, state and local governments in Europe – simply because many claimants are dependent on the information still available in the banks, insurance companies, museums, records of art dealers, or archives to supplement their memories.

At the same time, many claims processes have sought the HCPO's advice. These include, but are not limited to: the Claims Resolution Tribunal in Zurich, Switzerland; the International Commission for Holocaust Era Insurance Claims in London, England; the International Organisation for Migration in Geneva, Switzerland; and the General Settlement Fund in Vienna, Austria.

From the vantage point of today's hearings, you may be most interested in the work the HCPO did with the American Association of Museums. The AAM worked closely with the HCPO and drew heavily on the HCPO's technical expertise and experience with claimants when creating their Web portal of all art objects in U.S. museum collections that changed hands in Continental Europe from 1933-45.

The HCPO was able to provide essential details about looted art claims, and the information available to claimants as compared to the information available to museums. In the same way that no two claims are the same, no two museums will have the same level of information available, let alone available electronically. In close cooperation with the AAM, the HCPO sought

to find a workable common denominator acceptable to all parties. While far from perfect, it does allow claimants, claimants' representatives, researchers and advocates in the field far greater access to information on more than 18,000 objects currently held in 151 US museums.

In that same spirit, the HCPO has worked with the Conference on Jewish Material Claims Against Germany, the Museums Association of New York and the New York City Bar Association to address concerns that Senate Bill 7677, an act to amend the education law in relation to property of certain museums intended to address situations that arise when property is loaned to museums for extended periods of time, did not adequately protect the rights of Holocaust victims or their heirs. Similar bills had been vetoed by Governor Pataki twice before, given that the bills' previous provisions to allow museums to obtain title to property in their possession would have had the effect of depriving Holocaust victims or their heirs of art or other objects of historic, scientific, or cultural value stolen during the Holocaust-era. In cooperation with the museum community and survivor representatives, the HCPO secured a workable alternative that meets everyone's needs.

Put another way: almost all paths to restitution and compensation for Holocaust-era assets have converged at the HCPO at one point or another [see *Appendix 1: Best Practices in Holocaust Era Claims Restitution, New York State Banking Department Research Paper, May 2005*]. Throughout, the HCPO has had one single purpose: to resolve claims as promptly as possible, and in a sensitive manner given the singularity of the events that preceded them. The passage of time, the ravages of war, the lack of documentation, and the mortality of claimants make this a complex task. In all asset restitution efforts, but particularly in the looted art arena, claimants' memories are of significant importance. Claim forms, regardless how well drafted and exhaustive, are incapable of eliciting all the details required for the complex research that inevitably follows.

Therefore, regular claimant contact is essential as it encourages active participation, spawning greater claimant confidence in the restitution process. Such personal contact can, however, also be highly distressing for claimants. Responding to follow-up questions about a world that was so violently destroyed and being asked to remember loved ones who perished in appalling circumstances can be akin to navigating an emotional minefield. In order to be effective, those directly working with claimants must recognize the singularity of the historical context and the special needs of this particular claimant population.

The HCPO owes its successes to a dedicated team of multilingual and multitalented professionals. Possessing a broad and non-traditional legal,

historical, economic and linguistic skill set, coupled with the ability to communicate with and conduct research in a vast number of European government and private offices, the HCPO staff research, investigate and secure documentation, building upon the foundation provided by claimants. This multi-faceted approach is critical: art claims will more often than not contain documents in a multitude of languages; the circumstances of the seizure may necessitate social, business, economic as well as art historical research. Tracing the time and place of subsequent sales, and testing different hypotheses of how these items might have entered the various parts of the art market, provide critical clues.

Let me try and illustrate this process with an example of an early HCPO success. I should note that this claim, and its settlement, predates the Web portal's existence. In February 1999, two octagenarian sisters in Vienna, Austria, sought the HCPO's assistance in locating and securing the return of their great uncle's pre-war art collection. The sisters sought the return of 45 paintings. Their documentation was exceptional; together with local researchers in Austria they were able to show the seizure of the collection by the Gestapo, and its initial dispersal. What they did not know, was what had subsequently happened to the items.

Together with the Commission for Art Recovery of the World Jewish Congress, the HCPO located one of the paintings -- a Madonna and Child painted by Lucas Cranach the Elder -- at the North Carolina Museum of Art, and reached out to the curators of this public collection in Raleigh, NC. The HCPO was able to show exactly how the painting had been dispossessed, but we had no information about the events subsequent to the spoliation. For that we had to rely on the museum and its records. In an example of collegial and constructive cooperation, the museum, which was initially shocked that the star of their Northern European collection was looted, worked hand in glove with the HCPO to educate its stakeholders, for whom it was understandably difficult to grasp that a painting bequeathed to their institution in 1984 could have such a shocking provenance. The documentation located in the Austrian archives went a long way to demonstrate the pre-war and war-time ownership history; the challenge was to explain that, regardless of the paucity of post-war records, the post-war transactions, including the ultimate bequest to the North Carolina Museum of Art, were tainted, essentially making the North Carolina Museum of Art an innocent victim at the end of a chain of transactions. Never losing sight of its fiduciary responsibility to the citizens of North Carolina, this public collection found a way to settle with the heirs of the original owner, Phillip von Gomperz, while still retaining the painting for North Carolinian art lovers.

Let there be no mistake about it. Even with such complete documentation as was available in the North Carolina case, art claims such as these are a time-consuming task, and the paucity of published records often complicates matters further. Much like the widely publicized return of Maria Altmann's Klimt paintings by the Republic of Austria after a 6-year battle that included a US Supreme Court decision, a Cranach is a significant work; the odds of there being academic publications, which serve as vital tools in our research efforts, are high.

But the Nazis did not limit their spoliation to museum quality pieces. Ordinary middle class collections, second-tier painters, decorative arts, tapestries, antiquities as well as Judaica were looted. In some of these areas the art historical literature is anything but deep. To complicate matters further, information, much like the objects themselves, has often ended up scattered all across the globe.

Claimants seeking the return of such low monetary value, but high emotional and spiritual value items face daunting hurdles, given the lack of historical significance, not to mention the enormous logistical and legal challenges. Again, an example of a more recent HCPO success might help illustrate this further. In late 1999, the Wesel-Bauer family in Brooklyn, NY, approached the HCPO about a piece of Judaica - an embroidered Torah cover the family had located in the Jewish Museum in Vienna, Austria. They presented this as a last ditch attempt, filed only because the HCPO's successful conclusion of their other Holocaust-era asset claims had given them hope. They had little by way of documentation, other than the vivid recollections of a 90+ year old Viennese survivor in Brooklyn, and his sister.

The claimants had discovered the item by accident, when family members happened to be traveling through Vienna and had visited the museum. The inscription on the Torah cover was distinctive: originally commissioned by a grateful wife to commemorate her husband's safe return from the killing fields of World War I, and inscribed with his name. It was used by the family to their small synagogue, *Marpe Lanefesch*, in the backstreets of Vienna's second district. Barely twenty years later, no effort was too great for the Nazis bent on destroying Judaica, along with the rest of Jewish Vienna.

We know little about the Torah cover's fate, let alone how it survived. We do know, however, that there were some in Vienna who cared. Max Berger, himself a Holocaust survivor, returned to Vienna after World War II and actively bought Judaica. He did so in an effort to salvage what was left of Jewish life, at a time when there was little to no local interest in the items he was acquiring. After his death in 1988, the City of Vienna purchased his collection for a planned museum, which opened its doors in 1990.

The Berger Collection is a focal point of the Jewish Museum Vienna, and is where, in 1999, the daughter, herself a survivor of the Holocaust, found the Torah cover commemorating the father's survival in World War I. Logically, the daughter of the man whose survival it specifically commemorates by name sought the Torah cover's return. Yet it still took almost six years of negotiation before the Torah cover, which shares with its congregation the miracle of survival, arrived on New York's shores.

Without the HCPO's contacts in Central Europe, we could not have secured the return of this item, for which initially we had no documentation, only the recollection of those who had seen it at prayer in pre-war Vienna and who, when they closed their eyes, could still recite the embroidered dedication. In close cooperation with local Austrian researchers, the HCPO was able to document the loss - but museums are not in the business of deaccessioning items, which may be part of why it took almost six years, and why the return was ultimately decided in the political arena. The Torah cover's inestimable emotional value is without question, but without the HCPO, where would claimants have gone for help, given its limited monetary value?

As these two examples show, this is piecemeal work, which unlike claims for financial assets such as bank accounts or insurance policies, does not lend itself to wholesale, centralized settlements. Instead, given the individualized nature of these cases, they must be painstakingly resolved painting-by-painting, object-by-object, Torah cover by Torah cover.

The publication of provenance information is critically important to our endeavors as is the ease of access to such information. As we work to piece together each claim's complex mosaic, accessibility is paramount. The AAM's Web portal is an excellent illustration of what is possible. While far from perfect, it is a major step in the right direction, currently allowing 151 museums to make their provenance research available via a single point of entry, with more museums joining all the time as evidenced by the Claims Conference's recent report: *Nazi-Era Stolen Art and U.S. Museums: A Survey*. Web-based access to data is a model that works well. Similarly, the Dutch Ekkart Committee, via the Origins Unknown Project, compiled and published provenance information into a searchable database available on-line, which has made it possible for HCPO claimants to locate both items and information leading to other related items.

In this context particularly, the advantages of inter-agency cooperation cannot be stressed enough. We must all endeavor to prevent isolation and remove information silos often encountered in large-scale, complex and multi-location claims processes. The immediacy of e-mail and the ability to

schedule regular conference calls to enable discussion and information-sharing by cross-functional teams have become fundamental building blocks for effective open communication across time zones as well as specializations.

There remains of course a significant difference between the work done by museums and public collections, and that which is available for private collections and the art market as a whole. The Cranach and the Torah cover mentioned earlier are good examples of how claimants can work with public collections in vastly different places such as the U.S. and Central Europe. There have been many other similar examples; the HCPO has excellent working relationships in particular with German and Dutch museums, curators, and archivists.

The issue becomes trickier once claimants locate items in private collections or indeed in the art market. Sale rooms have learned much in the past decade, and certainly the large auction houses have dedicated staff who work well with the HCPO and our claimants to determine whether items submitted to auctions have a problematic provenance. Smaller sale rooms both in the US and Europe still need encouragement and education. Not all are as willing to pull lots from sales when questions arise. Few are sensitive to the labor-intensive and therefore time-consuming research these cases require. As a result, the HCPO still finds more resistance to clarifying title in these contexts than we would like to see.

Having said that, not all is negative: we have had two cases in recent years that can be cited as model responses by private owners. Both paintings were originally part of Dr. Ismar Littmann's Collection in pre-war Breslau; both were subject of a forced sale in 1935. One painting, *Portrait of Charlotte Corinth* painted by Lovis Corinth, went from the 1935 forced sale to the Berlin National Gallery, and from there was purchased by a dealer in 1940. Ultimately, the painting surfaced in November 2000 in an auction in Germany, identified as the property of the Hamburger Landesbank; the private owner had defaulted on a loan, the painting was collateral. At the HCPO's request, the painting was pulled from the sale, and ultimately returned to the Littmann heirs.

The other painting, *La Procession* by Adrion, was returned by the Ernst Strassmann Foundation in Germany, part of the Friedrich Ebert Stiftung, who had consigned it to a German auction house in 2002. Located by the Art Loss Register in that sale, and despite extensive provenance research, it remains unclear how Ernst Strassmann came to possess the painting. Nonetheless, the Foundation acknowledged the 1935 sale as a sale under

duress, and thus null and void, and returned the painting to the heirs of Dr. Littmann.

Unfortunately, these are the exceptions that prove the rule. We are currently struggling with a number of other cases in Germany and the United States where the auction houses and private owners have seen fit to take a very different (and to our mind overly legalistic and therefore less helpful) view. So continued education of active market participants remains a critical piece in all this, if buyers and sellers are to understand and ultimately accept that transactions conducted in seemingly good faith many years ago may nonetheless be questionable.

Rather than resort to litigation, which comes with its own challenges given the conflicting local laws that might apply, the HCPO prefers to encourage all parties to seek resolution outside the courts. The reasons are manifold, and not just limited to the potential conflict of local laws that may or may not apply, depending on the items' transaction history. Litigation presents other challenges as well. For a start, attorney's fees can exceed the value of the item. Resolutions are unpredictable, possibly cash-driven, and not always amicable. Moreover, litigation brings with it the risk of making these claims a public and emotionally wrenching affair. Instead, the HCPO urges cooperation between parties – by means of clearly, objectively, and convincingly presenting claims outside of the courts– so that claims can be resolved while the current generation of claimants is still with us.

In closing, I would like to share the following thought. We have a unique challenge in a complex market, but we also have the potential to help so many. If we are to achieve our mission, to settle claims for Holocaust-era assets as accurately, sensitively and as promptly as possible, we must encourage open, transparent cooperation both internally and in the larger universe of Holocaust-era restitution and compensation programs. Cross-functional and interagency dialogue between such claims processes encourages new perspectives, expands and enhances coalitions, fosters partnerships, and ensures a more comprehensive approach. By finding creative solutions and mechanisms, agencies can work together to streamline the prolonged claims process for claimants, many of whom are in their 80s and 90s, and for whom time is a disappearing luxury.

As Shakespeare said: "though patience be a tired mare, yet she will plod". The Banking Department is committed to providing continued institutional assistance to Holocaust survivors and their heirs as they seek the return of what is rightfully theirs. We are grateful to you all here today for your continued interest in these matters. For all that has been achieved in the past eight years since the Washington Conference, much remains to be done. We

owe it to those who perished, not to mention that we owe it to those who live, to leave no stone unturned in our quest for justice.

With increased factual precision comes an historical record less likely to be abused by those determined to deny the Holocaust and the theft that preceded it. Lastly it reaffirms our contemporary respect for claimant dignity – an aspect of the claims process that should not be underestimated when working with survivors of one of the darkest periods of modern history.

Finally, let me return briefly to the Torah cover I mentioned earlier. *Marpe Lanefesch*, the name of the congregation that was in effect the Torah cover's birthplace, translates to "the healing of the soul". How better to summarize what I think our collective intent is: the attempt by a few people committed to doing what is right, rather than what is easy, to repair, to the extent possible, a lasting rend in the fabric of life.

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APPENDIX 1
BEST PRACTICES IN HOLOCAUST ERA CLAIMS RESTITUTION
NEW YORK STATE BANKING DEPARTMENT RESEARCH PAPER
MAY 2005

*The Bellman himself they all praised to the skies –
Such a carriage, such ease and such grace!
Such solemnity too! One could see he was wise,
The moment one looked in his face!*

*He had bought a large map representing the sea,
Without the least vestige of land:
And the crew were much pleased when they found it to be
A map they could all understand.*

*‘What’s the good of Mercator’s North Poles and Equators,
Tropics, Zones, and Meridian Lines?’
So the Bellman would cry: and the crew would reply,
‘They are merely conventional signs!’*

*Other maps are such shapes, with their island and capes!
But we’ve got our brave Captain to thank’
(So the crew would protest) ‘that he’s bought us the best –
A perfect and absolute blank!’¹*

A decade ago, the world finally began to pay attention to the fate of Holocaust-era assets deposited in Swiss financial institutions without a roadmap for any of the processes that have since been established. Looking back, it appears that many of the process designers took the approach espoused by Lewis Carroll’s Bellman, charting unknown territories without reference to parallel efforts underway in Europe and the United States. The result: a complex patchwork of claims processes nigh impossible for claimants to navigate unassisted.

In the last decade of the 20th Century, Governor George E. Pataki, at the urging of then Superintendent Neil Levin, encouraged the Banking Department to use its influence, expertise and reach to help. The Department has been actively committed ever since, first with an investigation into the wartime activities of the Swiss banks’ New York Agencies and shortly thereafter with the establishment of the Department’s Holocaust Claims Processing Office (HCPO). The Department’s involvement has extended further still, with the establishment of the International Commission on Holocaust Era Insurance Claims (ICHEIC), also a legacy of the late Neil Levin.

The HCPO has a long tradition of quality and substance. It remains the only government agency in the world to offer Holocaust survivors or the heirs of Holocaust victims and survivors assistance with a vast array of multi-national claims processes. The HCPO has received 4,767 claims from 48 states and 43 countries, and has secured the return of more than \$40 million as well as 12 works of art to date. The knowledge and assistance of HCPO staff have

¹ Lewis Carroll, *The Hunting of the Snark, Fit the Second, The Bellman’s Speech*

alleviated burdens and costs often incurred by claimants going it alone – not least as a result of the importance attached and attention paid by the HCPO to individualized analysis. All this is provided free of charge.

True to the HCPO's mission and the New York State Banking Department's commitment to continuous evaluation and improvement, over the years the HCPO has worked closely with almost all restitution and compensation processes in existence today. Moreover, the HCPO has close working relationships with archives and historical commissions simply because many claimants are dependent on the records still available in the banks, insurance companies, or archives to supplement their memories.

At the same time, many claims processes have sought the HCPO's assistance and advice:

Special Masters Gribetz and Bradfield sought HCPO assistance with the pilot project that evaluated the use of the Initial Questionnaires received by the Court; the CRT together with Special Master Bradfield conducted a matching exercise that sought to match HCPO claims data to the CRT's Total Accounts Database; the CRT has sought assistance with Swiss Banks' New York Agencies accounts frozen under the Trading with the Enemy Act in 1941; and most recently Special Master Gribetz asked for assistance in locating the heirs to Ms. Nettie Königstein, a US citizen who committed suicide in Vienna, Austria, in March 1938.

ICHEIC has sought technical assistance from the HCPO with a series of large-scale claims review exercises, training of claims processing staff, participation in technical committees such as the Valuation Committee and the Operations Committee, and the 8a2 process.

The IOM sought HCPO assistance with historical and technical research into pre-war banking industry in Czechoslovakia.

The American Association of Museums relied extensively on the HCPO's technical expertise and experience with claimants when creating their Web portal of all art objects in US museum collections that changed hands in Continental Europe from 1933-45.

'You don't know how to manage Looking Glass cakes,' the Unicorn remarked. 'Hand it round first, and cut it afterwards.'²

Almost all paths to restitution/compensation for Holocaust-era assets have converged at the HCPO at one point or another. All this combined makes the

² Lewis Carroll, *Through the Looking Glass*

HCPO the only organization with extensive experience working with and comparing the multitude of restitution processes. The net result is that we see many different angles of the same claim simultaneously, as it is often the (re)search for one asset that leads to the discovery of another. Thus, the HCPO has worked with a host of different claims processes, often for one and the same claimants, and is therefore intimately familiar with the various submission and processing guidelines used by the various restitution and recovery agencies. These efforts on all fronts have sensitized the HCPO to the dangers of duplication of effort and misallocation of resources.

While nearly every restitution and recovery agency shares the same goal, there are as many different ways of reaching for that goal as there are entities involved. In scanning the 360° horizon of the universe of claims, the HCPO has found that so-called *Best Practices* can be identified across the multiple claims processes. No single claims processor has them all, and yet all *Best Practices* have something in common: they have identified their outputs and essentially summarized them as what, when, where, how many and how well.

Successful claims processing entities (or parts of such entities) recognize the importance of clear policies and procedures aimed at encapsulating the purpose of the work to be performed. And they focus on clear internal and external communication, both horizontally across specializations and/or divisions and vertically between management levels and outside stakeholders.

‘Begin at the beginning,’ the King said, very gravely, ‘and go on till you come to the end: then stop.’³

The first step for all processes is to identify the purpose of the work. Across the board, with respect to looted accounts, the stated purpose is to pay as promptly as possible (and in a sensitive manner given the singularity of the events that preceded it) via a process that is respected for its service and sensitivity to the issues. Having stated the purpose, the “processing” work itself is then broken down into the lowest task level, and tasks are linked in a logical flow of activities.

A common starting point is that fundamental information must be solicited from claimants. All processes, regardless of the assets sought, do this via a claim form that seeks similar but not identical information. Forms are of varying length and complexity, with the GSF’s 31-page form (not counting

³ Lewis Carroll, *Alice in Wonderland*

supporting documentation requested) by far the longest. By way of comparison, the 1938 Nazi census of Jewish-owned assets in Austria made do with a four page form. The passage of time, the ravages of war, the lack of documentation, and the mortality of claimants makes longer claim forms almost inevitable. And yet, even the most encompassing claim forms cannot, by definition, elicit all details required for the complex research that inevitably follows.

Therefore, further claimant contact is necessary in all processes; in fact it is highly desirable, given that it encourages greater participation (and therefore potentially greater confidence) in the restitution process. Such contact can, however, also be highly distressing for claimants; responding to follow-up questions about a world that was so violently destroyed and loved ones who perished in appalling circumstances can be akin to navigating an emotional minefield. This is true not only of Holocaust survivors, but also of second generation claimants.

Best Practice: Given this, all claims processes bar one (the CRT) have found that communicating with claimants in writing is not only less burdensome and more sensitive, but also makes for greater accuracy in responses, with the added advantage that it provides a written record (and therefore greater accountability for all involved).

Telephone calls to claimants create vastly distorted expectations: a sense of urgency and immediacy that even the most efficient of claims processes cannot live up to. Given that most processes are not accessible to claimants via the telephone (the oft-lamented fact that decision-makers are singularly unavailable to claimants) telephone calls from claims processors exacerbate claimants' sense of powerlessness and inequity.

EPCAP has gone one step further, collating information sought by their decision makers via the HCPO. More often than not, supplementary information sought either already resides in the HCPO's related files or the HCPO's experience allows for a more accurate, timely and streamlined response when additional information or research is needed.

Having collected the relevant information, claims processes must then incorporate the results into their respective systems to fulfill their mission. In order to do this effectively, an accurate and realistic work profile is critical – both for the claims processing entities and those stakeholders in the process that do not make award determinations, e.g. government entities such as US regulators, partner organizations such as the German Foundation, or survivor representatives such as the WJRO. Information technology is an important component here, as it can offer a relatively easy way of compiling workload data to help define necessary steps and communicate progress to stakeholders, partners, claimants and the general public.

Best Practice: ICHEIC provides a monthly report to US regulators that summarizes stage and status of all claims filed by US residents, and/or via a US regulatory office such as the HCPO.

This permits stakeholders to parse the data and determine where any particular type of claim is at any point in the process. At the same time, it addresses data entry and processing errors, as regular stakeholder feedback ensures timely self-correction.

In this manner, stakeholders can quickly and accurately compare handling and outcome of comparable claims, focusing on subsets of claims that appear problematic (such as the recent discovery of the CRT's seemingly contradictory evaluation of comparable documented insurance claims). Interrelationships found this way are particularly important because they provide a broader perspective and often allow solutions to be found outside the box.

Clearly, electronic reports are a particularly efficient means of ensuring accurate processing of large, complex claims. And where they form the basis of sharing decisions on individual claims with claimants and claimant representatives simultaneously, such reports help ensure the timely closure of claims as well as a better understanding of decisions made.

There is another advantage to defining all parts and subparts, and identifying relationships between parts. By focusing on quality, quantity, and timely completion of the constituent tasks, efficiencies can then be identified.

Best Practice: Having weathered considerable criticism in its early days for inadequate service delivery, ICHEIC sought to identify and implement enhancements of the claims process. ICHEIC's Humanitarian Claims Process is a particularly good example of what can be achieved. The so-called 8a2 process (i.e. the evaluation of Eastern European life insurance policies written by companies with no present day successor) replicates in many ways the companies' internal processes found elsewhere in ICHEIC. The results are worth noting: by June 2005, with a team of 4 full-time dedicated staff, and in partnership with the Claims Conference and the HCPO, ICHEIC will have reviewed 6,500 claims in six months.

ICHEIC's decision to stage the process according to its constituent parts, and allowing stakeholders to participate by providing their specific expertise (e.g. Claims Conference technology to allow for timely 'clustering' of duplicate claims, or HCPO's know-how regarding historical insurance records), helped remove any ambiguity of requirements, ensured complete work, which in turn led to better performance. The alternative, i.e. failure to identify component parts, leads to ambiguity and incomplete work, which in turn leads to delayed resolution. Such delays, in addition to reflecting the

overall failure to handle claims appropriately, further erode claimant confidence – one of the very wrongs these processes were established to right.

Now, here, you see, it takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least as twice as fast as that.⁴

Claims processes that permit such granularity and transparency often demonstrate another *Best Practice* critical to overall success of all restitution efforts currently underway: a more holistic view of the restitution and compensation universe. Recognizing both the singularity of the historical context and the special needs of this particular claimant population, some claims processes have taken a more inclusive view.

Best Practice: The IOM, a UN Common System agency rooted in an institutional tradition of interagency cooperation, and applying lessons learned in property claims processes in the former Yugoslavia, Kuwait, and Iraq, made sure to forward claims to all other claims processes they may be eligible for. Thus, claimants who mentioned Swiss bank accounts were automatically sent on to the CRT, those who mentioned insurance policies were automatically sent on to ICHEIC. This procedure stands in stark contrast to other claims processes which adopted a more isolationist stance, even where claimants actively sought advice and guidance through the maze of overlapping avenues available at various times.

A more specific application of the same principle is the HCPO's recent work with the Claims Conference regarding the Goodwill Fund. Recognizing that the HCPO database contained information that would allow for ready identification of potential claimants, the Claims Conference made the list of pre-war property owners in Germany available to the HCPO electronically. Matching this to the HCPO dataset identified an additional 64 claimants, who applied to the Claims Conference with the HPCO's assistance.

Entities that recognize the advantages of inter-agency cooperation are also more likely to have identified internal organizational barriers to fostering teamwork and continue to work to eliminate them. In these organizations, the need for broadest-based cooperation is instilled and reinforced by Executive Management, which helps to prevent isolation and remove

⁴ Lewis Carroll, *Through the Looking Glass*

information silos often encountered in large-scale, complex and multi-location claims processes.

The immediacy of email and the ability to schedule regular conference calls to enable discussion and information sharing by cross-functional teams have become fundamental building blocks for effective open communication across time zones as well as specializations. By involving program staff, be they claims processors, call center operators, claimant representatives, or technical specialists, relationships are created that can produce extraordinary results and help overcome cultural inertia.

Best Practice: Arguably, ICHEIC's Operations Committee is the single most important component to ensure ICHEIC will meet its closedown target date of 12/31/05. Comprised of representatives of all ICHEIC stakeholders and chaired by New York State's Superintendent of Insurance, this group speaks monthly to review and set benchmarks, verify and evaluate performance data/strategies and resources needed to achieve goals, and identify goals and measures of various ICHEIC component parts. In so doing, the Operations Committee has played a crucial role in rethinking how ICHEIC's work is done to improve service and meet the closedown timeline, while at the same time finding greater efficiencies and reinforcing at the staff level the importance of cross-functional communication.

The success of ICHEIC's Operations Committee builds on the lasting relationships that are the result of past efforts to incorporate qualified stakeholder staff (Claims Conference and HCPO) for defined projects, such as intermittent claims review exercises. Narrowly defined subsets of claims, such as all denied named company claims, were reviewed and verified by teams assembled specifically for this purpose and composed of ICHEIC, HCPO and Claims Conference staff. By encouraging stakeholders to participate, ICHEIC efficiently combined the need to eliminate claims backlogs with the goal of ensuring greatest possible transparency. And in so doing, these truly cross-functional teams identified further efficiencies as well as the timeliest means for implementing them.

Take care of the sense, and the sounds will take care of themselves.⁵

In closing, it is the HCPO's experience that those claims process that encourage open, transparent cooperation both internally and in the larger

⁵ Lewis Carroll, *Alice in Wonderland*

universe of Holocaust-era restitution and compensation programs are those most likely to achieve their mission: to settle claims for Holocaust-era assets as accurately, sensitively and promptly as possible.

Allowing cross-functional and interagency dialogue between such claims processes encourages new perspectives, expands and enhances coalitions, fosters partnerships, and ensures a more comprehensive approach. By finding creative solutions and mechanisms, agencies can work together to streamline the prolonged claims process for claimants, many of whom are in their 80s and 90s, and for whom time is a disappearing luxury.

Interestingly, it has been the HCPO's experience that an individual entity's ability to do this does not correlate to its size, or the number of claims submitted into any particular process. The 35,000 claims filed with the IOM seek compensation for assets located all over Europe (from Norway to Egypt, and from the Netherlands to Moldova). Despite this vast geographic spread and the need for research in outside archives, the IOM will have completed processing its considerable claims volume in just over four years from initial filing to final decision, including appeals. This compares to the CRT, which has to date settled only 1,644 of its 33,000+ claims for assets deposited in Swiss banks.

Greater efficiency, however, is not the only reason to call for greater transparency, cooperation and communication. The advantages of transparency may not always be immediately apparent. ICHEIC, the only claims process to have published all its agreements, valuation guidelines, committee structures and bi-weekly claims processing statistics, has borne the burden of persistent negative press as a result. And yet, ICHEIC's conviction that sunshine is the best remedy remains unshaken. Not only because it allows for greater claimant confidence in the long run, but because it enables the system to self-correct continuously, thereby ensuring greater accuracy in processing and results.

With increased factual precision comes an historical record less likely to be abused by those determined to deny the Holocaust and the theft that preceded it. Last but not least, it reaffirms our contemporary respect for claimant dignity – an aspect that should not be underestimated when working with survivors of one of the darkest periods of modern history: time Elie Wiesel so aptly and pithily termed 'Night'.

