

Y 4 . P 84/10:94-9

1022

94/10
94/10
94/10
94/10

HAZARDOUS DUTY COVERAGE FOR U.S. CUSTOMS AND IMMIGRATION INSPECTORS

GOVERNMENT

Storage

DOCUMENTS

Y 21 1975

HEARINGS

BEFORE THE

SUBCOMMITTEE ON

MENT AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON

OFFICE AND CIVIL SERVICE

USE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 4026

A BILL TO INCLUDE INSPECTORS OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, THE UNITED STATES CUSTOMS SERVICE, AND THE CANAL ZONE CUSTOMS SERVICE WITHIN THE PROVISIONS OF SECTION 8336 (c) OF TITLE 5, UNITED STATES CODE, RELATING TO THE RETIREMENT OF CERTAIN EMPLOYEES ENGAGED IN HAZARDOUS OCCUPATIONS, AND FOR OTHER PURPOSES

AND

H.R. 4986

A BILL TO AMEND TITLE 5, UNITED STATES CODE, WITH RESPECT TO THE RETIREMENT OF CUSTOMS AND IMMIGRATION INSPECTORS, AND FOR OTHER PURPOSES

MARCH 17, 18, 1975

Serial No. 94-9

Printed for the use of the Committee on Post Office and Civil Service

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1975

50-809

COMMITTEE ON POST OFFICE AND CIVIL SERVICE

DAVID N. HENDERSON, North Carolina, *Chairman*

MORRIS K. UDALL, Arizona, *Vice Chairman*

DOMINICK V. DANIELS, New Jersey

ROBERT N. C. NIX, Pennsylvania

JAMES M. HANLEY, New York

CHARLES H. WILSON, California

RICHARD C. WHITE, Texas

WILLIAM D. FORD, Michigan

WILLIAM (BILL) CLAY, Missouri

PATRICIA SCHROEDER, Colorado

WILLIAM LEHMAN, Florida

GLADYS N. SPELLMAN, Maryland

STEPHEN L. NEAL, North Carolina

HERBERT E. HARRIS II, Virginia

WILLIAM M. BRODHEAD, Michigan

PAUL SIMON, Illinois

NORMAN Y. MINETA, California

JOHN W. JENNETTE, Jr., South Carolina

STEPHEN J. SOLARZ, New York

EDWARD J. DERWINSKI, Illinois

ALBERT W. JOHNSON, Pennsylvania

JOHN H. ROUSSELOT, California

ANDREW J. HINSHAW, California

JAMES M. COLLINS, Texas

GENE TAYLOR, Missouri

BENJAMIN A. GILMAN, New York

ROBIN L. BEARD, Tennessee

TRENT LOTT, Mississippi

JOHN H. MARTINY, *Chief Counsel*

VICTOR C. SMIROLDO, *Staff Director and Counsel*

THEODORE J. KAZY, *Associate Staff Director*

ROBERT E. LOCKHART, *Counsel*

ROY C. MESKER, *Senior Staff Assistant*

SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS

RICHARD C. WHITE, Texas, *Chairman*

DOMINICK V. DANIELS, New Jersey

HERBERT E. HARRIS II, Virginia

GLADYS N. SPELLMAN, Maryland

NORMAN Y. MINETA, California

JOHN W. JENNETTE, Jr., South Dakota

GENE TAYLOR, Missouri

ROBIN L. BEARD, Tennessee

Ex Officio Voting Members

DAVID N. HENDERSON, North Carolina

EDWARD J. DERWINSKI, Illinois

(Ronald P. McCluskey, Assistant Counsel, Room B-345(b), Rayburn Building—Ext. 56831)

(II)

CONTENTS

	Page
Statement of—	
Connery, Vincent L., president, National Treasury Employees Union---	48
Cregan, James R., staff counsel, National Customs Service Association, accompanied by James Thornton, Customs Inspector, and Lawrence Sutin, chairman of the Wage and Hours Committee-----	27
Tinsley, Thomas A., Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission-----	2
Webber, Clyde M., president, American Federation of Government Em- ployees, accompanied by John Hall, special agent of the Canal Zone Customs; Michael G. Harpold, employee of the Immigration and Naturalization Service; and Frank Vetere, member of the customs council and employee of the Customs Department-----	13
Communications from—	
Webber, Clyde M., national president, American Federation of Govern- ment Employees, furnishing information requested during the hear- ing on the number of assaults, by areas, in the Customs Service----	15
Cregan, James R., staff counsel, National Customs Service Associa- tion, furnishing information on the average retirement age of Customs Inspectors along with additional statistical information---	32
Tinsley, Thomas A., Director, Bureau of Retirement, Insurance, and Occupational Health, letter dated April 14, 1975, furnishing informa- tion requested during the hearing-----	63
Administration reports received on H.R. 4026 from—	
U.S. Civil Service Commission-----	60
Office of Management and Budget-----	58
Copy of H.R. 4026-----	53
Copy of H.R. 4986-----	55

THE HISTORY OF THE

REIGN OF

1700

The first year of the reign of King William III. was a year of great calamity to the British nation. In the month of June, the French fleet, under the command of the Duke of Berwick, appeared in the English Channel, and on the 2nd of July, the Battle of Sole Bay was fought. The English fleet, under the command of Sir George Roope, was defeated, and the French fleet, under the command of the Duke of Berwick, was victorious. This was a great blow to the English fleet, and it showed that the French were now a serious power in the English Channel.

The second year of the reign of King William III. was a year of great calamity to the British nation. In the month of June, the French fleet, under the command of the Duke of Berwick, appeared in the English Channel, and on the 2nd of July, the Battle of Sole Bay was fought. The English fleet, under the command of Sir George Roope, was defeated, and the French fleet, under the command of the Duke of Berwick, was victorious. This was a great blow to the English fleet, and it showed that the French were now a serious power in the English Channel.

HAZARDOUS DUTY COVERAGE FOR U.S. CUSTOMS AND IMMIGRATION INSPECTORS

MONDAY, MARCH 17, 1975

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
Washington, D.C.

The subcommittee met at 9 a.m., in room 219 of the Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

OPENING STATEMENT BY HON. RICHARD C. WHITE, A REPRESENTATIVE FROM THE STATE OF TEXAS

Mr. WHITE. The subcommittee will come to order.

The subcommittee is meeting this morning to open hearings on H.R. 4026 as amended by H.R. 4986, which conforms to P.L. 93-350, and we shall continue this hearing at 9 a.m. tomorrow morning in this same room.

The bill which we are considering this morning is a revision of H.R. 6078 which passed the House in the 93d Congress 296 yeas to 123 nays, despite unfavorable reports from the administration.

H.R. 4986 would include inspectors of the Immigration and Naturalization Service, the U.S. Customs Service, and the Canal Zone Customs Service in that category of Federal civil service employees allowed to retire after becoming 50 years of age and completing 20 years of service.

I have lived in El Paso, Tex., a border city, all my life. I have seen the Border Patrol in action and have talked to the men over the years, and I know they and customs inspectors and others along the border of our Nation do live under stress most of their working lives, and I think they are this Nation's first line of defense against smuggling of all kinds and are indeed due for special consideration.

With that thought in mind, I'd like to welcome this morning from the U.S. Civil Service Commission, Mr. Thomas A. Tinsley, Director of the Bureau of Retirement, Insurance, and Occupational Health.

Before you begin, though, Mr. Tinsley, I'd like to take a moment for the benefit of my colleagues to explain why H.R. 4026 had to be amended and was done so by me with H.R. 4986.

As I've said, the purpose of this bill, as approved by our committee and passed by the House, is to extend to customs and immigration inspectors the same retirement treatment accorded Federal law

enforcement officers under the provisions of the Civil Service retirement law. However, subsequent to consideration of the bill in the House, the retirement provisions for law enforcement officers were changed substantially by Public Law 93-350.

Thus, after talking with staff counsel, it was felt that in order to be consistent with the intent of the House-passed bill, H.R. 6078, the redraft should provide—and H.R. 4026 does not do this—that the inspectors be subject to substantially the same provisions as enacted by P.L. 93-350, applicable to law enforcement and firefighter personnel.

This would include provisions relating to (1) the mandatory separation at age 55 of inspectors with 20 years service, (2) retirement contributions at the rate of $7\frac{1}{2}$ percent, and (3) retirement computation at the rate of $2\frac{1}{2}$ percent of so much of the total service as does not exceed 20 years.

Thus, the need of H.R. 4986, which I introduced, and without objection shall be considered the subject of this hearing, not H.R. 4026.

Mr. Tinsley, we have a procedure whereby you may recite in summary or read your statement providing it does not exceed beyond 10 minutes.

Since I believe you are the only witness this morning, you have more latitude.

STATEMENT OF THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. TINSLEY. Thank you, Mr. Chairman.

We are having difficulty in the executive branch clearing this material. I am happy to appear this morning to discuss the Commission's views on this bill, which would include inspectors of the U.S. Immigration and Naturalization Service, the U.S. Customs, and the Canal Zone Customs Service under the recently liberalized early retirement provisions of section 8336(c) of title 5, United States Code.

The Commission has prepared a formal report on the bill, Mr. Chairman. It was cleared by the Office of Management and Budget late last evening and should be furnished to the committee this morning.

Mr. WHITE. When the report arrives, it will be included in the record in full.

Mr. TINSLEY. Briefly, section 8336(c) covers employees whose duties are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States. It also covers employees whose duties are primarily the control and extinguishment of fires or the maintenance and use of firefighting apparatus. An employee covered by section 8336(c) may retire after reaching 50 years of age and completing 20 years of service in the performance of these law enforcement or firefighting duties. He is then entitled to an annuity equal to $2\frac{1}{2}$ percent of high 3-year average salary multiplied by 20 years of law enforcement or firefighting service plus 2 percent of the high 3-year average salary multiplied by all years of service over 20. The law also provides for mandatory separation at age 55 or upon completion of 20 years of service if the law enforcer or firefighter is then over that age. The

head of an agency may, when in his judgment the public interest requires it, exempt such an employee from automatic separation under this provision until the employee becomes age 60.

The Civil Service Commission has consistently objected to proposals for broadening application of the more liberal law-enforcement retirement provisions to include groups of employees that are not engaged primarily in law enforcement or firefighter work. Our concern has been that such proposals are not in accord with the purpose for writing section 8336(c) and that any departure from this purpose would establish a bad precedent which could have far-reaching and costly consequences.

The objective of the Congress in providing preferential retirement rights and benefits for persons primarily engaged in apprehending, detaining, and investigating criminals' activities was to improve the quality, efficiency, and productivity of that activity by making law enforcement a young and vigorous service. It has been said that this sort of work needs men who are fleet of foot and keen of eye—qualities which we all begin to lose in varying degree as we get older. The early retirement eligibility of age 50 with 20 years' service was intended to reduce turnover among younger people and, at the same time, accelerate the retirement of the older people. The more liberal annuity computation formula was not provided as a reward for a particular kind of employment, but because a more liberal formula was necessary to make earlier retirement, with resultant shorter service, economically feasible.

There are numerous occupations in the Federal service which entail varying degrees of above-average physical hazard or arduous work and for which extension of the preferential retirement provisions has been seriously proposed. The list includes, but is not limited to, not only immigration and customs inspectors but also U.S. deputy marshals, employees in any occupation where there is a greater than normal exposure to disease or accident, postal employees who carry firearms and whose duties include protection of the mail, civilian armed guards charged with maintaining security of U.S. naval shore establishments, Panama Canal ship pilots, aircraft pilots, collection officers with the Internal Revenue Service, coal mine inspectors and investigators, and employees engaged in the construction or maintenance of high-voltage power lines. Inevitably, if any of these occupations were provided preferential retirement rights and benefits because of the hazard associated with the job, employees in all of the other occupations would, with persuasive logic, demand equal treatment in the matter of more liberal retirement rights and benefits.

While all of these occupations entail physical hazards not present in many other occupations, we do not consider this to be justification for extending to them special preferential retirement rights and more liberal benefits. As a matter of fact, when Congress recently amended these special retirement provisions by enacting Public Law 93-350, it deliberately eliminated from the law any reference to hazard.

Hazardous work is generally, and appropriately, compensated for in the Federal service by higher pay. These positions are placed in appropriate grades in accordance with their duties, responsibilities, and qualification requirements. To the extent that the knowledges, skills, and abilities are required by the hazards encountered in these

jobs, they are taken into account in setting higher position classifications and consequently higher rates of pay. Higher pay rates result in higher 3-year average salaries and, in turn, higher annuities.

In conclusion, we oppose enactment of H.R. 4026 for the reasons I have just discussed.

I thank you for the opportunity of appearing this morning. I will be glad to answer any questions.

Mr. WHITE. Thank you.

Let me ask you what is the average grade at which a border patrolman goes into service?

Mr. TINSLEY. I'm not certain, Mr. Chairman. I believe it is a grade 5 or 7. I would be glad to get that for the record.

Mr. WHITE. We would appreciate that, also for Customs.

You had a statement on page 3. You said:

It has been said that this sort of work needs men fleet of foot and keen of eye.

You were using this as a justification of the FBI and other agencies where the men are in a hazardous business. You thought it would exclude the Border Patrol or customs inspectors.

Mr. TINSLEY. As a general class. With the rules we followed in terms of meeting the requirements, under the definition of law enforcement contained in the law, it is rare other than with the Federal Bureau of Investigation that we would take a class of positions as such unless they were all along the same lines. And I could furnish for the committee a listing of those positions where by class we have designated them to be covered.

There are others in other areas of law enforcement that, if the duties of that particular position, primarily involving the investigation, apprehension, and detention of those involving criminal laws, they would be covered regardless of the job classification.

Mr. WHITE. Let me ask a question. Which type of work do you think accounted for more deaths last year, FBI or the Border Patrol?

Mr. TINSLEY. I'm not certain about last year, but, having done work in the workmen's compensation field, probably the Border Patrol.

At one time the FBI agent had the safest job in the United States.

Mr. WHITE. How many FBI people have been killed over the history of their agency?

Mr. TINSLEY. Not too many; not as many as in other areas of Government.

Mr. WHITE. Are you familiar with how many are killed in Border or Customs work?

Mr. TINSLEY. Not specifically.

Mr. WHITE. You would be appalled.

Using the FBI again, they are sent on a particular assignment. It is perhaps one a day or two a day or three a week. Won't you judge that is the nature of their work, just about?

Mr. TINSLEY. Yes, Mr. Chairman.

Mr. WHITE. They may be in actual hazard maybe three hours a week.

Mr. TINSLEY. Again, I don't think we view this provision as being given for hazards as such. In terms of severity rates and frequency rates of injury, at one time the Postal Service was the most dangerous occupation in the country.

If you were going to give preferential retirement because of a hazard in an occupation or potential hazard, there would be a great many occupations that you would cover under this provision.

Mr. WHITE. Have you stood on a bridge at a port of entry into this country and watched the inspectors in operation?

Mr. TINSLEY. I have not.

Mr. WHITE. Say they work an 8-hour day. A customs inspector or immigration inspector sees thousands of people a day coming across the bridge. A good number of those people are persons trafficking in drugs or fugitives. When the inspectors discover a person carrying drugs or who is a fugitive from justice they have been searching for, it is their task to apprehend them there. Each individual probably makes several apprehensions per day.

When a person makes an apprehension, that fugitive or that alleged criminal is in a position of wanting to escape the apprehension or submitting. If he tries to escape, he is likely to kill or injure whoever is trying to apprehend him. Would that situation put the immigration man under stress?

Mr. TINSLEY. Certainly it would.

Mr. WHITE. On a daily basis?

Mr. TINSLEY. There is no doubt about it.

Mr. WHITE. Isn't the theory of this particular retirement program that a given individual would be under more stress from day to day to day to day and it takes its physiological as well as psychological toll on him?

Mr. TINSLEY. Yes, Mr. Chairman, and it would seem to me if the service is on a daily basis, as you describe it, then certainly, again not on the basis of hazard but certainly if those are the conditions of the service, as you have described it, on a daily, prolonged basis, it would appear to me that perhaps some consideration should be given to keeping that service young and vigorous.

Mr. WHITE. Right. So when they are out there in the middle of the night, they have to be keen of eye, wouldn't you think?

Mr. TINSLEY. I would hope so.

Mr. WHITE. Insofar as they have a 2,000- or 3,000-foot border, they have to be somewhat fleet of foot, also?

Mr. TINSLEY. I would think so.

Mr. WHITE. Isn't the theory for early retirement that a person who has to retire at an earlier age cannot accumulate the same retirement fund as people in long Federal service?

Mr. TINSLEY. It is to make early retirement economically feasible.

Mr. WHITE. If you are trying to attract competent individuals into a service, isn't it true that a thinking person will look on the other end of the line and see what is in store for him 20 years down the pike. and this may be an inducement for him not to go in or to go in?

Mr. TINSLEY. It would attract individuals and certainly hold them for the period of time you would want to keep them.

Mr. WHITE. Under the conditions I described, wouldn't you say these people in those hazardous situations would be a proper subject for this bill?

Mr. TINSLEY. If the duties you described are common to the immigration inspector or customs inspector or Canal Zone inspector, and

this is the daily work of those individuals, in that situation you are coming somewhat close, forgetting the hazard, to the intent of 8336(c).

Mr. WHITE. I'm going to allow counsel today to ask whatever questions they wish, and that will include Mr. McCluskey and Mr. Devlin and any of you gentlemen who would like to ask questions.

Mr. Devlin?

Mr. DEVLIN. I have no questions.

Mr. WHITE. Mr. McCluskey?

Mr. MCCLUSKEY. There seems to be a difference in cost from what you gave here this morning and what was estimated from last year's bill.

Last year's bill was estimated at 63.5 million, and you have estimated 128 million.

Mr. TINSLEY. The increase in the unfunded liability of this bill is \$184.5 million. This would result in an annual 30-year installment payment of \$11.4 million.

It would also result in an increase in normal cost spread over all employees of .02 percent. The reason for the difference between this and the bill that passed the House in the last Congress is this: That bill passed the House prior to the enactment of Public Law 93-350, which liberalized the law enforcement provisions.

The 8336(c) provisions were changed from a formula providing an annuity of 2 percent for all years of service to 2½ percent for the first 20 years of service and 2 percent for each year above 20. It also provided for mandatory retirement at 55 years of age and 20 years of service after January 1, 1978.

In addition to that, it provided that premium pay should be included in base pay for retirement purposes. Actually, that resulted in—as of now—12.7 million of premium pay being included when you determine the man's retirement benefits.

Now, the payroll of those individuals also increased. In fact, it increased from \$64.8 million to \$90.2 million. This includes the premium pay. The number of people affected by the bill has increased in a relatively small way. The prior bill indicated 4,642 people would have been covered by that bill. At present, 5,112 are the figures we have received for individuals who would be covered by this bill.

Let me point out quickly it is not due to the addition of the Canal Customs Service. There are only 37 employees involved there. There have been increases, and that accounts for the rate difference in the cost of the two bills.

Mr. MCCLUSKEY. You are claiming this morning, or opposing this bill, because customs inspectors do not fit the definition of law enforcement officer as set out in the law by the Commission.

I suppose you mean people who have the primary duty of investigation and detention and apprehension; is that not correct?

Mr. TINSLEY. Correct. Plus the extinguishment of fires and maintenance of firefighting equipment.

Mr. MCCLUSKEY. It said the legislation we would amend by including the customs inspector—that is, the present law—was not for the hazard of the job but because of the kind of duties and the necessity of having young and vigorous people carrying out the duties of investigation and apprehension.

Do you know how many people, autos, trucks, planes, and boats were temporarily detained for investigative reasons at the borders last year?

Mr. TINSLEY. I don't have the figures available.

Mr. McCLUSKEY. How many of these were apprehended because of illegal activity?

Mr. TINSLEY. I don't have the figures.

Mr. WHITE. Mr. Tinsley, the practice along the border and the ports of entry where I live is that the Customs Service and the Naturalization Service at the bridge often interchange in their activities. That is, in order to fill in, a customs man may do precisely the same job as border patrolman or Immigration man may do.

Mr. TINSLEY. That may be, Mr. Chairman. The only thing I do have is the position description of the immigration inspector, I believe the customs inspector, that describes the various types of duties that they perform. And if that position description is correct, these are the duties they are performing.

It does not come across in the same manner as your description of the duties.

Mr. WHITE. In the field they operate differently. I have thought they should be in one service. They should be put in the same uniform, because they interchange. You wouldn't have interagency fights or confusion.

Mr. McCLUSKEY. One more question. Are not customs inspectors charged with the enforcement of customs law, which includes securing and acting upon information of actual or suspected violations of the customs law and where necessary making searches, seizures, and arrests which can be the same thing as investigation, apprehension, and detention?

Mr. TINSLEY. In such cases, the customs inspectors would be along those lines. Right now, they would be covered under the 8336(c) provisions if that were established, that is, as the primary duty of the position.

Mr. McCLUSKEY. I would suggest that probably customs inspectors detain, investigate, and apprehend, the very three criteria that is used for the definition of law enforcement, more people and more vehicles than any other enforcement agency in the United States.

Mr. TINSLEY. If that is the case, and that is the primary duty of the position, and it can be established as such under submission to us, we would now cover it under 8336(c).

As a class, for the most part, the best information available to us indicates this is not the primary function of a customs inspector and it is only occasionally that they encounter these type situations.

Mr. McCLUSKEY. Have you tried to cross the border? It is difficult.

Mr. TINSLEY. I have been through airport customs.

Mr. McCLUSKEY. Have you had your bags investigated and looked into at airport customs?

Mr. TINSLEY. I don't know at any time they were considering that I was—

Mr. McCLUSKEY. When you come from another country, aren't they generally looked into?

Mr. TINSLEY. I don't think primarily as a routine that each individual is considered wanted for a Federal crime. The purpose of baggage inspection is to reduce—

Mr. McCLUSKEY. Illegal activities; is that not the same thing?

Mr. TINSLEY. Well, the policeman on the street corner is there, and one of his purposes is preventing illegal activity. His primary duty is not out chasing known criminals or people wanted for crime knowingly.

I think there is a distinction here. I might suggest this, certainly as the days go by and the weeks go by it is rare that we do not receive a request for general coverage under 8336(c). I have one in my office now from Mr. Sampson, the head of the General Services Administration, who feels strongly that the Federal Protective Service should be included. In fact, he takes the position that he feels now they are included.

Again, he can cite instances where some of those individuals in Government buildings are now subject to bombings, assaults, various other things. Perhaps the Congress should take a look at 8336(c). They should look at the treatment that is being given these various groups.

I don't know. Perhaps you should take all your so-called law enforcement, which would include the Federal Protective Service, the Executive Protective Service, and there are probably 50 or 60 other types of organizations that are involved in either enforcing or handling the laws of the United States in some way or another, and set them apart and treat them separately from a retirement standpoint.

But to continue the piecemeal enlargement of the 8336(c) coverage, I don't think is the best for the Retirement Act or individuals in these particular services. They get in competition with one another. It becomes a prestige factor. "We are covered and you are not. There is something better about what we are doing or more exciting."

Frankly, you will be confronted month after month with more and more requests to be included in this section. Each one will be able to cite instances where danger exists and what not.

Mr. McCLUSKEY. We are not talking about citing different instances, as you said. We are using the criteria of detention, investigation, and apprehension.

Mr. TINSLEY. We will cover them under 8336(c), whether it is an individual or class.

Mr. McCLUSKEY. Again, trying to cross the border, one is detained for vehicle investigation—

Mr. TINSLEY. Inspection.

Mr. McCLUSKEY. You can call it "investigation." The person is checked for firearms and, if he has any illegally in his car or on him, he is apprehended. He is detained, apprehended, and investigated. That is the criteria, and I think the customs inspectors meet that criteria.

Mr. DEVLIN. I believe that under existing law, and probably under your Commission's determination, for some time you have considered a customs agent as a person who meets the definition prescribed by the law.

In what respect is the agent different from the customs inspector as far as his duties are concerned?

Mr. TINSLEY. The agent is the one that performs the duties described earlier by Mr. McCluskey. He does some investigation. He is assigned to do some investigation as a primary duty.

The inspectors, most of them for the most part, unless I have been misinformed completely, do the baggage inspection. They may detain some people. These things are incidental. Their primary duties are baggage inspection, discharging, lading, weighing, searching cargo and vessels and other carriers from foreign destinations.

If there is a question of criminality where an investigation is taking place, it is the customs agent that becomes involved and not the inspector. These agents would be covered now under the 8336(c) provisions.

Mr. WHITE. Mr. Tinsley, I looked over your list that suggested those justifiably included if the ones included in the bill were under the hazardous duties: Panama Canal pilots, aircraft pilots, collection officers, those in construction and maintenance of high-voltage power lines, et cetera, et cetera.

I have tried to relate it to the men on the bridge and so forth. This differentiation, it seems to me, these other gentlemen, with the exception of the aircraft pilots, are not on minute-by-minute or hour-by-hour pressure or stress. They are not in fear of an unexpected or unforeseen happening that may endanger their lives or safety. Most of them you suggested, except for the aircraft pilots, can see what the danger is and anticipate it and can take their time to provide the protections for the preservation of their safety and fulfilling their duties.

A Customs inspector or immigration inspector at the bridge, on the other hand, never knows when the man behind him or in front of him will do something in the way of trying to escape or to render him incapable of pursuit. You talk about a customs agent as being the proper person for the apprehension and investigation. In the realities of the field of a port of entry—and I'm not talking about an airport, because airports are different from a bridge and that is where many legislators and members of the executive branch are misled—they go to the airfield and see the gentlemen in air-conditioned surroundings and controlled circumstances and inspecting where the elements are in their favor. Going to a bridge one can see thousands of people pouring across. Believe it or not, they have been counted at El Paso and I think the figure is 30 million a year crossing those bridges. There are 3 or 4 million a year that visit Washington, as I understand. That gives you a comparative figure.

I think the Washington figure must be low. Anyway, those people are in a minute-by-minute stress, in danger for their lives. If that person has narcotics on him or is a fugitive, there is no time to get a customs agent and have him apprehend them. They must apprehend him on the spot, and in that process there are men killed.

There have been men killed at the moment of that apprehension trying to dissuade the man from fleeing or entering the United States illegally. Their investigations are so immediate that there is no time to go through regular processes. This is the point I'm trying to make.

In the long-run investigation, perhaps the customs agent is under far less danger than the man on the bridge, because the customs agent can choose his environment. He can surround himself with the neces-

sary protections which the customs or immigration man does not have. This is the point I would like to make.

Mr. TINSLEY. I appreciate that, Mr. Chairman. If that is the case, then that should be reflected in the salaries of these individuals. If it is reflected in the salaries of these individuals, it will be automatically reflected in the retirement benefit.

Mr. WHITE. It isn't reflected, is it?

Mr. TINSLEY. I'm not the pay expert, but there are provisions under the Classification Act that provide for hazardous duty pay. I'm not sure in this case what the situation is.

Mr. WHITE. Would you be able to obtain for us these classifications of immigration inspectors and customs inspectors and border patrolmen—we are only covering inspectors in this. But would you obtain the classification and salary level of immigration and customs at a port of entry at the lowest grade and whether or not there is an extra hazardous duty incentive put with their salaries?

We must get all the information together as to whether or not it would be proper to have this bill on the books. If you want to suggest some type of language that would define what extra hazardous duty is or differentiate from what may not be in a hazardous situation, then we will consider that.

If you inspected on a bridge yourself, you would see the Customs, Immigration and Naturalization Service inspectors interchange duties often. They are under pressure constantly, day by day, with extremely long lines, by very irate people, fulfilling the executive branch's instructive to watch for narcotics and inspect carefully.

They find some occasionally, and at night they find themselves in a shooting situation, often in a hostile environment on the river.

I think it would be well to look into. I think this is a proper category for extra hazardous consideration. I would appreciate anything you can provide for the record.

Mr. TINSLEY. I would be happy to.

Mr. LOCKHART. The chairman made reference to inspectors going out on patrols.

Mr. WHITE. That would not be inspector.

Mr. LOCKHART. That is the question I want to ask. I understand that Border Patrol inspectors are already covered.

Mr. TINSLEY. Many of the Border Patrol inspectors are already covered.

Mr. LOCKHART. They would be covered now?

Mr. TINSLEY. Depending on the duties of the position. I don't believe that we have concluded that the Border Patrol as a class are covered. But a border patrolman whose duties primarily are those that meet the definition we would cover without any problem at all.

There are many that have established that to be the case. Just as in customs inspectors, there the Customs Service has made some distinction in the position description and the duties of the position whereby they have an inspector and they have an agent. The agents are normally covered, because their duties do primarily involve investigation and prevention.

There again, the Border Patrol would be covered. It would depend on the primary duties of the position.

Mr. WHITE. Do you know whether or not inspectors are used for night patrol duty?

Mr. TINSLEY. I would have to go to the Customs Service and see how frequently that happens. That would be an internal management situation, and I would be reluctant to express my personal opinion to the committee. It probably does occur in some instances.

Mr. WHITE. Do you have a record of the number of assaults that happen at the port of entry?

Mr. TINSLEY. We probably have those. They were prepared, the figures on various individuals, and it would be easy to update that information.

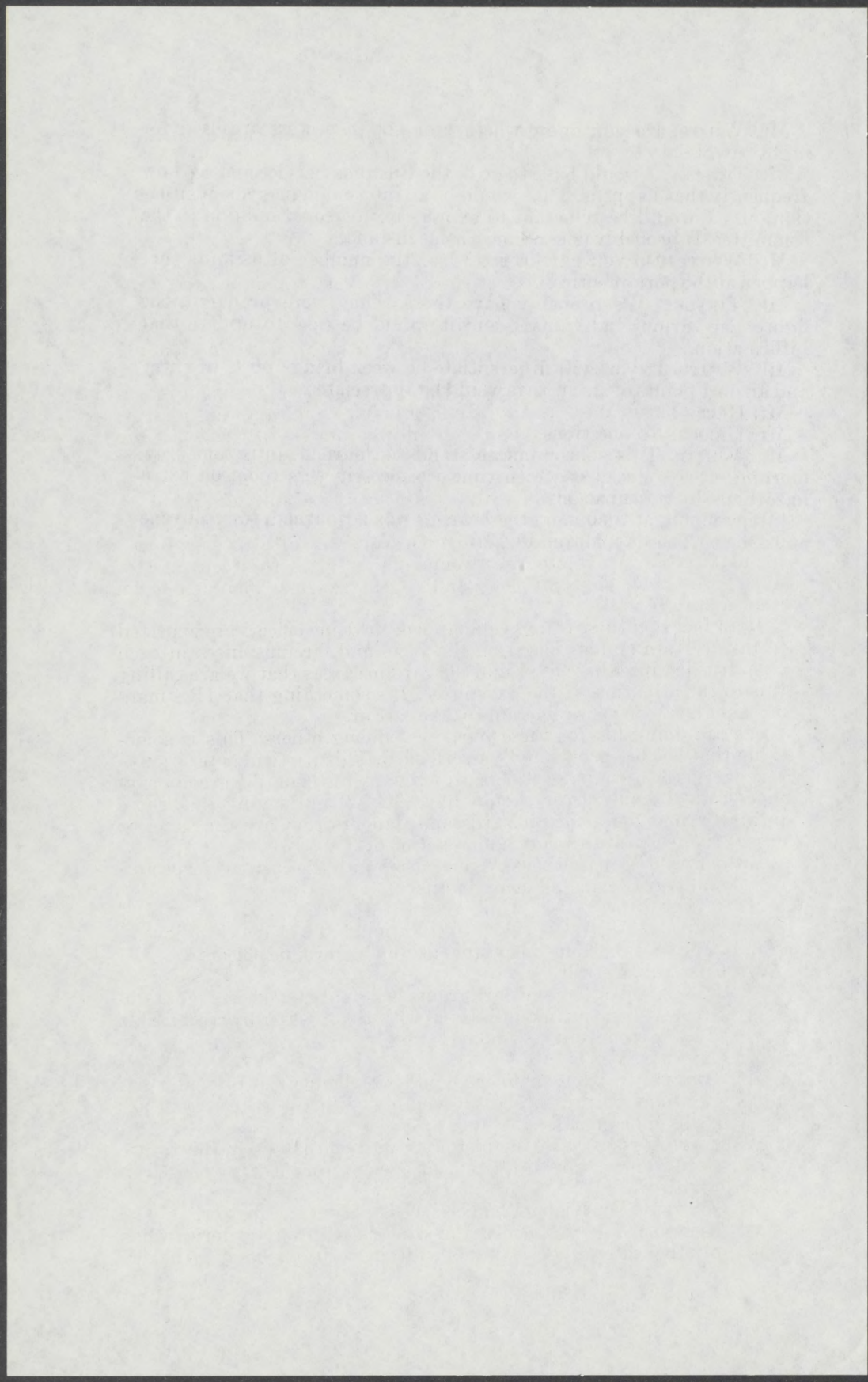
Mr. WHITE. If you will differentiate between bridge ports of entry and airport points of entry, that would be appreciated.

Mr. HARRIS?

Mr. HARRIS. No questions.

Mr. WHITE. This subcommittee stands adjourned until tomorrow morning at 9 o'clock, at which time we meet in this room on extra hazardous duty occupations.

[Whereupon, at 9:50 a.m., the hearing was adjourned, to reconvene at 9 a.m., on Tuesday, March 18, 1975.]



HAZARDOUS DUTY COVERAGE FOR U.S. CUSTOMS AND IMMIGRATION INSPECTORS

TUESDAY, MARCH 18, 1975

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON RETIREMENT AND EMPLOYEE BENEFITS,
Washington, D.C.

The subcommittee met at 9 a.m. in room 219 of the Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. The meeting will please come to order.

The subcommittee is meeting this morning to continue its hearing on H.R. 4026, as amended by H.R. 4986, which conforms to Public Law 93-350, and the House-passed bill of the 93d Congress, H.R. 6078.

I believe it was clearly established in yesterday's hearing that customs inspectors are indeed this Nation's first line of defense against smuggling of all kinds and with that thought in mind, I'd like to welcome all the witnesses present and am pleased that we have such great interest in this legislation.

Our first witness this morning will be Mr. Clyde Webber, President, American Federation of Government Employees.

**STATEMENT OF CLYDE M. WEBBER, PRESIDENT AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES; ACCOMPANIED BY
JOHN HALL, SPECIAL AGENT OF THE CANAL ZONE CUSTOMS;
MICHAEL G. HARPOLD, EMPLOYEE OF THE IMMIGRATION AND
NATURALIZATION SERVICE; AND FRANK VETERE, MEMBER OF
THE CUSTOMS COUNCIL AND EMPLOYEE OF THE CUSTOMS
DEPARTMENT**

Mr. WEBBER. I have with me this morning Mr. John Hall, Special Agent of the Canal Zone Customs; Mr. Harpold, an employee of the Immigration and Naturalization Service; and on my left is Mr. Vetere, who is a member of the Customs Council and employee of the Customs Department.

We are gratified to appear personally today and to express our pleasure that Congressman White is the Chairman of this hearing. As you know, the American Federation of Government Employees has been for years the leading advocate of an equitable retirement system for all Federal employees, and we have always had good indications of this subcommittee's determination to seek a fair retirement program for customs and immigration inspectors.

As you know, AFGE represents over 650,000 Federal employees throughout the world in every kind of occupation, under every type of statutory and nonstatutory pay system, and employed in assignments which entail every type of hazard.

H.R. 4986 would give these employees the right and the opportunity to retire under the hazardous duty provisions of section 8336 (c), and would eliminate the present discrimination against them.

The employees endure psychological and physiological hardships which can result in serious injury and fatalities which are not the ordinary experience of other public servants. We want to emphasize AFGE's endorsement of H.R. 4986. We think the hazards are more threatening than those of employees who have received these benefits and these inspectors should be afforded the retirement annuity commensurate with the hazard of their duties.

Thank you for this opportunity to present our testimony to the subcommittee.

Mr. WHITE. In your prepared statement you spoke of 1,114 immigration and naturalization inspectors. You reported in your statement there were in 1974, 39 reported assaults on these Federal employees. Did any result in death?

Mr. HARPOLD. Not last year, sir, but there have been deaths.

Mr. WHITE. You had two deaths in 1973 or something like that and you also reported, Mr. Webber, in your statement that there are 4,172 customs inspectors and the reports from the FBI files show there were 94 assaults to these employees last year.

Mr. VETERE. No deaths to my knowledge. We lost a few, or one up in Buffalo not too long ago. With my short statement, there will be a list of 20 or 30 specific instances of assaults and hazardous incidents.

Mr. DANIELS. Although no deaths occurred, did they result in personal disabling injuries?

Mr. VETERE. We looked this information up.

Mr. DANIELS. Does your statement state the number of days confined to a hospital?

Mr. VETERE. I'm hopeful it will. They took it from the employers' records.

Mr. DANIELS. Loss of time from work.

Mr. VETERE. Yes, sir.

Mr. WHITE. You have the figures here.

Mr. VETERE. I have no figures here. It will be added to the statement.

Mr. WHITE. Your statement will be made a part of the record.

Mr. VETERE. Thank you.

Mr. WHITE. Do you have a statement to be attached?

Mr. HARPOLD. I'm Michael Harpold, an immigration examiner from California.

Mr. HALL. I am with the Canal Zone and I'm supervisor of customs.

Mr. WHITE. Do you have a statement?

Mr. HALL. No, sir, I don't.

Mr. WHITE. From your statement, apparently, you feel that customs inspectors not only enforce the law, but they detain, apprehend suspects. Give us one or two examples.

Mr. VETERE. It happens every day. It happened in the middle of JFK Airport. In the remote areas, we inspect in the evening hours, it happens all the time.

An item in my statement talks about law enforcement officers and inspectors in contrast with the above. The subject is coming to the inspector. He knows he is violating the law and hopes the unsuspecting inspector does not discover the violation.

The violator does not know the man, who his friends are, how many of them are with him at this instant and the inspector is not even aware he is going to have to initiate an arrest. It is evident that an inspector is in more danger when making an arrest than are his other enforcement colleagues.

Mr. WHITE. Do you have statistics concerning the injuries or assaults listed in Mr. Webber's statement as to how many occurred in airports of entry and ship ports of entry, as compared to land ports of entry?

Mr. VETERE. We had two assaults at JFK airport last year. In the last 2 weeks, we had two incidents, one tanker with jet fuel and the same inspector was involved. They board the ships in stream which is hazardous in itself, climbing on a rope ladder.

This tanker started to drift and collided with another tanker half loaded with jet fuel. The obvious danger there was from collision in that space and the fumes. The following week there was another incident where a ship moved from the anchorage and collided with another ship.

Mr. WHITE. We are searching for extra hazardous duty that is different in this type of work, that would differentiate these employees from other employees in the Federal service. You don't have ships colliding every day?

Mr. VETERE. But there are inspectors on the ships every day.

Mr. WHITE. I know, for example, coming in from Mexico, it's on a day-by-day, hour-by-hour basis. Any many can assault an inspector and flee back to Mexico. If entrees are caught with narcotics, the law violator may do anything.

What percentage of these assaults took place crossing a land mass or at the port of entry at seaports?

Mr. WEBBER. This information received in the report is not broken down that way. We can furnish that information.

[The following response was received for the record:]

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
Washington, D.C., March 24, 1975.

HON. RICHARD C. WHITE,
Chairman, House Subcommittee on Retirement and Employee Benefits, Rayburn
House Office Building, Washington, D.C.

DEAR MR. WHITE: When AFGE testified on H.R. 4986 before the Subcommittee on March 18, 1975, you and several members of the Subcommittee asked us to obtain information, if available, as to the distribution of the assaults by areas, particularly distinguishing borders from other ports-of-entry. You also asked us to obtain information on the average age of inspectors at retirement.

We are pleased to inform you that we have been able to obtain this data from the U.S. Customs Service, which is as follows:

U.S. Customs Service (1974)

Total inspectors	4,200
Total on borders	615
Assaults nationally	89
Assaults at borders	68
Assaults at other ports-of-entry	21

This indicates that 76% of the assaults were at borders even though the Customs Service work force there is less than 15% of the total. On this basis, the

risks to Customs Service Inspectors at the borders is five times as great as elsewhere. But, in this connection, we need to stress that inspectors rotate between the borders and the other ports-of-entry and, thus, almost all are exposed to these assaults during their careers.

As for the situation in the Immigration and Naturalization Service, we regret to inform you that to this date we have not been able to categorize the information we supplied you separating the Immigration and Naturalization Service inspectors into the subgroups you indicated.

The U.S. Customs Service and the Civil Service Commission have informed us that they do not have at this time data regarding the average age at retirement for Customs inspectors.

The U.S. Immigration and Naturalization Service has compiled the retirement information. The average at retirement for immigration inspectors is sixty (60) years of age, and they have completed an average of thirty-two (32) years of service before retirement.

If we can be of further assistance, please let us know.

Thank you again for the opportunity to testify on this legislation.

Very truly yours,

CLYDE M. WEBBER,
National President.

Mr. WHITE. We would appreciate that.

Mr. WEBBER. Mr. Harpold, in his paper, cites some incidents of the kind where I believe chases took place with armed weapons.

Mr. HARPOLD. I have a series of illustrations of incidents that have occurred. As you state, you're familiar with situation on the Mexican border, so I will pass over those and will ignore the border.

Mr. WHITE. I am not the only member of the committee. Therefore, don't pass over those.

Mr. HARPOLD. I will start with Eagle Pass, Tex. Jim Haynes entered on duty in 1941. He tells us he is principally an immigration examiner of San Francisco. He tells of encounters with wanted persons seeking admission to the United States.

I recognized the driver of a car as being the subject of a lookout from San Antonio. I had to restrain him from leaving the inspection area. The man had a gun in the glove compartment. The car was found to be stolen and the trunk of the car was covered with marijuana leaves.

It was not unusual for the customs or immigration officer on duty at night to receive calls from the local police, sheriff, FBI or other agency to hold an individual. It was known that we were not presumed to be carrying a weapon.

George Gell, who was a criminal investigator, but formerly an immigration inspector at Niagra Falls relates that during his tenure the officers assigned to Rainbow and Whirlpool bridges were confronted with criminals from Canada seeking admission to the United States.

The inspector was called on to inspect, interrogate and detain the criminal types before the victim would be turned over for criminal prosecution.

Another inspector was Ed Molina. He tells the following:

In the performance of the duties, it is necessary to be involved in search and apprehension of persons committing crimes against the United States. This situation is well recognized as an investigator.

The service has long overlooked the service of the immigration inspector and his functions which brings him into direct confrontation with the elements. During a certain period at Kennedy, there was not one day that an interception was not made, that aliens were not found with bad documents.

Mr. Molina brings up an interesting point: "Many of the persons whom the inspector encounters are encountered in the act of committing a crime." The inspectors are cross designated and the inspector

may find someone not only in violation of the immigration laws, but he may be smuggling as well.

On the southern border, the immigration inspectors seized 943 kilos of marijuana, 1.5 kilos of cocaine, 7 ounces of heroin.

Mr. WHITE. It was brought up in testimony yesterday that these particular customs inspectors and immigration inspectors don't need this particular bill, because there are available customs agents and immigration agents to do the detaining.

Can you tell us from your experience whether or not this is practical to obtain the services of the agent to do the detaining and arresting?

Mr. HARPOLD. At San Francisco International, there are customs agents at the port of entry, but they are not present in the immigration area. It's not realistic to assume that because an agent is present that the inspector will not be subject to harm.

We are talking about a period in history which would cover many of these people. Also, I can say that there is not an armed officer present in each and every instance. We board all vessels arriving from foreign places. Foreign ships can get hairy.

You have to get on a ship and it has a foreign crew. You're there by yourself and you propose to detain on board a portion of the crew. It gets into a tight situation.

Mr. WHITE. Have there been assaults in that situation?

Mr. HARPOLD. I was close to having to swim one day on a Greek vessel. If you want to say a battey, then the answer is yes. Assault which is the threat of physical violence, that is common.

The inspector may have to get the chief mate and captain to sit beside him to complete his duties.

Mr. WHITE. Does this lead to—causes the inspector to be on his guard most of the time?

Mr. HARPOLD. Yes.

Mr. WHITE. Does it wear the individual down psychologically or physiologically?

Mr. HARPOLD. Jim Haynes transferred from Eagle Pass in 1946 because he says, "I decided I was getting too old for the rough stuff."

I would say it does. In the Immigration Service, we have four journeymen officers or journeymen officer occupations. We enter the Service from the Border Patrol. We are encouraged to go to the other occupations and to become a manager one day.

Our officers have to fill positions in each of these occupations. Three of the four occupations are covered by hazardous duty retirement. The fourth is not. Consequently, you have the situation where people are covered for 5 or 6 years and uncovered for 4 or 5 years, and then covered again and retiring with 15 or 16 years in a covered position and the rest under an uncovered position.

We are having a situation now where officers are not going into the inspector position because it is not a covered position. It deprives them of the potential benefit of early retirement due to hazardous work.

Mr. WHITE. At a port of entry over a land mass, what officer in a normal situation does the detaining of a suspect?

Mr. HARPOLD. In a normal day-to-day situation, it's the inspector.

Mr. WHITE. I know that to be true. It was touched on that that inspector, whether he be immigration inspector or customs inspector—what would you call him?

Mr. HARPOLD. Immigration inspector.

Mr. WHITE. Either one of these inspectors—an immigration inspector may be doing a customs job and the customs inspector may be doing the immigration job. One man doesn't say what is your citizenship and the other one says what do you have. One man does it all.

Mr. HARPOLD. That's the way it is. There may be one man in some of these places all night.

Mr. WHITE. He would be performing all functions, detaining, arresting and apprehending, if he has a suspect?

Mr. HARPOLD. They have those powers under the statute.

Mr. DANIELS. You said in response to the chairman's question that there are stresses the inspectors go through daily in the performance of their duties.

Mr. HARPOLD. Yes, sir.

Mr. DANIELS. It has a physiological and psychological effect?

Mr. HARPOLD. Yes, sir, it does.

Mr. DANIELS. In the last session of Congress, in considering liberalizing the law enforcement retirement provisions, the emphasis placed on the bill by the committee was that the changes sought by the legislation was not a reward for hazardous duty but, rather, the purpose was to more effectively maintain a relatively young and vigorous force.

Do you subscribe to that principle?

Mr. HARPOLD. I do, sir. The pattern in our service is to get away from the—the officer recognizes he has reached an age where he can no longer safely function in his job. You will find that your inspectors in the border ports are much younger than ones who possibly sit in offices and no adjudicative work. The same thing goes with patrol.

Mr. DANIELS. Women are engaged in your type of work today—there would be no distinction between the sexes. The idea is to keep this young and efficient force, so they can properly discharge or perform their duties.

The whole principal involved is an early retirement at age 50 after having completed 20 years of law enforcement service. Under last year's amendments retirement is mandatory at age 55 unless the department desires to defer that retirement until age 60.

Mr. HARPOLD. We are having a problem to encourage the younger, trained officers to go into the inspector position, because it's not a covered position. We are having to break the long tradition of hiring and training the officer personnel through the Border Patrol. We are having to hire off the street and local persons for the inspector job.

This is not too advantageous because it creates specialization which causes later problems when you get managers.

Mr. DANIELS. May I ask you if you would kindly furnish the committee with statistics as to the average age of retirement of the people in the customs and immigration inspection service?

Mr. WEBBER. We will obtain that information.

Mr. DANIELS. I ask that be made part of the official record.

Mr. WHITE. Without objection, it is so ordered.

[See information in letter on p. 15.]

Mr. TAYLOR. Mr. Webber, do customs inspectors receive hazardous duty and overtime pay?

Mr. VETERE. No, sir.

Mr. WEBBER. Mr. Vetere is a customs employee.

Mr. TAYLOR. Are you familiar with the GAO report?

Mr. VETERE. I am. We received no hazardous income in the overtime. The overtime is paid in part by interests which are airline and steamship companies. We do not get retirement credit for it or FEPA which is the Government pay schedule.

We have an overtime income of inspector in New York which is \$5,000 a year, contrary to the rumors. This is overtime. None of this is covered. It's another matter of concern. We are looking for relief there. I don't want to go on.

Mr. TAYLOR. You have answered the question. The Members of the Congress are fully aware of sometimes how the press slants things. They say we have arguments we don't have. These are things we deal with.

In your opinion, is it just an oversight that inspectors are not now included in preferential treatment, or why haven't they been?

Mr. VETERE. I call it an oversight. I'm not sure, as Chairman White indicated, that we should not be covered. I quoted from our manual from our superior which states the fact that we are in more hazardous positions in the process of making arrests and we are required to make arrests.

In addition to making the arrests which is a foregone conclusion, we face many other hazards. I received three pages of recent ones. In New York, there are 25 incidents which I wish you would review.

Mr. WHITE. They have been included in the record.

Mr. VETERE. I will include them with my statement. It ranges anywhere from a man being broken out of a container. Several inspectors were involved in ship collisions, the contents of which was jet fuel. It ranges to the everyday facts on occurrences.

Every inspector, especially in the port of New York, is subject to all kinds of duty. I may be working in the airport today, a seaport tomorrow and he may be climbing on an oil tank tomorrow. We are not specialists.

Mr. TAYLOR. How many inspectors are there?

Mr. VETERE. 4200 currently.

Mr. TAYLOR. Do you have any idea how many arrests were made last year by inspectors, sir?

Mr. VETERE. I'm sure there have been quite a few. Most of them probably occurred at border points. In New York, the inspector has a two-fold job, meet the public, expedite him and pick out the criminals. There are agents in proximity.

The first encounter and determination as to the arrestability of the subject is the inspector. He is doing a job and it is hazardous. It's two-fold on him. I don't know how anyone could come here and testify and say we shouldn't be included.

Maybe this is personal conjecture. I think maybe they have ultimate plans because it seems I have been involved in union work for 2 years and we are constantly on the defense about one thing or another. It is whether we are doing hazardous duty, doing our job or making too much money.

We collect more than we spend on ourselves. We collect revenue for the Government. There are a small number of people working long, arduous hours. He uses his own car. As far as overtime, you have to eat and you get no reimbursement.

There's no reimbursement for travel. It's like being in a separate business at night. This is the objection I had to the way the Government handles it. We are doing the Government work, but we are paid by a party interest.

These laws weren't designed to put the money in the inspector's pocket. They were designed to get the maximum benefit and to prevent foreign interests from ripping off the taxpayer is the best way I can put it.

Mr. TAYLOR. Thank you.

Mr. WHITE. Mr. Mineta.

Mr. MINETA. I apologize for being late to this morning's meeting.

Mr. Vetere, relative to the desire to be included under the category of hazardous occupation, is there any way of being able to relate the experience of customs inspectors with workman's compensation statistics or workman's compensation rates?

Mr. VETERE. I'm not sure I follow that question.

Mr. MINETA. Is there any way of being able to correlate the injury statistics for customs inspectors with workman's compensation or rates?

Mr. VETERE. It would be difficult because the employee has the option if he applies for compensation. He would like to receive 75 percent of his pay. Many times the inspector does not avail himself of workman's compensation, because it's a loss in pay.

How would it compare with the number of injuries statisticswise, you would have many, many injuries in customs and immigration that would not be recorded as part of compensation, because there's an option as to whether you go on sick leave and whether you would accept compensation.

Mr. WEBBER. I think we could get the number in regard to both and we could request the information and get it for you, if you would like it.

Mr. MINETA. It is my understanding that you are seeking to become eligible for early retirement on the basis of being law enforcement agents. As you are aware, the law enforcement function has as criteria its performance of detention, investigation, and apprehension duties. By background and training, are customs inspectors required to have similar background and training as law enforcement officers?

We usually think in terms of police or FBI. Do you have to have similar training to become a customs inspector?

Mr. VETERE. We are all in the port of New York, every inspector is required to be able to handle firearms. We have permits to bear firearms. We qualify and we do have them.

I have an incident of a man in a physical defense class that suffered an injury while there.

Mr. WEBBER. Mr. Harpold discusses the immigration and naturalization service and the career pattern of this calls for the four principal jobs in the service to be covered by the act presently.

As part of a career the people have not only the training, but they have the responsibility to carry out law enforcement duties while acting as immigration inspectors. One thing about the retirement, as you know, this has been before Congress for sometime, this particular bill.

It has been through a couple of Congresses. Finally, action has not been taken. I have a feeling there is a sizeable number of people in the

customs service and immigration and naturalization service that would have retired except for the reason that this bill is before Congress at this time.

They believe that they have been engaged in these activities all these years and they could immediately retire from the service if this is passed. Absent this, they would continue in the service which has an effect over people remaining in the service.

Mr. HARPOLD. I was asked earlier about the older inspectors and younger inspectors and the desired act of maintaining a young inspector force.

I am in San Francisco now, although I have been all over California. We have on a de facto basis, although it has never been defined, two classes of inspectors in San Francisco. We have those that can do the full range of duties and those who can't.

Those who can't are rather numerous. If they had 50-20 retirement, they would have been out of the service long ago. We are stuck with a few that can get out and step from the deck of a launch onto a Jacob's ladder and get up and down and who can walk through the large port sheds in San Francisco without a fear of assault and who can go to the Oakland Airport and check an incoming flight and perform 8 hours of work the next day.

So, we have 29 inspectors in San Francisco, 15 of them are doing the full range of duties and the other 14, the first 15 are having to carry along.

Mr. WHITE. Will the gentleman yield?

Mr. MINETA. Surely.

Mr. WHITE. At what age can customs and immigration inspectors retire now?

Mr. HARPOLD. They are subject to the regular Civil Service retirement provisions.

Mr. WEBBER. Thirty years.

Mr. VETERE. Fifty-five years of age with 30 years of service, or 60 with 20.

Mr. WHITE. Two percent.

Mr. VETERE. First five is one-half, second five is one and three-quarters and the rest is two.

Mr. MINETA. If you go to a job that is a covered position and then go to a noncovered position, but return to a covered position, how does this affect the early retirement position?

Mr. HARPOLD. Unless you have 20 years in covered position, you're not eligible. By the time a person has 30 or 35 years, a person would accumulate 20 years in a covered position which makes him elderly at that point.

Mr. MINETA. If the position of inspector were included as a covered position, that would mean generally that the person in the customs service would not be covered in an uncovered position, but rather that his overall career pattern would be considered a covered position.

Mr. HARPOLD. In the immigration service, the journeyman would be covered.

Mr. MINETA. What about the customs service?

Mr. VETERE. Yes, sir, the same.

Mr. MINETA. As far as the criteria of detention, investigation, and apprehension how would you fit the criteria of a law enforcement officer?

Mr. VETERE. It's rather ridiculous. There's talk about law enforcement officers and an inspector has been referred to as one and then not been covered.

Mr. HARPOLD. Mr. White, with your permission, I would like to answer something Mr. Taylor brought up a moment ago.

You referred to an article in yesterday's paper concerning overtime. I represent the immigration service employees. There are points in that article that are patently fallacious.

On Sunday pay, in order to qualify for Sunday overtime pay an inspector must work a full 8 hours. It may be true that only an hour and 15 minutes or an hour and 20 minutes may be in inspecting a single flight. But during the remainder of the 8-hour period, he must remain and do adjudicative work and other kinds of work and applications that the service handles.

It boils down to an immigration inspector on Sunday gets double time for 8 hours.

Mr. MINETA. Work.

Mr. HARPOLD. Mr. Chairman, may I say something.

Mr. Mineta asked about training. Our customs people in the Canal Zone had been to customs special agent schools and finished last Friday a 2-week Drug Enforcement Agency school which 19 of our people went to.

You asked about hazardous conditions. We have had a boarding officer lose his life in the late 1940's. During the riots in Panama in 1964, our customs inspector who was working in a foreign country at the Panama Airport had to be evacuated by helicopter. Our customs inspectors went back there on a round-the-clock basis.

We had no diplomatic relations with Panama. They were considered foreign agents at the time, because they were required to gather intelligence for the U.S. Government.

Mr. WHITE. Thank you very much. I appreciate your testimony. [The statements submitted by the previous witnesses follow:]

PREPARED STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN
FEDERATION OF GOVERNMENT EMPLOYEES

We are gratified to appear personally today and to express our pleasure that Congressman White is the Chairman of this hearing. As you know, the American Federation of Government Employees has been for years the leading advocate of an equitable retirement system for all Federal employees, and we have always had good indications of this Subcommittee's determination to seek a fair retirement program for customs and immigration inspectors. As you know, AFGE represents over 650,000 Federal employees throughout the world in every kind of occupation, under every type of statutory and non-statutory pay system and employed in assignments which entail every tape of hazard.

An equitable retirement system involves, by its very nature, a refined and flexible arrangement which accounts for the real distinctions of hazards and of physical and psychological pressures inherent in certain types of Federal jobs.

In the last session of Congress, some important steps were taken toward this end. Through Public Law 93-350, enacted on July 12, 1974, Federal law enforcement and firefighting personnel were given improved retirement benefits.

Section 8336(c) of title 5, United States Code, takes proper cognizance of the hazards to which many employees are exposed who are involved with the investigation, apprehension and detention of criminals, with prisoners convicted of crimes, and with persons suspected of offenses against the criminal laws of the United States, or with the Federal firefighting program.

In this connection, it should be noted that the Border Patrol and the Immigration and Naturalization Service investigators are already included under the hazardous duty provisions. However, although the Immigration and Customs

inspectors confront hazardous duty situations, especially in detecting illegal actions or apprehending persons engaged in criminal operations, they have been overlooked.

H.R. 4986 would give these employees the right and the opportunity to retire under the hazardous duty provisions of Section 8336(c), and would eliminate the present discrimination against them.

We believe this bill correctly retains the simplicity incorporated in P.L. 93-350, that is, if the inspector qualifies by age and by years of service, he should be given his annuity without further action or comment by his agency.

At this point, we would like to discuss the reasons why these employees should be included under the hazardous duty retirement law. We know the Subcommittee is mindful of certain inherent differences between regular Federal employees and employees covered under the provisions for hazardous duty retirement. Whereas the former carry out necessary governmental tasks, the latter daily place their lives on the line. Normal government service does not require frequent family relocation, but these inspectors are often required to transplant their families to isolated parts of the country.

We, therefore, repudiate the argument that early retirement and the increased annuity computation factor are rewards. These benefits are not gifts or charity—they simply acknowledge that the daily physical and psychological stresses which these employees endure, all too often result in serious injuries and even fatalities which are not the ordinary experiences of other dedicated public servants.

At present, there are approximately 1,114 Immigration and Naturalization Service inspectors. The Federal Bureau of Investigation states that, in 1974, there were 39 reported assaults on these Federal employees. There are, as of January 1975, approximately 4,172 Customs inspectors. The FBI reports that there were 94 reported assaults on these employees last year. There are 57 Canal Zone Customs Service employees who work as inspectors. Although the FBI has not compiled data regarding assaults on these employees, they also are subjected to hazards which run the gamut from traveling deep into a foreign country to enforce our laws to enduring situations such as the 1964 Panama Canal riots.

The numbers of these assaults are serious enough, but it should be noted that no record is made of daily incidents which most inspectors accept as a routine part of their jobs. For example, not a day passes for the inspectors at our borders when he is not involved in scuffles with border crossers. This scuffling is so common that inspectors accept it as routine and make no record of it unless seizures are made or suspects arrested.

Inspectors are often stationed at isolated areas on our borders where they are responsible for checking on the importation of contraband such as drugs, firearms and other dangerous commodities. At our harbors, inspectors, often late at night and alone, board ships and check on contents which frequently include explosives, chemicals and other dangerous cargo. Interdiction of illicit narcotic traffic, with all its concomitant hazards, are part of the daily duties of our Customs inspectors. These employees not only enforce laws, but apprehend and hold suspects.

At this point, we would like to discuss the duties of the Canal Zone Customs Service personnel, with which the Subcommittee may not be familiar. The Canal Zone Customs Service is described in the Canal Zone Code, title 2, part 2, chapter 55. Since these Federal employees are not covered by the Department of Justice nor the Department of the Treasury, by specifically including them under H.R. 4986 they will be assured of coverage by hazardous duty retirement laws.

Job descriptions and pay scales for the Canal Zone Customs employees are drawn from those of the U.S. Customs Service, and they perform essentially the same duties as their counterparts in the United States. The Canal Zone Customs Service enforces both the Canal Zone and the United States Codes, where applicable. They enforce laws related to narcotics, title 21, U.S. Code, and to marihuana, title 6, Canal Zone Code. In addition, title 2, section 781, Canal Zone Code, states that the Customs officers have powers of search, seizure and arrest without warrant. They perform immigration activities for the Republic of Panama and Canal Zone; inspect at Tocumen Airport within the Republic of Panama; handle stowaways on vessels and process persons requesting asylum. They search vessels, vehicles, buildings, persons, baggage and cargo. When required, they carry out special searches involving physical danger from concealed contraband such as munitions and explosives, and from the crews of these vessels who may be involved in criminal operations. On this basis, we feel there is no question but that the Canal Zone Customs inspectors must be included under the provisions of the hazardous duty retirement laws.

At this point, we would like to turn to the vital issue of establishing uniformity for granting hazardous duty retirement. There exist many positions in the Federal service which, our organization contends, should also be covered under section 8336(c) of title 5. Some of these positions include mine inspectors, psychiatric ward nurses; civilian pilot instructors; Federal protection officers; Juvenile Court and other law enforcement personnel; and electrician-linemen. Because hazards are normal to their duties they have a strong claim on hazardous duty retirement.

Certainly it also includes those wage board employees, such as carpenters and other craftsmen, who regularly serve in Federal prison factories. For example, just last year a factory foreman was viciously attacked by a knife-wielding inmate. The unprovoked attack resulted in this foreman's right hand being amputated. Two other employees who came to his assistance were less seriously injured, but both required medical attention at a local hospital.

H.R. 4986 would include Customs and Immigration inspectors under hazardous duty retirement and perhaps lead the way for inclusion of these other deserving employees. Knowing the high standards and value this Subcommittee places on human dignity and respect, we know you share this attitude with the American Federation of Government Employees.

In summary, we want to emphasize AFGE's endorsement of H.R. 4986. We believe it is accepted that these Federal employees face hazards which often are more spontaneous and threatening than those experienced by employees now receiving hazardous duty retirement.

After devoting 20 years of their lives, facing unusual hazards and psychological pressures, these inspectors should be afforded a retirement annuity commensurate with the hazards of their duties. Customs and Immigration inspectors and, moreover, all Federal employees performing such duties, should be recognized as special employees offering a very special service—the protection of the United States and its people.

We would appreciate your Subcommittee giving an opportunity to representatives of AFGE locals in the Immigration, the Customs and the Panama Canal services to present their own more explicit examples on the nature of the hazards they confront.

We are grateful for this opportunity to present our testimony which we hope will be favorably received by the Subcommittee.

STATEMENT OF F. P. VETERE, PRESIDENT, NEW YORK COUNCIL OF
CUSTOMS LOCALS AFGE

We thank you for the opportunity to present the following facts relative to this important matter and we request that this statement be made part of the official record of these hearings.

The information contained in this statement is not original. Rather, with the exception of our conclusions and the actual examples of the hazardous incidents, resulting in accidents, assaults, and injuries to the New York Customs Inspectors, it has been extracted from the United States Customs Inspectors Manual For the guidance of Customs Officers, 1971 edition.

To quote—"Customs Officers are continuously faced with the task of arresting persons who have or are committing violations of the U.S. Customs laws. The decision to arrest a person should not be taken lightly. As law enforcement officers, we are vested with the statutory authority to initiate arrests, but the circumstances should be carefully weighed and considered before this authority is used. Moreover, an officer should always be alert when arresting a person; numerous enforcement officers have been killed and injured during an arrest.

Due to the nature of the job, an inspector's work is substantially different from that of any other enforcement officer. In the area of arrests, for example, when most agents go make an arrest, they are usually armed with search and arrest warrants and know who the person to be arrested is, whether he carries a weapon, where and when the arrest is to take place, and there are usually more agents than suspected subjects.

In contrast to the above, the subject is coming to the inspector he knows that he is violating the law and is hoping that the unsuspecting inspector does not discover the violation. The inspector does not know who the man is, what his habits are, who his friends are, and how many of them, if any, are with him at this instant, and more importantly, the inspector is not even aware that he is

going to have to initiate an arrest. Therefore, it is evident that an inspector is in more danger when attempting to make an arrest than are his other enforcement colleague's, especially in instances when the inspector is working alone or with one other inspector. Nevertheless, inspectors will initiate legal arrests when deemed necessary.

In addition, inspectors face the considerable hazards of routine stream boardings via icy rope ladders and swinging gangways in heavy seas; collisions between ships carrying explosive and highly ignitable and inflammatory cargo; examination and handling of dangerous drugs, chemicals, and inflammables; prolonged exposure to temperature extremes and inclement weather; examination of cargo in congested areas in the midst of constant cargo movement; climbing slippery tanks to gauge contents; prolonged exposure to poisonous exhausts from cars and other vehicles; and frequent unaccompanied nighttime assignments in remote and desolate areas.

Gentlemen, we believe the foregoing factually and honestly describes our duties, responsibilities, and the considerable and serious hazards we routinely and continuously face, day-in and day-out.

We do not ask for exceptional or favored treatment, we simply request equality with all our other law enforcement colleague's. There should not be any doubt as to our entitlement and we are hopefully expectant that the oversight will be promptly and equitably corrected by the Government we loyally and ably serve. Thank you.

Attachments.

Salvator Schillazzi, Nov. 13, 1972: Inspector Schillazzi was injured at Port Elizabeth Terminal with severe burns and taken to Elizabeth General Hospital in critical condition. He was examining some butane lighters in a container when it exploded and took fire due to a gas build-up within the container. Off duty—Nov. 13, 1972—March 9, 1973.

Ralph Torriello, Inspector, December 9, 1971: While boarding a tanker off shore at Port Jefferson Anchorage, Inspector had to use Jacobs ladder to board, lost footing on ladder due to swells of water. Attempted to grab ladder with his arms causing muscular strain to upper back. Off duty—Dec. 10, 1971—Dec. 13, 1971.

Harold Moore, Inspector, January 9, 1968: While boarding S.S. *Poinciana* at Pier 5, P.A., Brooklyn the gangway was not secured properly causing him to fall. He caught on to a rope and called out for help. The dog on board the ship started to bark loudly, then crew members heard his cries and pulled him aboard ship. There was no net below the gangway and ice in the river. Inspector's back was badly injured. Off duty—Jan. 9, 1968—Feb. 15, 1968.

Rudolph E. Gallina, Inspector, June 27, 1973: Inspector Gallina injured in automobile accident while on official duty at Shed No. 230, Fort Elizabeth, N.J. Sustained injuries of head, right arm, neck, and swollen finger of right hand. Off duty—June 27, 1973—July 23, 1973.

Lee E. Smith, Inspector, Dec. 21, 1973: ITO Terminal, Bldg. 2300, Port Elizabeth, N.J. Inspector Smith injured back while examining 150 lb. wheel of cheese. Off duty—Dec. 21 to Dec. 28, 1973.

Frank B. Monroig, Inspector, Jan. 23, 1974: While examining mail at 201 Varick St., Inspector's hand hit the conveyor belt injuring right hand ring finger.

Jack Benson, Inspector, Jan. 8, 1974: While on cargo examination at Brooklyn Army Base Farm Area, Inspector Benson was struck from behind with a hilo carrying cargo. Sustained injuries to right leg. Off duty—Jan. 8, 1974—Jan. 14, 1974.

Anthony Russo, Station Inspector, Oct. 21, 1974: Slipped on some raw coffee beans on floor of Pier 3, P.A., Brooklyn, injuring back. Off duty—Oct. 21, 1974—Nov. 4, 1974.

Renaldo J. Irizarry, Inspector, June 15, 1974: Injured by faulty door to Customs Office, Bldg. 66, Port Elizabeth. Received sprained wrist, left hand. Off duty—June 15, 1974—June 21, 1974.

Amiee H. Frankenberg, Inspector, Sept. 3, 1974: While on baggage duty at J.F.K. Airport, bent over to examine a piece of baggage and injured back. Off duty—Sept. 3, 1974—Nov. 4, 1974.

James A. Cassidy, Inspector, Oct. 4, 1974: After examining a piece of machinery at Wharfing Platform, Shed #3000, Port Elizabeth, N.J., his foot slipped between the edge of platform, the tire bumper and trailer in which he was examining machinery. Suffered broken ankle. Off duty Oct. 4, 1974—Nov. 11, 1974.

Barney A. Lorello, Inspector, Sept. 18, 1974: Moving metal chair in crew area, west wing I.A.B. Bldg., at J.F.K. Airport, fell backwards, striking head on floor causing bruised neck and head.

Ernest C. Stahl, Inspector, July 19, 1974: While examining cargo at Pier 9A, Brooklyn, was struck in left side of back by pier hyster machine. Off duty July 19, 1974-Sept. 11, 1974.

Michael J. Gannotta, Inspector, Sept. 25, 1974: While examining cargo at 36th Street Container Station, cut himself on metal; received cuts and bruises to left arm.

Michael Semo, Inspector, July 12, 1974: Location: SuCrest Refinery, Brooklyn, N.Y. Coming off SS. GOLDEN CHARIOT on a steep gangway which was covered with raw sugar spillage, right foot slipped. He caught the railing with left hand to keep from falling. Sustained injury to leg and back muscles. Off duty July 12, 1974-Sept. 12, 1974.

Evangeline C. Lossiter, Inspector, May 26, 1973: Inspector Lassiter examining baggage at J.F.K. Airport. A Port Authority baggage handler lifted a trunk onto the belt at which she was examining baggage. Trunk slipped from his hands and hit her in the abdomen, causing injury to abdomen. Off duty May 26, 1973 to June 12, 1973.

Walter Granger, C. Inspector, Dec. 26, 1974: While examining cargo at Global Terminal, Jersey City, Inspector Granger slipped on plastic band and fell. Injured left wrist and hand.

Eugene T. McCann, Inspector, Jan. 17, 1975: While examining cargo container at Shed #2300, Port Elizabeth, slipped on a metal plate inside container. Plate sheeted with ice caused by condensation. Injured left leg and shin area. Off duty Jan. 17, 1975-Jan. 20, 1975.

Raymond Ciccolilli, Inspector, Oct. 13, 1974: While on baggage examination at J.F.K. Airport, passenger was being verbally abusive and Inspector refused to process him any further. With this he struck him with his fist; the blow cut the Inspector above the eyelid and along the bridge of his nose. Off duty Oct. 13, 1974 to Oct. 24, 1974.

William Kluber, Inspector, Jan. 10, 1975: While on Baggage examination at J.F.K. Airport, reached into a bag and struck a sharp object causing laceration of tip of right middle finger requiring three stitches. Off duty Jan. 10, 1975-Jan. 13, 1975.

Frederick M. Schwartz, Inspector, Nov. 15, 1974: Slipped and fell backwards in Self Defense class. Suffered severely bruised left elbow. Off duty Nov. 15, 1974-Nov. 18, 1974.

On March 1, 1975 a collision occurred in the stream between the "Atalaia" and the "Texaco Maine" at Bayridge Flats Anchorage at 5:20 A.M.: The "Atalaia" broke anchor and bumped into the "Texaco Maine" which was half loaded with aviation jet fuel. The tugboat "Mary Turecamo" pushed the "Atalaia" away so that no major collision occurred, however the bumping had occurred and serious results would have occurred if the tugboat had not been in the immediate area. There was one Customs Inspector on the "Atalaia." On Board the "Texaco Maine" there were: 1 Customs Inspector, an Immigration and an Agriculture Inspector.

On March 14, 1975 the "Stolt Viking" and the "Santa Lucia" bumped each other; the anchor swung with the tide. Inspector Allan Matrocchi was aboard the "Stolt Viking" at 11:20 P.M. when this occurred. A passing tug, the "Eugene Moran" pushed the ships apart and prevented serious casualties.

March 14, 1975—Crew member fell off the "Globlik Sun" from Jacobs ladder. Oil tanker was discharging in weather which was rough, windy and rainy, which created hazardous conditions for those boarding and leaving ship.

The "Phoenix" oil tanker collided in Stapleton Anchorage with Customs and other inspectors aboard.

When the "Esso Brussels" and "Seawich" collided Inspector Matty Garcia had just finished taking gauges after ship finished pumping. Had he been there, he would have been one of the casualties.

Sunken launches and collisions not uncommon occurrences in the Port. Inspectors aboard ships endangered.

Mr. WHITE. The next witness is from the National Customs Service Association.

STATEMENT OF JAMES R. CREGAN, STAFF COUNSEL, NATIONAL CUSTOMS SERVICE ASSOCIATION; ACCOMPANIED BY JAMES THORNTON, CUSTOMS INSPECTOR; AND LAWRENCE SUTIN, CHAIRMAN OF THE WAGE AND HOURS COMMITTEE

Mr. CREGAN. I am James Cregan. With me on my left is James Thornton, NCSA national vice president and customs inspector at San Ysidro, Calif., and on my right is Lawrence Sutin, chairman of the NCSA Wage and Hours Committee and customs inspector at Champlain, N.Y.

I report that due to an illness that has become quite severe in the last 24 hours, Mr. Murphy is unable to appear before you today in support of this legislation.

In Mr. Murphy's absence, with your permission, Mr. Sutin will read a brief summary of Mr. Murphy's prepared statement submitted for the record.

Mr. WHITE. The entire statement will be included in the record after your presentation.

Mr. CREGAN. Mr. Thornton will then read a statement.

Mr. WHITE. Unless we are told a witness is coming, I'm not sure we will let the witness testify. In the future, please let us know who is coming. Otherwise, they will not be testifying.

Mr. CREGAN. We regret this.

Mr. WHITE. We understand the change as far as Mr. Murphy and we don't know who the other witnesses are and we don't have them listed. So please tell us who will testify.

Mr. CREGAN. Fine.

Mr. Sutin.

Mr. SUTIN. Mr. Chairman, the National Customer Service Association is an independent labor organization representing employees of the U.S. Customs Service across the United States. As such, we urge that this subcommittee press for passage of H.R. 4026, a bill which would include customs inspectors in the category of hazardous occupations.

It has long been clear that customs inspectors are federal employees "... the duties of whose positions are primarily the investigation, apprehension, or detention of persons suspected or convicted of offenses against the criminal laws of the United States."

Inspectors are charged with the enforcement of customs laws and in so doing must investigate possible violations, make inspections, seizures and arrests of individuals found in violation of those laws.

Interdiction of narcotic traffic is among the most publicized and noteworthy of the duties of customs inspectors. As you are well aware, those engaged in smuggling illicit drugs frequently are armed and dangerous. Our full statement lists many instances of dangerous encounters between customs inspectors and these armed smugglers.

Less publicized, but no less dangerous, has been the increasing number of encounters between customs inspectors and fugitives from justice. The extent of customs inspector's involvement with fugitives

and other criminals has increased dramatically in recent years with the introduction by the Treasury Department of the Treasury Enforcement and Communication System (TECS).

This nationwide computer network provides inspectors with information on persons suspected of all Treasury violations. The linkup between TECS and the FBI's National Crime Information Center (NCIC) means that many additional fugitives actively sought by the FBI, as well as State and local police departments, are identified to customs inspectors, who must attempt to apprehend and detain such suspects so that other law enforcement action can be taken.

In the first half of fiscal year 1975 alone, queries to the NCIC system resulted in 504 positive hits, including suspects wanted for murder, bank robbery, fraud, armed forces desertion, and many other violations. Recent statistics released by Customs indicates that such hits have been steadily increasing since the adoption of the NCIC-TEC system.

To the man on the line at the port of entry, danger is a constant companion. Fights and attacks upon the persons of customs inspectors are increasing. Mr. Thornton can relate in detail the dangers faced by inspectors on the line, and can illustrate examples of the types of weapons seized by inspectors from various individuals as they cross into the United States. Such incidents are not restricted to any segment of the border, but in fact occur nationwide.

Customs inspectors form the first line of defense at and between the 297 ports of entry which span this Nation's borders. These men provide a viable enforcement capability which is unparalleled along our country's 96,000 mile expanse of land and sea borders. Their efforts account for the major role in the Customs Service's seizure of more than \$350 million worth of illegal narcotics and drugs during the past year.

Customs inspectors have not previously been covered under 5 U.S.C. 8336(c) because these positions were not considered by the U.S. Civil Service Commission to be investigators, apprehenders, or otherwise involved in the detention of violators of the criminal laws of the United States. It has been and continues to be, the position of NCSA that the customs inspector performs a considerable range of law enforcement functions, many of these related directly to the enforcement of criminal law.

In consideration of the extreme hazards facing customs inspectors, we believe that as a matter of simple justice, they should be included as a class under 5 U.S.C. 8336(c), along with other Federal employees who are subject to no greater hazard in the performance of their assigned duties.

We, therefore, urge the prompt passage of H.R. 4026. We welcome the opportunity to answer any questions, especially any addressed to Mr. Thornton, who can give this subcommittee a first-hand report on the day-to-day conditions faced by customs inspectors in the line. Thank you.

Mr. WHITE. Would you like to let us look over your statement?

Mr. THORNTON. It's attached to Mr. Murphy's statement, at the rear of it.

Mr. WHITE. What page does it start on?

Mr. THORNTON. At the end.

I would like to thank you for the opportunity to appear before this committee on behalf of customs inspectors throughout the Customs Service and more especially, those inspectors on our southern border.

I have been an inspector in San Ysidro, Calif., for almost 4 years and because of the day-to-day pressures, workload and hazards involved, am ranked high in seniority at this port of entry. Anyone at San Ysidro with over 3 years tenure is considered a veteran.

I feel indeed fortunate that I can appear before this committee and tell you that we have had no inspector killed in the line of duty. This is in direct contrast to our brother officers in the Customs Patrol who experienced the tragic loss of two members, killed in a gun battle with a marijuana smuggler last year in Arizona.

We have had many inspectors make seizures of hard drugs worth over a million dollars in street value and many large seizures of marijuana and other contraband. These represent considerable financial loss to the organization backing the operation. News reports, plus the fact that we see spotters observing us daily from the other side of the border, logically tell us that the other side is aware of which inspectors are consistently making the large seizures.

Also, to bear this out, we see good seizure inspectors suddenly start failing to make a seizure—one of the top seizure men at San Ysidro, was brought to Washington over 2 years ago and presented an award by the Commissioner of Customs for outstanding seizure work. He hadn't made a substantial seizure in almost a year which reflects that smugglers are avoiding his position.

Seizures are made, generally speaking, on the primary line where traffic first enters the United States. Therefore, we can only speculate as to what point the organization may decide to extract some revenge and make an example to deter the conscientious seizure inspector.

Our force, uniformed and highly visible, works in fixed locations within the confines of the port of entry. They make easy targets for any individual irate over paying a fine at our secondary office, where extensive searches are made and where fines and duty are collected. Recently, one such individual attempted to return to Mexico and proceeded with a wild flying start to run down the primary inspector with his automobile.

Two other inspectors in back-up positions behind the line, only with great agility, narrowly escaped serious injury. The subject, who was pursued by the San Diego police, wrecked his car 2 miles north of the port and was finally subdued.

We deal with drug addicts, on a daily basis, who go to Tijuana to get a fix. I personally had one such subject run from me at primary lane and after pursuit by three police agencies and five collisions in a high-speed chase, was captured. We subsequently found, after sorting out his aliases, that there were Federal warrants in Arizona for his arrest because of drug dealing. I feel that had he been armed, I might not be here today because of my effort to get him to the secondary inspection area.

Just this past month a sniper with a high-powered rifle tried to murder an inspector in a single isolated booth at our commercial port of entry. Subsequent investigation revealed that the bullet missed the inspector's head by only a few inches and the path of the bullet indicated it came from Mexico. It is still under investigation.

Shooting incidents concerning stray shots flying through the port of entry (POE), have been cause of concern on many occasions. We are never sure if it is a prankster or if it is someone hoping for a lucky hit and staying far enough away to easily escape.

Booby traps are a growing concern. We have received bulletins from headquarters for months warning us of all sorts of weapons hidden in belts, et cetera. Within the past few days intelligence has warned us of booby-trapped bombs in marihuana kilos. This is grave concern to the San Ysidro inspector because of the high volume of marihuana we handle, and we are just entering the peak season for marihuana seizures.

The customs inspector has an almost impossible task trying to protect the Tariff Act notwithstanding the other 17 agencies for which he is acting. Arms smuggling has increased in recent months. Internal Revenue has placed a new demand—that any negotiable funds over \$5,000 leaving or entering the country must be declared on a special IRS form. On the surface this seems to be a rather innocent routine requirement. However, we can speculate about certain organizations passing huge sums of money to the racetracks in Tijuana. Our inspectors have already seized money on several occasions for failure to comply with this requirement.

In San Ysidro, the inspector makes a determination in the primary lane whether or not the traveler is in fact a suspect. If it is considered to be of a minor nature, the subject is referred to the secondary area for search or whatever requirement is necessary.

However, if the subject is suspected of being a narcotics smuggler or a major violation is suspected, the inspector escorts him to the secondary area apparently 50 yards away. He escorts the occupants of the vehicle into a secondary office where pat-down inspections of their person are performed. He then returns and searches the vehicle. The office staff places the names of all who enter this office into a computer which is a customs information network.

About 1½ years ago, this system was coupled with the National Crime Information Center (NCIC) and we are finding an increasing number of these subjects have warrants for their arrest. Probably 5 percent of those crossing the border are referred to the secondary area. Probably less than 1 percent are escorted to secondary. Since we are anticipating more than 35 million border crossers this year, in San Ysidro, we can readily understand that inspectors will encounter a large number of wanted felons and desperate smugglers.

Therefore, the process of getting the subjects to the secondary area has the potentiality of hazard at all times. We have had several serious incidents of kidnaping and inspectors being dragged and seriously hurt while trying to prevent the escape of a subject.

We recently had three men at one time in the same hospital with suspected heart attacks brought on by the day-to-day stress of the job requirements in San Ysidro. Any inspector without a totally fatalistic view of his job is subject to this hazard.

There was a time when the customs inspector was a bona fide tax collector, but no more! We are dealing with desperate people and large amounts of money are at stake. I have only dealt with a few random incidents of the recent past at San Ysidro and have not dwelled on the day-to-day altercations that we consider routine and

just part of the job. I have outlined only those things to which I have personal knowledge and with the narrow point of view of San Ysidro. I assume that conditions are more or less the same throughout our Service.

We need a younger work force to handle the ever-increasing area of enforcement. The bill before this committee would allow earlier retirements and enhance this principle. The inspector feels that it is a travesty of justice that he has been excluded from the same benefits already bestowed on our brother officers throughout the country. Therefore, we ask you to approve this bill and provide the customs inspector the equality that is commensurate with the requirements of his position.

Mr. Chairman, I also brought with me a bulletin taken off our board memorandums that, if you would like, I would like to enter into the record, showing the warning about the boobytrap marihuana.

Also, for your information, I have arrest reports from the San Diego police from the last 3 months showing just custom referrals that they arrested at the port of entry.

I would like to leave the photographs for perusal showing the booth that the rifle shot through at the inspector and the position of the bullet hole.

Mr. WHITE. Without objection, the material you refer to will be received for the use of the subcommittee.

Mr. Daniels?

Mr. DANIELS. Mr. Thornton, one of the previous witnesses, I believe it was Mr. Webber, representing the American Federation of Government Employees, stated that the FBI reported 94 assaults on customs inspectors during 1974. Mr. Murphy in this statement says there were 31.

Can you explain the discrepancy?

Mr. THORNTON. We got our information on the 31 from customs headquarters. No, I cannot. Maybe their coverage includes immigration.

Mr. WHITE. Will the gentleman yield?

I think the testimony of the previous witness said from the FBI files. Maybe the two sources are inconsistent or have different coverage.

Mr. SUTIN. May I advance a possibility.

We may be talking about total assaults on customs officers. Mr. Thornton's figures might be inspectors only. There are other classes of officers who may have been included in the FBI statistics.

Mr. DANIELS. As an immigration inspector, or customs inspector, you enter service at what grade level and what salary, and what is the salary range?

Mr. SUTIN. The customs inspector enters today at GS-5 on a probationary level, advances to 7 and then to 9. It takes a period of 2 years. He can go as high as 11, a senior inspector.

Mr. DANIELS. What is the salary range?

Mr. SUTIN. I would have to check the tables in the book there. It probably ranges from somewhere around \$7,000 to \$8,000 to as high as \$16,000 or \$17,000-something. I would need a GS table to refresh my memory.

We are talking about 5 now there, 9 as the normal career pattern.

Mr. DANIELS. GS-5 starts at \$8,500 according to the schedule I have before me GS-9 is \$10,760.

Mr. SUTIN. It's possible for a relatively few to reach 11.

Mr. DANIELS. Do you have any figures which show the average age on retirement of the customs inspectors?

Mr. CREGAN. We don't have those at the moment, but we can obtain them.

Mr. DANIELS. Likewise on the immigration inspectors.

Mr. CREGAN. We represent only customs inspectors.

Mr. WHITE. When received, they will be included in the record, as well.

[The information follows:]

NATIONAL CUSTOMS SERVICE ASSOCIATION,
Washington, D.C., March 26, 1975.

HON. RICHARD C. WHITE,
Chairman, Subcommittee on Retirement and Employee Benefits, House Committee on Post Office and Civil Service, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the request made of us during our testimony at the hearings before your Subcommittee on H.R. 4026, we submit for inclusion in the record, the following information concerning the average retirement age of Customs Inspectors.

During the period from January 1, 1974, through March 21, 1975, there were sixty-eight (68) regular optional retirements, with the average age of the retiring inspectors being 61.18 years.

During the same period, there were twenty-two (22) disability retirements, with an average retirement age of 54.77 years.

We have also enclosed additional statistics and other information pertaining to the U.S. Customs Service and the activities of its employees, including inspectors. We respectfully request your permission to have these materials included in the record of the hearings on H.R. 4026.

Sincerely yours,

JAMES R. CREGAN,
Staff Counsel.

Enclosures.

[From the Department of the Treasury News, Jan. 24, 1975]

U.S. CUSTOMS SERVICE REPORTS IMPORTS NEAR \$100 BILLION MARK DURING 1974

The U.S. Customs Service processed a record \$98 billion worth of imported merchandise in 1974, an increase of 44 percent over 1973. Collections of duties and taxes on these goods totaled \$4.5 billion, also a record high.

These achievements, based upon preliminary statistics, were reported today by U.S. Commissioner of Customs Vernon D. Acree.

Commissioner Acree noted that Customs' 14,000 employees are deployed at 300 ports of entry throughout the country and along the Nation's 96,000 miles of land and sea borders. He pointed out that Customs officers not only enforce their own laws, but also some 200 others for more than 40 different Federal agencies.

U.S. Customs cleared 264 million people for entry into the country in 1974, a slight increase over the previous year. Commissioner Acree noted that this total exceeds the Nation's population by some 50 million persons.

During 1974, Customs officers also made over 21,000 seizures of illicit drugs, valued at nearly \$380 million. The seizures included over 530,000 pounds of marijuana, approaching a 10 percent rise for the year.

Customs Tactical Interdiction Units, operating at and between ports of entry, made significant seizures of contraband, including drugs. A highlight was a record 19-ton marijuana seizure near Nogales, Arizona, last fall, the largest such case in U.S. Customs history.

Customs' 103 drug detector dogs checked a total of 8.8 million separate items during the year. These included vehicles, merchandise, mail, and baggage. Their uncanny noses produced more than 2,500 "hits."

The Treasury Enforcement Communications System (TECS), a nationwide, computer-based lookout and identification system, provided information that led to nearly 1,200 arrests. These included suspects wanted for murder, bank robbery, fraud, armed forces desertion, and other violations.

Customs Officers in 1974 presented Cargo Security Seminars to over 2,000 executives of the cargo-handling industry. The seminars emphasized such basic security procedures as cargo documentation control, physical security, and control of people entering and leaving cargo areas.

In addition, more than 550 Customs officers were trained to conduct procedural and physical security surveys for cargo-handling firms. They also reviewed new investigative procedures for cargo theft cases.

In a recent New Jersey investigation, Customs Officers arrested three men and recovered \$360,000 worth of French-made men's suits that had been hijacked while in transit between Kennedy International Airport, New York, and a warehouse in Secaucus, New Jersey.

The Automated Merchandise Processing System (AMPS) attained significant developmental plateaus in 1974. Major portions of the Early Implementation System (EIS) became operational in Philadelphia after extensive testing, and plans for installing EIS in Chicago moved ahead.

The development of a long-range program, of which EIS is a part, was completed in mid-year. Known as "The Customs Concept for Merchandise and Revenue Processing," it became a reality after lengthy consultations between Treasury, Customs management and members of the trade community.

The detailed design of the "Customs Concept" is currently in progress and will be completed in 1975.

The U.S. Customs Service observed its 185th birthday on August 1, 1974. In remarks on that occasion, Commissioner Acree said: Our country owes much of its present size, economic vigor, and law enforcement success to Customs. This young Nation might not have survived many critical periods without the revenue produced by the U.S. Customs Service."

[From the Department of the Treasury News, Feb. 28, 1975]

CUSTOMS COLLECTIONS IN CALENDAR YEAR 1974 EXCEED 1973 BY 9 PERCENT

Collections or calendar year 1974 by the Treasury Department's U.S. Customs Service increased by 9 percent over calendar year 1973, according to a report issued today by U.S. Commissioner of Customs Vernon D. Acree.

The totals were \$4,571,463,897 for 1974 compared to \$4,203,654,489 for 1973. Customs collections consist of duty on imported goods (tourist purchases as well as commercial shipments), excise and other Federal taxes, forfeited merchandise, fines, and recoveries of Government property.

The 15 Customs Districts (each designated by its headquarters port) having the largest total collection were as follows:

TOTAL CUSTOMS COLLECTIONS CALENDAR YEAR 1974		TOTAL CUSTOMS COLLECTIONS CALENDAR YEAR 1973	
1. New York, N.Y.-----	\$962,789,240	1. New York, N.Y.-----	\$938,304,229
2. Los Angeles-----	495,589,564	2. Los Angeles-----	428,752,983
3. JFK Airport-----	309,400,119	3. JFK Airport-----	280,959,217
4. Detroit-----	259,482,336	4. Detroit-----	266,205,868
5. San Francisco-----	223,831,017	5. San Francisco-----	199,405,211
6. Chicago-----	203,839,354	6. Chicago-----	184,331,647
7. Philadelphia-----	185,874,971	7. Philadelphia-----	175,139,456
8. Baltimore-----	165,713,604	8. Baltimore-----	153,926,639
9. Boston-----	148,286,300	9. Boston-----	142,155,768
10. Seattle-----	146,708,645	10. New Orleans-----	122,281,705
11. Houston-----	138,441,813	11. Seattle-----	113,696,063
12. New Orleans-----	135,711,304	12. Newark-----	106,704,217
13. Newark-----	101,850,803	13. Houston-----	105,048,178
14. Norfolk-----	95,407,331	14. Norfolk-----	83,094,586
15. Cleveland-----	87,489,594	15. Cleveland-----	79,325,777

Customs collections for the past two calendar years were divided as follows:

	1974	1973
Duties.....	\$3,746,313,343	\$3,397,359,438
Taxes.....	796,901,511	784,157,378
Miscellaneous.....	28,249,043	22,137,673
Total.....	4,571,463,897	4,203,654,489

The 15 Districts (each designated by its headquarters port) having the largest customs collections for the *second quarter* of Fiscal Year 1975 were as follows:

Total customs collections, October–December 1974

1. New York, N.Y.....	\$239,699,255.92
2. Los Angeles.....	135,039,489.39
3. JFK Airport.....	93,748,222.06
4. Detroit.....	71,793,364.67
5. Chicago.....	71,042,038.78
6. San Francisco.....	60,994,419.17
7. Philadelphia.....	52,527,208.61
8. Seattle.....	44,124,009.50
9. Baltimore.....	42,604,750.72
10. Houston.....	42,042,953.40
11. Boston.....	38,691,994.46
12. New Orleans.....	36,220,633.54
13. Newark.....	29,814,446.76
14. Cleveland.....	28,049,406.44
15. Ogdensburg.....	22,582,384.31

The second quarter customs collections for the past two years were divided as follows:

	1975	1974
Duties.....	\$997,071,549	\$843,584,519
Taxes.....	240,324,547	241,551,588
Miscellaneous.....	6,668,054	6,272,559
Total.....	1,244,064,150	1,091,408,666

[From the Department of the Treasury News, Feb. 4, 1975]

CUSTOMS DRUG SEIZURES JUMP

U.S. Customs seizures of marijuana jumped 50 percent and heroin seizures nearly 16 percent during the first six months of fiscal year 1975.

According to U.S. Commissioner of Customs Vernon D. Acree, more than 233,000 pounds of marijuana—116.5 tons—were seized in the period compared with over 154,000 pounds—77 tons—seized in the first six months of the previous year.

The street value of the 116.5 tons of marijuana confiscated in first half FY 1975 was in excess of \$67 million; while the value of the marijuana seized in the same period of last year was over \$44 million.

Heroin seizures also registered an increase—44 pounds in the first half of FY 1975 versus 38 pounds for the same period in FY 1974, a 15.8 percent rise. The 44 pounds of heroin seized in FY 1975 would have commanded about \$23 million on the street.

The U.S. Customs Service collects duties on imported merchandise, and enforces its own and some 200 other Federal laws on behalf of over 40 Federal agencies.

Its 14,000 employees, deployed at over 300 ports of entry throughout the United States and along the land and sea borders of the U.S., last year collected \$4.5 billion in revenues.

Customs conducts a wide variety of anti-smuggling and other enforcement programs. In so doing Customs officers utilize the latest in enforcement technology to ensure high efficiency. This includes a nationwide computer-based identification and communications system, special sensors, boats, light aircraft, helicopters, and special purpose vehicles.

[From the Department of the Treasury News, Dec. 2, 1974]

\$2.6 MILLION WORTH OF HEROIN SEIZED AT SAN YSIDRO, CALIF.

A U.S. Customs Inspector seized 5.06 pounds of brown heroin late last night at San Ysidro, California, according to Albert G. Bergesen, Regional Commissioner of Customs. The brown heroin has a street value of \$2.6 million.

The heroin was found in a 1972 Chevrolet station wagon. Arrested and charged with possession of heroin and conspiracy to distribute were: Jeffry Frank Schreiber, 23 and his wife Faith Christen, 24, of 514 Parker, Monrovia, California; Nathan Robert Henderson, 36 and Yolanda Prater Gonzales, 32, both of 1241 E. Bradford Drive, Glendora, California.

The Drug Enforcement Administration is pursuing the investigative aspect of this case. The four suspects will be arraigned before the U.S. Magistrate in San Diego.

[From the Department of the Treasury News, Jan. 10, 1975]

U.S. CUSTOMS SEIZES COCAINE WORTH \$6.5 MILLION IN RECORD LOS ANGELES CASE

The U.S. Customs Service has reported the seizure of \$6.5 million worth of cocaine at Los Angeles International Airport. It was the largest such drug seizure ever made at the Los Angeles Airport, and one of the most important in the last year for the Customs Service.

According to U.S. Commissioner of Customs Vernon D. Acree, the drug, weighing approximately 30 pounds, was concealed on the person and in the luggage and effects of an air passenger arriving from Colombia, South America late Thursday night. A Customs Inspector made the discovery during a routine check.

Arrested was Gerald Culver Kott, 49, a construction worker from Mill Valley, California. The cocaine was discovered in two false-bottom and top suitcases; on Kott's person; and in a fishing tackle box and hollow fishing pole sections.

The case was turned over to the Drug Enforcement Administration for further investigation. The suspect is expected to be arraigned before a U.S. Magistrate in Los Angeles.

The U.S. Customs Service, in addition to its anti-smuggling responsibilities at over 300 ports of entry and along the land and sea borders of the U.S., conducts a wide variety of other law enforcement programs. Its 14,000 employees enforce not only their own laws and regulations, but also some 200 others for more than 40 Federal agencies.

Last year Customs officers made over 22,000 drug seizures, and confiscated more than \$380 million worth of narcotics and drugs.

Mr. DANIELS. No further questions.

Mr. WHITE. Thank you, Mr. Daniels.

You may have asked this, Mr. Daniel. The overtime that the customs inspectors will perform is not contemplated in this bill as I understand it, is that correct?

You're not seeking the extra benefits for overtime, but the benefits on the basic salary of the customs inspector.

Mr. SUTIN. In the—as I understand the present situation, those who are covered get their overtime included. We would take the position—that overtime is in the computation for retirement. This is my understanding of the way the current situation is.

We would take the position that our overtime should be considered, too, because it is actual duty time. We are subject to the same situation.

Mr. WHITE. Would you allow one of our staff, who is an expert in this particular field, to recite what the law is on that?

Mr. DEVLIN. Apparently, you don't understand quite what the existing provisions of law are with respect to overtime pay among the law enforcement people who are now covered by the provisions of the act: They are only entitled to use their uncontrollable overtime.

There may be a question here, Mr. Chairman, as to whether customs and immigration inspectors, in fact, receive pay for uncontrollable overtime, as opposed to time and a half or double time for true overtime.

Mr. SUTIN. We do not receive the uncontrollable overtime. This is a question we have pondered as to what would be the approach. Naturally, especially in my position as chairman of the wage and hours committee, I take the position the overtime should be included.

Mr. WHITE. In controlled overtime?

Mr. SUTIN. Yes.

Mr. WHITE. In computing of extrahazardous duty?

Mr. SUTIN. Yes.

Mr. WHITE. Would that differentiate it from the regular law, Mr. Devlin?

Mr. DEVLIN. It would. It would be even more favorable than in the other categories, particularly where the premium pay exceeds 25 percent of the basic pay.

Mr. WHITE. I see.

I have no further questions.

Thank you for coming to present your testimony to us this morning. We appreciate it. We will receive the additional information you offered to the subcommittee.

[The prepared statement submitted by the previous witness follows:]

PREPARED STATEMENT OF JOHN J. MURPHY, PRESIDENT, NATIONAL
CUSTOMS SERVICE ASSOCIATION

Mr. Chairman and members of the Subcommittee on Retirement, my name is John J. Murphy. I am President of the National Customs Service Association (NCSA). I am accompanied here today by Mr. James R. Cregan, Staff Counsel, Mr. Lawrence N. Sutin, Chairman of our Wage and Hours Committee, and Mr. James W. Thornton, a Customs Inspector at The Port of San Ysidro, California.

The National Customs Service Association is an independent labor organization representing employees of the Customs Service and having members at all levels and in all occupations in Customs. We have local branches and members-at-large throughout the mainland United States and in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. We have members also in foreign countries where there are U.S. Customs facilities. We represent the majority of Customs employees affected by the legislation now before you.

The legislation before the Subcommittee would include Customs inspectors in the category of hazardous occupations.

We support this bill most strongly. We feel that Customs inspectors should have been covered by hazardous duty legislation when it was first enacted in 1948. It has long been our position that Customs inspectors are clearly "Federal employees, the duties of whose positions are primarily the investigation, apprehension or detention of persons suspected or convicted of offenses against the criminal laws of the United States."

Customs inspectors are charged with the enforcement of Customs laws. Enforcement includes securing and acting upon information concerning actual or suspected violations of the Customs laws, and where necessary, making searches, seizures, and arrests. Inspectors form the first line of defense against smuggling of all kinds.

Interdiction of illicit narcotic traffic is among the most publicized and noteworthy of the duties of Customs inspectors; 26 U.S.C. 7607, as amended to conform to the Comprehensive Drug Abuse and Control Act of 1970, reads as follows:

7607. Additional authority for Customs Service

Officers of the customs (as defined in section 401(1) of the Tariff Act of 1930, as amended; 19 U.S.C., sec. 1401(1) may—

(1) carry firearms, execute and serve search warrants and arrest warrants, and serve subpoenas and summonses issued under the authority of the United States, and

(2) make arrests without warrant for violations of any law of the United States relating to narcotic drugs (as defined in section 102(16) of the Controlled Substances Act) or marihuana (as defined in section 102(15) of the Controlled Substances Act) where the violation is committed in the presence of the person making the arrest or where such person has reasonable grounds to believe that the person to be arrested has committed or is committing such violation. (As amended Oct. 27, 1970, Pub.L. 91-513, Title III, 1102(g) (1), 84 Stat. 1293.)

Customs inspectors continually come into personal contact with vessel officers, crew members and the traveling public, who are oftentimes antagonistic and belligerent. In many instances, and especially in connection with small ships or at isolated ports, he performs his duties away from crowded piers and terminals and may be the only enforcement officer on duty.

In addition to duty assignments at seaports and airports throughout the country, Customs inspectors are employed at Customs ports of entry and Customs stations along the Mexican and Canadian borders. At these points they come in direct contact with persons of all types and descriptions, including all manner of criminals.

The extent of Customs inspectors' involvement with fugitives and other criminals has taken on an added dimension with the adoption by the Department of the Treasury Enforcement and Communications System (TECS). This nationwide computer network provides inspectors with information on persons suspected of smuggling and other Treasury violations. The linkup between TECS and the FBI's National Crime Information Center (NCIC) means that many additional fugitives actively sought by Federal, state and local law enforcement agencies are now identified to inspectors, who must attempt to apprehend and detain such suspects so that appropriate law enforcement action may be taken.

A vivid example of Customs' involvement in the NCIC-TECS system was provided by an incident which occurred in El Paso, Texas, on March 12, 1974.

As a result of a TECS inquiry, the inspector determined that his subject was wanted for murder by the San Bernardino, California, Police Department and that he was armed and dangerous. The inspector escorted the subject to the secondary search area, where he was patted-down and handcuffed.

Inspection of the subject's vehicle then revealed a loaded, cocked .22 caliber revolver under the right front seat—the weapon which had been used in committing the California murder.

The computer link-up of this network with the FBI's National Crime Information Center (NCIC) provides further access to over 5 million records of criminals, fugitives and related data never before available on this scale. This latter link provides access to FBI files which contain fugitives actively wanted by Federal, state and local law enforcement agencies. These fugitives, and other criminals, are identified to inspectors on-the-spot after a query of the system.

These fugitives are usually felons whose criminal involvement includes such crimes as armed robbery, grand larceny, homicide, assault, receiving stolen property, forgery, parole violation, military desertion, and persons in flight to avoid prosecution or confinement. When such an individual's identity has been established, the inspector must attempt to apprehend and detain him so that the appropriate law enforcement action may be taken. As these law enforcement intelligence capabilities increase through cooperation with other law enforcement agencies, there will be even greater hazards involved for Customs inspectors.

These increasing demands are accompanied by a commensurate rise in armed and violent resistance to Customs Inspectors performing their duties. In the first half of FY 1975 alone, queries to the NCIC system resulted in 504 positive hits. The 504 hits involved suspects wanted for murder, bank robbery, fraud, armed forces desertion, and other violations.

These NCIC hits resulted in 289 arrests, up 43%, for the first half of FY 1975. Also, during the same period, the Treasury Enforcement Communication System (TECS) resulted in 246 arrests. Totals for the first half of FY 1975 show that 11,052 narcotics seizures and 7,475 arrests were made.

These statistics only indicate new involvement for the Customs Inspectors. They do not take into account 21,000 illicit drug seizures made by Customs officers during FY 1973 and arrests of 9,555 persons for narcotic violations. Although Inspectors do not singularly account for all these activities, they have a major role in the initial encounter of almost every seizure, and their efforts include interrogation, detention and arrests as the circumstances dictate.

Although we are constantly disadvantaged by sophisticated changes in drug and narcotic trafficking, the Customs Service has continued to take devastating tolls on such illegal activities. Seizures of narcotics and dangerous drugs during Fiscal Year 1974 were as follows: 76.0 lbs. of heroin, 706.0 lbs of cocaine, 21.0 lbs. of opium, 8,099.0 lbs. of hashish, and 451,067.0 lbs. of marijuana.

In addition to this, 23,592,108 units of dangerous drugs consisting of 5 grams each were confiscated along with 138 lbs. of miscellaneous narcotics.

San Ysidro, California is an example of a port where inspectors are continuously involved with hazardous enforcement work directly connected to the prevention of narcotics smuggling.

There is a long, frightening history of incidents in which the lives of inspectors have been endangered at this port. During a recent ten-month period, a total of 192 weapons were seized, including 142 concealed pistols. The following are but a few of the incidents which have occurred:

A Mexican customs employee was attempting to smuggle a load of marijuana into the United States. The U.S. customs inspector, suspecting that the subject was attempting such action, escorted him to the secondary inspection area by walking alongside the car. The subject suddenly veered in a circle, knocking the inspector to the ground; the inspector was injured and was off work for some time. A second inspector, in an attempt to aid his co-worker, was run down by the subject and fell victim to a broken clavicle, which disabled him for months. The subject was eventually apprehended by Mexican authorities and sentenced to a long prison term.

An inspector, while searching a car for suspected contraband, was searching the rear seat when the driver floored the accelerator and drove off, dragging the inspector, who was forced to shoot the subject in the leg.

An inspector was walking a subject to the secondary search area when the subject pulled away at a high rate of speed, and fired, with a previously hidden revolver, at another nearby inspector. The subject was apprehended by San Diego police, and was found to be in possession of a load of marijuana.

Not only smugglers provide extra hazards to inspectors. Again citing San Ysidro as an example, an importer at the commercial port of entry became irate at being told by an inspector that he had to unload his merchandise for inspection. The importer made an unprovoked attack on the inspector, and in the ensuing fracas, struck the inspector in the eye with his briefcase. After two years, is it still uncertain whether the inspector will regain full vision in that eye.

An insidious new development offers added peril to the inspectors. Drug users, either maliciously or negligently, have taken to placing, with point exposed, their filthy, infected hypodermic syringes between and under seats of vehicles where inspectors normally run their hands during search. Several inspectors have, as a direct result, become infected with hepatitis, resulting in long layoffs and great danger to life and health. In the case of one San Ysidro inspector, and Occupational Safety and Health Administration (OSHA) board has recently removed any doubt that the incidence of his hepatitis was directly work-related.

Fights at border ports are commonplace and weapons of every description have been found on the person of felons and other criminals, narcotic addicts and smugglers, psychopaths and other unstable and dangerous individuals.

In routine searches it is common to discover concealed weapons such as knives, switch blades, brass knuckles, revolvers and automatic pistols. Knives have been

found dangling on the end of a string down a suspect's pants leg attached from his belt. Guns have been found strapped to the legs or taper there with making or adhesive tape. Other unlikely places are: lunch pails, inside a hot-water bag, in soiled diapers, between the shoulder blades, and even inside a can of cooking oil.

Not a day passes without inspectors being involved in scuffles with border crossers who are high on pills and "weed." This type of scuffling is so common that inspectors take it as part of a day's work and no record is made of it unless something serious is seized, or the subject is arrested.

In addition to the hand-to-hand encounters at the border crossings, numerous illegal aliens are picked up by Customs inspectors. Many small seizures of marijuana seeds and sweepings are made. These cases are usually not prosecuted because of the extremely heavy court load and the small amount of material seized. However, the hazard in connection with processing these often desperate people is not diminished.

It should be noted that it is the experience of the inspectors at border ports that the traveling public is becoming more and more belligerent in connection with Customs processing. Many are under the influence of alcohol, "speed", and other pills as well as marihuana. Many times there is a combination of the three involved. These people frequently are extremely hard to handle because of their almost maniacal strength.

In addition to the above, a significant percentage of the travelers in automobiles crossing the border are intoxicated or belligerent, or both. There are too many cases of these drivers actually trying to run down inspectors at the crossings.

The work environment in the border ports is one of extreme danger to inspectors. In order to protect themselves, all inspectors are authorized to carry Mace and some are authorized to carry pistols.

The number of physical assaults upon inspectors is increasing. During the calendar year 1974 there were 31 reported assaults on Customs inspectors resulting in injury to the inspectors. In addition, there were numerous assaults which were unreported since there was no injury to the inspector.

We have already detailed the hazards inherent in being an inspector at the Southern Border Port of San Ysidro. Peril is common on the Northern Border also. For example, the Port of Champlain, New York, which lies on Interstate Highway 87 connecting New York City and Montreal, is continually faced with hazardous situations. Known crime syndicates operate in both cities.

A graphic incident occurred at Champlain several years ago. Two inspectors and a Customs agent were shot when a suspect suddenly pulled out a gun and fired several shots at them and at other Customs employees in the Customs office. The gunman fled back across the Canadian border and shot himself. Inspector David Hoff was one of the inspectors shot during the incident. He still carries a bullet in his body because doctors feel that its position renders the wound inoperable.

In another incident, a Canadian using a sawed-off shotgun kidnapped a Montreal taxi-driver and forced him to drive to the United States. When crossing the border, the driver appeared nervous to the inspector, who became suspicious and disarmed and apprehended the kidnapper.

An inspector at the Rainbow Bridge at Niagara Falls, New York was confronted by a deranged man carrying a 7-inch bowie knife who had eluded Ontario, Canada police and was running across the bridge into the U.S.

The inspector was able to persuade the subject to drop the knife and then handcuffed him and turned him over to the Niagara Falls police. The subject was carrying a pack which contained an ax, a throwing knife, and a blackjack.

The above are but examples of the incidents that are becoming more common every day along the Northern Border. The inspectors at Champlain share the experiences of inspectors elsewhere throughout the country in that they find that the traveling public is becoming very belligerent, disrespectful, and resentful of the law. This results in many incidents that sometimes blossom into those of the seriousness described above.

We could cite hundreds upon hundreds of incidents of hazards encountered by Customs Inspectors. The following are some of typical examples from Alaska.

1. An inspector working alone on the midnight to 8 A.M. shift at ALCAN, Alaska found marijuana in the luggage of a traveler at 2:15 A.M. The inspector decided that a personal search of the subject was warranted. This was not an

easy decision as the subject was a burly 6'4" 226-pounder while the Inspector is 5'7" and weighs 135 pounds.

The subject objected to being searched but finally agreed when the Inspector called a janitor who was cleaning up the building to assist him. The extreme danger of this night encounter is obvious when one learns that the subject was carrying marijuana on his person as well as a fully-loaded two-shot .357 caliber pistol. Incidentally, the nearest law enforcement assistance is some 90 miles from ALCAN.

2. Inspectors in the state of Alaska are required to fly to many remote areas. The dangers of flying on the North Slope, the Aleutian chain, and in Southeastern Alaska are well-known. A recent example involved an inspector flying by small charter aircraft, from Petersburg to Ketchikan, which was forced down by engine trouble. Fortunately, the float-equipped plans was able to land in the mouth of the Behan Canal despite high waves and high winds. If the engine failure had occurred ten minutes earlier, the plane would have gone down in the passes on the Cleveland Peninsula.

With the changing times and circumstances in Alaska, for example the construction of the oil pipeline, air travel in small planes by Inspectors will become more frequent and more hazardous.

Like other enforcement officers, Customs inspectors are subject to call at any time of day or night. In addition to erratic working schedules, Customs inspectors constantly face personal hazards other than those normally incident to most enforcement duties. Hazards are ever present in boarding or leaving vessels, from falling into open hatches, in stepping on slippery decks, from walking among rails and switches at railroad terminals, from speeding fork trucks and swinging cranes.

There are instances of inspectors falling overboard when boarding vessels via Jacob's ladders during bad weather. The hazards inherent in working in crowded cargo areas at busy piers are obvious. Inspectors have been injured because of falling cargo and from collisions with trucks and other vehicles and equipment used in the handling of cargo.

The danger existing in regard to the inspection of oil tankers are particularly noteworthy. At refinery areas, inspectors frequently must walk on various pipes, of between 8" and 30" diameter, between tanks, sometimes of a distance of up to 60 feet. Ladders are often coated with oil, and are especially hazardous during inclement weather. Intense fumes emanating from naphtha tanks made conditions even more dangerous. Needless to say, the danger from explosion is always present. It is important to note that the Occupational Safety and Health Administration has rated maritime work as the single most hazardous occupation. Yet Customs inspectors, whose assigned tasks commonly bring them face-to-face with the same hazards encountered by maritime workers, have yet to have their occupation included in the "hazardous" category.

Inspectors at highway border crossings and at bridges and tunnels are subject to the hazards of inhalation of the exhausts of automobiles. The danger to health associated with the inhalation of carbon monoxide and hydrocarbons is plain. Many of our inspectors have been adversely affected by this. They are subject to continual headaches and many must endure chronic nausea after a short period of time on the examination line. It is interesting to note that the harmful effects of the inhalation of these fumes is not limited to humans alone. A marijuana detector dog working on the automobile line at San Ysidro, California, had to be assigned to another area when he became nauseous after a short time on the line. The fumes also interfered with his sense of smell, and he was unable to detect the presence of marijuana.

Additional hazards frequently are faced by inspectors because of improperly marked crates or invoices. Caustic or explosive substances are frequently discovered in unmarked containers. In Hawaii recently, an inspector examining an outwardly normal-looking footlocker discovered, upon examination, an uncaged python snake. An even more shocking example of this type of hazard comes from an incident which occurred in San Francisco. There an inspector performing a routine airport baggage examination, while running his hand over a piece of luggage, was bitten by an asp—a highly venomous snake of historical repute. Rare serum had to be rushed from Southern California. It arrived barely in time to save the inspector's life.

Additionally, there are the hazards inherent in a job that must be performed under conditions of constant strain and increasing workload. The Customs Service has a steadily increasing workload and has been understaffed for many

years. The result is that there is considerable continuing pressure on inspectors to get the job done. The consequence of this is that we have a large number of inspectors affected by such pressure diseases as coronary attacks and hypertension. This pressure is present at every Customs installation from the smallest one-man port to the teeming border crossings, international airports, and great seaports.

Customs Inspectors are the first line of defense at 297 ports of entry which span this Nation's borders. Within these ports, and at innumerable locations, these men provide a viable enforcement capability which is unparalleled along our country's 96,000 mile expanse of land and sea borders. Their efforts account for the major role in the Customs Service's seizure of more than \$350 million worth of illegal narcotics and drugs during the past year.

Customs Inspectors have not previously been covered under 5 U.S.C. 8336(c) because these positions were not considered by the U.S. Civil Service Commission to be investigators, apprehenders or otherwise involved in the detention of violators of the criminal laws of the United States. It has been, and continues to be, our position that the Customs Inspector performs a considerable range of *law enforcement* functions, many of these related directly to the enforcement of criminal law.

Mr. Chairman, in consideration of the extreme hazards of the inspectors' work, we believe that as a matter of plain justice, they should be included as a class under the provisions of section 8336(c) of Title 5, United States Code, along with other Federal employees subject to no greater hazards in the performance of their assigned duties.

We want to thank you, Mr. Chairman, and members of the Subcommittee for scheduling these hearings and giving us the opportunity to be heard.

If there are any questions, we welcome the opportunity to answer them.

APPENDIX I

INFORMATION PERTAINING TO CUSTOMS INSPECTORS

Merchandise processed

During the first six months of fiscal year 1975 (July–December 1974), Customs processed over \$52 billion in imported merchandise—an increase of almost 48 percent over the same period the previous year.

Carriers and persons processed

Almost 40 million carriers and 134 million persons were cleared through Customs during the first six months of fiscal year 1975—increases since the same six month period of 1970 of 12 percent and 11 percent respectively.

During CY 1974 Customs inspectors processed over 74 million carriers and 254 million persons entering the United States; approximately 75 million pieces of baggage were examined.

During FY 1974 Customs inspectors processed over 75 million carriers (vessels, aircraft and vehicles) and nearly 260 million persons entering the United States; approximately 76 million pieces of baggage were examined.

Other increases

Since 1965, Customs has experienced significant and often tremendous increases in workload. Based on activities during the first six months of FY 75, we have achieved the following increases since 1965: aircraft entering, +65%; vessels entering, +16%; land vehicles entering, +37%; total carriers processed, +37%; total persons processed, +38%; formal entries of merchandise, +72%; customs collections, +137%; value of imports, +500%.

Assaults on inspectors

Customs inspectors often face serious danger in the line of duty. Inspectors have been shot at, stabbed, run over and dragged by automobiles driven by violators, hit with every conceivable object, and assaulted time again in the performance of their official duties. During calendar year 1974 there were 31 reported assaults on Customs inspectors resulting in injury to the inspectors. In addition, there were numerous assaults which were unreported since there was no injury to the inspector.

Enforcement

During the first half of FY 75, Customs made 11,052 narcotics seizures and 7,475 arrests. Increases in narcotics seizures and arrests are expected from tactical interdiction efforts and increases in the number of TECS terminals.

Increase in foreign visitors

The U.S. Travel Service estimates that during the 1976 Bicentennial Year, more than 15 million international visitors will arrive in the United States. Expedited Customs service will be required at Bicentennial gateways.

Processing persons

We expect increased productivity within the next five years through: (1) the expanded use of automation (Customs Accelerated Passenger Inspection System, Treasury Enforcement Communication System (maintained by Customs), and baggage x-ray); (2) implementation of new legislation; and (3) increased enforcement actions.

Spanish language

Since 1971, we have been training our Inspectors, Special Agents and Customs Patrol Officers in Spanish to improve our capability to facilitate the entry of passengers and baggage crossing our borders and to prevent the smuggling of illegal and restricted merchandise including narcotics. Our training is conducted at ports of entry at the Mexican border and it has been expanded from one port to five. It has proven successful and we are planning to expand the program to other ports, districts and regions. We have trained, since 1971, 500 employees to an elementary Spanish language proficiency and we anticipate training 600 in FY 76. Completion of all phases of the language program will provide the Service with employees trained to minimal professional language proficiency.

INFORMATION CONCERNING DRUG SEIZURES AND TECS AND NCIC HITS

During FY 1974 over \$350,000,000 worth of narcotics and dangerous drugs were seized by the Customs Service; and during calendar year 1974 Customs Officers made over 21,000 seizures of illicit drugs, valued at nearly \$380,000,000. The seizures included over 530,000 pounds of marijuana, approaching a 10% rise System a nationwide computer-based lookout and identification system provided for the year. Also during CY 1974 the Treasury Enforcement Communication System, a nationwide, computer-based lookout and identification system, provided information that led to nearly 1200 arrests. These included suspects wanted for murder, bank robbery, fraud, armed forces desertion, and other violations.

Customs had a 75% increase in the number of marijuana seizures from FY 1973 to FY 1974 and a 45% increase in the quantity seized. The quantity of dangerous drug seizures was up by 49% in FY 1974 over FY 1973 and the number of cocaine seizures was up 13% in FY 1974 over FY 1973.

Looking at our seizure activity for FY 1975 through February the quantity of marijuana seized was up by 21% over the same time period last fiscal year, the quantity of "other narcotics" seized (including morphine, codeine, etc) was up by 127%, and the quantity of heroin seized was up by 13% over the same period in FY 1974.

During the first half of 1975 the quantity of heroin seized was up by 16% over the same period in FY 1974, the quantity of marijuana seized was up 51%, and the quantity of "other narcotics" seized was up 154%.

Productive TECS hits were up by 21% for the first half of FY 1975 over the same period in FY 1974. Productive NCIC hits made on TECS were up by 79%, and NCIC arrests were up by 43% for the first half of FY 1975 versus the first half of FY 1974.

SEIZURES OF NARCOTICS, MARIHUANA AND DANGEROUS DRUGS—FISCAL YEAR 1974

Item	Number of seizures	Quantity	Arrests	Street value	Street value per pound
Heroin.....	460	¹ 76	455	² \$23, 786, 784	\$521, 640. 00
Opium.....	51	¹ 21	25	NA	-----
Cocaine.....	1, 049	¹ 706	429	149, 873, 210	212, 285. 00
Other narcotics.....	219	¹ 138	0	NA	-----
Marihuana.....	13, 993	¹ 451, 067	5, 264	130, 809, 430	290. 00
Hashish.....	3, 233	¹ 8, 099	892	36, 850, 450	4, 550. 00
Dangerous drugs.....	2, 408	³ 23, 592, 108	1, 143	15, 334, 870	. 65
Total.....	21, 413	-----	8, 208	356, 654, 744	-----

¹ Pounds.² Computed at 60 percent purity.³ 5-grain units.

TECS STATISTICS—1ST HALF FISCAL YEAR 1974/75

	1st half fiscal year 1974	1st half fiscal year 1975	Percent
Nonproductive hits.....	11, 218	11, 409	+2
Productive TECS hits.....	541	655	+21
Productive NCIC hits.....	281	504	+79
Seizures.....	428	319	-----
Narcotic seizures.....	288	249	-----
Other seizures.....	140	70	-----
TECS arrests.....	273	246	-----
NCIC arrests.....	202	289	+43

Mr. WHITE. The next witness is Mr. Vincent Connery, National Treasury Employees Union.

STATEMENT OF VINCENT L. CONNERY, PRESIDENT, NATIONAL TREASURY EMPLOYEES UNION, ACCOMPANIED BY MARY CONDON GEREAU, AND JERRY D. KLEPNER

Mr. CONNERY. My name is Vincent L. Connery.

Our union has been elected the exclusive representative of nearly 70,000 employees of the U.S. Department of Treasury, which includes employees working in the Internal Revenue Service, the Bureau of Alcohol, Tobacco, and Firearms and the U.S. Customs Service.

Within these agencies, we represent approximately 9,000 employees who are law enforcement officers and are entitled to preferential retirement benefits. Primarily, these men and women serve as special agents in the Internal Revenue Service, investigators in the Bureau of Alcohol, Tobacco, and Firearms, and customs patrol officers.

In recognition of the hardships encountered by these and other Government law enforcement officers as well as the special sacrifices demanded of them, Congress in 1948 enacted legislation permitting

these men and women, among others, to retire at age 50 with 20 years service on an annuity computed on the basis of 2 percent for each year of service.

In effect, this legislation allowed law enforcement officers to retire at an earlier age than other Federal employees and provided them with higher annuities.

In the intervening years between 1948 and 1974, annuities for other Federal employees were increased; however, those for law enforcement officers remained at the same level. Last year, Congress reaffirmed its intent to provide these individuals with preferential retirement benefits by adopting H.R. 9281 which was signed into law as Public Law 93-350.

This law, among other things, increased the computation figures for determining the annuities of law enforcement officers from 2 percent to 2½ percent.

Our union has consistently supported congressional efforts which recognize the strain of these arduous positions and the physical dangers faced by these employees by providing law enforcement officers with an earlier and more beneficial retirement than those not involved in such hazardous occupations.

However, in addition to those who are currently entitled to preferential retirement benefits, there are thousands of other Treasury Department employees who serve in equally—or even more—demanding and dangerous positions but have been denied these same rights. I refer specifically to customs inspectors and IRS revenue officers.

The physical and emotional demands of these jobs require that they be filled by alert men and women of high intelligence, emotional stability, and extraordinary stamina; men and women who are willing to work long, irregular hours and continuously subject themselves to the possibility of personal harm.

We believe that Congress should extend to customs inspectors and IRS revenue officers the same retirement benefits that are now being provided others engaged in similarly hazardous duties.

In the customs service, for example, customs agents, customs investigators, and custom patrol officers are covered under the provisions of the law which define law enforcement officers and are, therefore, entitled to preferential retirement benefits; but customs inspectors are not. Yet this group of employees is indeed engaged in hazardous duty.

Some customs inspectors are stationed in isolated areas along our borders, where they are responsible for checking on the importation of contraband such as narcotics, firearms and other lethal items. Others working at harbors must oftentimes board ships late at night, outside the harbor, to check on the contents of a ship, not merely by reading the manifest, but also by physically inspecting such things as explosives and other dangerous cargo.

In addition to these duties, if an individual attempting to cross the border or a shipper is acting illegally, it is the customs inspector who must make the initial apprehension. These men and women are not only charged with the responsibility of enforcing our import laws, they must also apprehend and hold those who are suspected of violating those laws. Their job is indeed a dangerous one.

I cite just a few examples of the type of hazards these employees face every day of their working lives.

An inspector was aboard a foreign ship inspecting the manifest, when a member of the crew—apparently angry at the captain—threw a fire ax from the doorway, imbedding it in a desk and missing the inspector by inches.

An inspector in San Ysidro, Calif., was runover by a pickup truck driven by a fleeing suspect. Another was dragged by the arm when a suspect drove away in his car while under questioning.

In Los Angeles, customs inspectors have been assigned in teams to "blitz details" to interdict narcotics smugglers and those engaged in fraudulent entry. Even though they face a daily barrage of switch-blade knives and guns in the hands of criminals, they are unarmed, receive no extra pay, and certainly no added retirement benefits.

In the colorful words of one customs inspector who has been involved in apprehending narcotics smugglers, "You can point your thirty caliber pencil at them and say, 'Let me have it,' and he often does."

We could fill pages of testimony with similar incidents from every customs port-of-entry in the country; but the point is clear. These men and women are engaged in some of the most hazardous assignments which the Government requires its employees to perform, yet they are denied the retirement benefits made available to others because they are presently not included under the definition of law enforcement officers.

For many years, NTEU has been seeking to include IRS revenue officers, who are charged with the responsibility of collecting taxes for the Federal Government, among those entitled to retire under provisions applicable to law enforcement officers.

Revenue officers, especially those assigned to high crime, low income metropolitan areas, encounter extreme dangers and hardships even beyond those experienced by others in law enforcement activities.

Although unarmed, these men and women are oftentimes shot at, beaten, threatened, and harassed by those from whom they seek to collect delinquent taxes.

In 1974 alone, they were subjected to 363 reported threats and assaults on the job, which is only a fraction of the actual number for hundreds of threats are never reported because of the callous attitude of many IRS managers toward these employees. On occasion, revenue officers are accompanied by other IRS employees who are covered by the preferential retirement law and receive premium pay while the revenue officer, in identical danger, is entitled to neither one.

Since revenue officers are confronted with the same or even more severe hazards than those experienced by other law enforcement personnel, it is only right and fair that they be provided with the same benefits, including at least entitlement to an earlier and more rewarding retirement.

The incidence of heart attacks and nervous breakdowns is higher among revenue officers than in the general ranks of Treasury Department employees. Any person whose day-to-day job sends him into the high crime area of our major cities is bound to suffer adversely even if he is fortunate enough to avoid personal assault.

It is not only in the interest of the individual that he or she be permitted to retire early, it is also in the interest of the Government.

Administration spokesmen have repeatedly emphasized the importance of bringing young people into the Federal Government law enforcement programs. Legislation improving the retirement benefits

for customs inspectors and revenue officers would greatly assist in accomplishing this goal in at least two respects: First, by permitting retirement at age 50 after 20 years service and increasing the retirement benefits, Federal employment in these fields would be a much more attractive career; second, many employees who are unable to retire under the present system would retire if they were included under the preferential retirement law, and thereby create job openings which could be filled by younger men and women.

I, personally, know many customs inspectors and revenue officers, physically drained by the demands and pressures of their job, who would like to retire. However, they cannot retire at the present annuity rate because of family obligations. If legislation extending preferential retirement benefits to them were enacted and these men were able to avail themselves of its benefits, many would gladly embark upon the retirement they so richly deserve.

NTEU firmly believes that the Federal Government, which has consistently overworked and underpaid these men and women, should offer them a better incentive to retire and a better retirement life. It is the very least the Government can do for those who have given so much.

We support, in principle, H.R. 4026 insofar as it covers customs inspectors, but we believe that it must also be extended to anyone who performs as a collector of delinquent taxes for the Internal Revenue Service. Both customs inspectors and revenue officers are clearly entitled to the same retirement benefits which are now accorded those included in the definition of law enforcement officers for purposes of the preferential retirement law.

We object, however, to a provision in H.R. 4026 which requires that only those who are recommended for early retirement by the head of an agency and approved by the Civil Service Commission can retire under the preferential law. This is a restriction not placed on other law enforcement officers under Public Law 93-350, which provides for mandatory retirement at age 55 or on the completion of 20 years of service beyond age 55, whichever comes later.

The act also provides that the employing agency may exempt an employee from automatic separation at age 55 when such exemption is in the public's interest. We feel that this is a more orderly and objective procedure than the one contained in H.R. 4026.

We believe the simplest way to achieve the objective of H.R. 4026 would be to amend section 8331(3) of title 5, U.S.C. by adding in (20) after the words "criminal laws of the United States" and before the word "including" the words: "or is primarily a collector of delinquent taxes or a customs inspector."

This simple amendment would include revenue officers and customs inspectors in the definition of law-enforcement officers for the purposes of early retirement as enacted in Public Law 93-350.

We urge the committee to act on this legislation as soon as possible. We appreciate the opportunity to present the views of the National Treasury Employees Union to the subcommittee.

I will be happy to respond to any questions the members may have.

Mr. WHITE. Thank you very much, sir.

I want to point out to you that your objection that appears on page 8 has been taken care of by H.R. 4968 which has been introduced and will be before the committee.

I want to test briefly the question of Internal Revenue agents who are under stress also, to try to analyze your recommendation for the purpose of this bill and for the purpose of getting the bill through Congress.

I, in my mind, differentiate the type of stress, the type of danger between the customs inspectors and the Internal Revenue agents you are speaking of.

Mr. CONNERY. We are speaking of revenue officers in the Internal Revenue Service and not revenue agents.

Mr. WHITE. All right.

Now, the custom inspector is on duty constantly and any time during the span of his duty he could be assaulted. He never knows whether something will come up. Therefore he is under stress the entire time. He never knows when the source of danger is going to arrive, whereas a revenue officer can pick his type of danger because he says, "I will go out to collect taxes," in a sense. He picks his type of danger and he has the availability of taking a police officer with him, does he not?

Mr. CONNERY. No, sir.

Mr. WHITE. He cannot?

Mr. CONNERY. It's not to say he cannot. They do not, and there is no provision that a police officer accompany a revenue officer.

Mr. WHITE. Supposing a man told a revenue officer, "If you come over and try to collect the taxes, I will shoot you." You mean the revenue officer would not take a police officer with him or have a police officer pick him up?

Mr. CONNERY. I would like to move this to the point where it can be understood that in no way are we comparing the relative danger faced by customs inspectors and revenue officers, nor are we asserting that one is dangerous and the other is equally so.

I believe that the facts will show that the customs inspector and the revenue officer share a somewhat similar situation in that they are involved at the first line of interdiction.

Now another distinction I want the Chair to recognize and realize is that I am not speaking of all revenue officers, only those in the high crime areas. These people do not have any idea as to what is going to happen when they knock on that door, just as the customs inspector doesn't know what will happen when he opens the car door.

Neither have the luxury of bringing a police officer with him. There are none available. If one were to ask for this type of protection, as I indicated in my statement, the response you would get from IRS management and customs management is the same. It's this: "Can't you handle your job? The last fellow there didn't have any complaints."

Mr. WHITE. How many such calls on an average would a revenue officer conduct?

Mr. CONNERY. He would conduct this daily if he were in high crime areas. For example, the Bedford-Stuyvesant section of New York; the Watts area, certain areas in Cleveland, and many others in the major cities.

For example, the Newark area is replete with sectors like this. The revenue officer's zone—his day-to-day assignment—is highly dangerous because the area is replete with crime. It may not be the taxpayer that zaps you. It's the neighborhood that gets you.

Mr. WHITE. How many calls does such an officer make a day?

Mr. CONNERY. He would be expected to make six to eight calls a day on the average. Some make more and some make less. Once again, the customs inspector and revenue officer both have extremely dangerous jobs. I won't want to say one is more dangerous than the other. Customs inspectors, all of them to my knowledge are in dangerous situations. I have stood at their duty stations and watched as the tremendous traffic flows from El Paso and Tijuana—I saw a man severely beaten in El Paso on the bridge.

These things can happen all the time.

I stood there last December on the overview at San Ysidro and watched the terrific pressure that builds up. Coming up from Mexico there are 24 lanes that come into a mixing bowl. You don't know whether you are in a lane that is a true lane.

To watch that constant fighting and people jumping out of cars, which I saw myself, and smashing hammers through other people's windows because they are nudging to get into the lanes, this just adds to the tensions.

Mr. WHITE. Let me ask you. The IRS officer does not make any arrests, does he?

Mr. CONNERY. On occasion they do.

Mr. WHITE. Is he authorized to make arrests?

Mr. CONNERY. He is authorized to make arrests in a citizens situation.

Mr. WHITE. In the law?

Mr. CONNERY. An IRS special agent, but not a revenue officer.

Mr. WHITE. Does the IRS officer apprehend?

Mr. CONNERY. He could. I know of instances where they have apprehended people.

Mr. WHITE. Do they detain?

Mr. CONNERY. Once again the answer is the same. There is a definition of a law-enforcement officer based upon the elements of arrest, detention, apprehension and investigation. It's my personal feeling that customs inspectors fall into this criteria by the practice of their job.

Mr. WHITE. There will be many other job descriptions in the Federal service that want to come in but they don't have these elements, such as people that work on high voltage lines.

The Chair is concerned about opening up into the law-enforcement category and making a separate criteria. That is not the nature of this bill.

Mr. CONNERY. We recognize the problem the Chair faces.

Mr. KLEPNER. The revenue officer would not be considered a law-enforcement officer under those criteria. In a much broader sense he is a law-enforcement officer and has power which exceeds other law-enforcement officers.

A revenue officer can come into your business and close it down immediately.

Mr. WHITE. Others can't do it.

Mr. KLEPNER. A policeman cannot close your business down. A revenue officer could. A revenue officer is commissioned. There are criteria within the position which if looked at in the broader sense, would be looked at as a law-enforcement officer.

Mr. WHITE. This is in addition to a law-enforcement section of the law, as I understand. Am I correct in that, Mr. Devlin?

What we are seeking by the bill is to make an addition to the law-enforcement section, a job description that would come under the benefits.

Mr. DEVLIN. Yes.

Mr. WHITE. I don't believe I should say it would be appropriate to put an internal revenue officer under this bill. Maybe it would be in a different bill, but not this one.

Mr. CONNERY. I think we can agree with you. What we are trying to raise here is the fact that we feel, as Mr. Klepner has indicated, that the definition of a law-enforcement officer is very narrow and unrealistic by being based solely on the criteria of investigation, apprehension, and detention.

In this real world, this world of the revenue officer, this man is facing real dangers. Also as Mr. Klepner pointed out, and I'm glad he did, the revenue officer's commission and the powers of that office are far in excess of any peace officer in the Western World. He is expected to use the power of that office in a reasonable and prudent fashion. One of the things involved within his power is seizure and sale.

These things run up against a real nerve center, the pocketbook. There was an altercation downtown here a couple of months ago at a popular restaurant where the revenue officer seized the cash register during the noon hour for good and cogent reasons. That led to an immediate altercation.

It's a fact that these things can happen. Revenue officers are expected to take certain actions based on the facts and circumstances in each case. It is because there are highly hazardous areas that we are calling this to the attention of the committee. It's something that IRS management has been very reluctant to take care of.

We are doing this for these purposes, among others. This is something that has been continually overlooked. This particular position—revenue officer—compares in hazard with any of them. We are not saying every revenue officer should have 6C, we are saying that those in high crime zones face hazards and dangers that are the same or exceed those who are already under section 6C.

I won't want to match the revenue officer with the customs inspector. That would not be a match in my judgment.

Mr. WHITE. Fine.

Mr. DANIELS. Mr. Connery, the National Treasury Employees' Union represents customs inspectors as well as revenue officers?

Mr. CONNERY. Yes, sir.

Mr. DANIELS. The present law grants criminal law officers more liberal retirement benefits. You disagree with that; is that correct? This is what I infer from your testimony.

Mr. CONNERY. Yes.

Mr. DANIEL. In what manner should we change the present rules and regulations or present law to comply with the request you are making this morning?

What would you say we ought to establish as the law in the future with regard to more liberal retirement benefits for officers engaged in these activities?

Mr. CONNERY. Mr. Klepner had been considering this matter.

Mr. KLEPNER. The problem is the same as with any criteria, when you apply the criteria you may miss certain positions because the cri-

teria would not cover the positions. What is a fair basis is taking a look at the occupations in and of themselves, not based on three standards.

Mr. DANIELS. Could you give me a general criteria that would apply to the entire area where they are subject to serious hazard?

Mr. KLEPNER. No. That is my point. I don't think any general criteria would apply to all of the occupations.

Mr. DANIELS. How will we define if they are covered or not covered if you can't give me a definition?

Mr. KLEPNER. You have to deal in terms of the specific occupations, a revenue officer, customs inspector or FBI agent.

Mr. DANIELS. How many customs officers are there in the United States?

Mr. CONNERY. Customs inspectors, something in excess of 4,000.

Mr. DANIELS. No, I mean revenue officers.

Mr. CONNERY. Approximately 6,800.

Mr. DANIELS. Do you have any statistics with regard to any injuries or deaths they may have incurred in recent years?

Mr. CONNERY. I have the reports of the IRS headquarters here that I think indicates there were 363 this past year.

Mr. DANIELS. 363 what?

Mr. CONNERY. Assaults.

Mr. DANIELS. Did any of these revenue officers suffer any fatalities?

Mr. CONNERY. There are no fatalities to my knowledge.

Mr. DANIELS. Just assaults.

For what period of time were they disabled?

Mr. CONNERY. We can supply that for the committee.

Mr. DANIELS. Would you furnish with that record with the periods of time they were hospitalized or have been unable to perform their duties?

Mr. CONNERY. Yes, sir.

Mr. DANIELS. You referred to different places in your testimony. You indicate or seem to state to this committee that those revenue officers employed in the high crime areas or zones should be covered by this act.

Mr. CONNERY. I think there should be a selectivity is what I'm trying to indicate. I'm not saying, as I tried to make clear to the chairman, that all 6,800 revenue officers would be involved in the situation we are discussing here this morning.

Consideration should be given and recognition should be given to the dangers that this particular sector of revenue officers face.

Mr. DANIELS. All our major cities suffer from a high degree of crime. How are you going to administer this? How are you going to define who is working? How about the fellow working in some other area?

Do you have to keep a day-to-day record of where the men are assigned?

Mr. CONNERY. We do not think the administration of such a system would be difficult. The revenue officers are assigned to zones. Their assignment is a matter of record. The length of time they are in the zones is a matter of record.

Mr. DANIELS. Are they subject to transfer from time to time?

Mr. CONNERY. Of course.

Mr. DANIELS. I came through Toronto, Canada, Sunday and I spoke to the customs and immigration inspectors up there. They are not assigned there permanently. They are subject to being moved from place to place.

In order to get the benefit of this particular bill he has to be involved in this type of work in high crime areas for a period of 20 years.

Do you want the Civil Service Commission to keep a record of the precise work assignment to which people are assigned?

Mr. CONNERY. Their employing agency presently has that information available. They could, I believe, transmit it to the Commission: the fact that I, as a revenue officer, or you were engaged for X number of years within the zones that have been designated as high crime areas.

Mr. DANIELS. Mr. Connery, you will admit the men are not subject to the same duties day in and day out.

Mr. CONNERY. I stated that certain of these people were not subject to them at all. However, those assigned to the zones are in fact subject to these dangers day in and day out.

Mr. DANIELS. How about the revenue officer that occupies an office? Would he get the benefit?

Mr. CONNERY. No, sir. We are not recommending that person, no, sir.

We are recommending those persons who are assigned through a substantial part of their careers to these hazardous zones. We are not recommending that for administrative officials. However, within the Internal Revenue Service, at the time the Revenue Service was reorganized, there were special agents who were given administrative positions in other branches of the Internal Revenue Service and were allowed to continue to qualify for the section 6C benefits in the administrative position.

These pluses were given to administrative officials. To my knowledge, they are not afforded to the others.

Mr. DANIELS. There is no reason to create further deficiencies in the law.

I am puzzled as to how to differentiate the man going into the field, working in these areas which you classify as "high crime areas." We had to work with the FBI and obtain their figures as to the amount and degree of crime.

Mr. CONNERY. These are a matter of record, Mr. Daniels, with the IRS management right here in town as to what areas in the country are high crime areas and are identified as such.

This work has been done.

Mr. DANIELS. You say there are presently over 6,000 revenue officers employed?

Mr. CONNERY. Yes, sir.

Mr. DANIELS. How many of that number do you estimate are employed in high crime areas?

Mr. CONNERY. Just a ballpark figure, I would say perhaps 20 percent of these men would be engaged in this hazardous work.

Mr. DANIELS. They go on six to eight assignments a day?

Mr. CONNERY. The question I answered is they will make six to eight calls a day. Some make fewer than that and some make more. Some of the investigations last for weeks on one matter.

Mr. DANIELS. Let's say seven. It would be 8,400 a day.

Mr. CONNERY. I won't agree with that approach because I thought I made clear in my answer previously it is oftentimes that the number of calls that the man makes is not the material factor. The material factor is the area itself.

For example, going up to a third floor tenement at 10 o'clock at night to contact a taxpayer—the taxpayer himself may not be the danger.

Mr. DANIELS. I don't want to argue this point with you, but aren't you pointing to the exceptions rather than the general rule?

Mr. CONNERY. Not as it would apply to the high crime areas.

Mr. KLEPNER. There seems to be a misunderstanding.

Mr. DANIELS. If you have 100 inspectors and they make six calls a day and he does it 5 days a week and for 52 weeks a year, and there are only a couple of hundred incidents of assault and no fatal injuries, I don't think these men are subject to the great hazard you have tried to portray to this committee.

I have to be convinced. If you can furnish this committee with additional evidence of the greater hazards they encounter more so than the average employee who receives the benefit of this law under which you wish to be embraced, I would suggest to the chair that you be given permission to do so, to supplement your testimony.

Up to this point, I'm not impressed and I say it frankly to you.

Mr. CONNERY. I think there has been a misunderstanding.

I stated to the chairman on two occasions that we were not comparing the relative hazards of the customs inspectors with that of the revenue officer. I stated that twice. That would be something in the way of a misunderstanding.

What we are saying is on the one hand that the customs inspector is without question in this area. As far as the revenue officer, what we are saying is within that occupation there are men who can be clearly identified as facing hazards and dangers that are equal to those in this other unquestioned area.

Mr. DANIELS. But it's not an everyday occurrence or incident.

Mr. KLEPNER. I do believe a prior witness stated there were 31 assaults among customs inspectors last year.

Mr. WHITE. One said 94 and the other said 31.

Mr. KLEPNER. We are saying there were 363 among revenue officers. If you look at assault in determining the hazard of the occupation it would appear from the statistics that revenue officers are involved in a much more hazardous position than customs inspectors and I don't think it's the case.

I don't think you can use that as criteria for this. It's one factor.

Mr. DANIELS. The 363 are the number reported. We have no account of those not reported.

Mr. CONNERY. That's correct.

Mr. DANIELS. I have no further questions.

Mr. WHITE. Mr. Jenrette?

Mr. JENRETTE. I apologize for being late.

Is there any way a location could be designated as a hazardous location, regardless of who's there and he be covered by the extra benefits while he is serving in that location?

Mr. CONNERY. Yes, that is a matter of record.

Mr. WHITE. Thank you for coming today.

The subcommittee is adjourned.

[Whereupon, at 10:50 a.m., the hearing was adjourned.]

[The following information was ordered placed in the hearing record:]

94TH CONGRESS
1ST SESSION

H. R. 4026

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1975

Mr. WHITE introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To include inspectors of the United States Immigration and Naturalization Service, the United States Customs Service, and the Canal Zone Customs Service within the provisions of section 8336 (c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That (a) the first sentence of section 8336 (c) of title 5,
4 United States Code, is amended as follows:

5 “(c) An employee, the duties of whose positions are
6 primarily—

I

1 “(1) the investigation, apprehension, or detention
2 of individuals suspected or convicted of offenses against
3 the criminal laws of the United States;

4 “(2) to perform work as an inspector in the United
5 States Immigration and Naturalization Service, the
6 United States Customs Service, or the Canal Zone Customs Service; or

8 “(3) to perform work directly connected with the
9 control and extinguishment of fires or the maintenance
10 and use of firefighting apparatus and equipment;
11 including an employee engaged in this activity who is transferred to a supervisory or administrative position, who is separated from the service after becoming fifty years of age and
12 completing twenty years of service in the performance of
13 these duties is entitled to an annuity if the head of his agency
14 recommends his retirement and the Civil Service Commission
15 approves that recommendation.”.

16 (b) The third sentence of section 8336(c) of title 5,
17 United States Code, is amended by redesignating the references “(1)”, “(2)”, “(3)”, and “(4)” as “(A)”, “(B)”,
18 “(C)”, and “(D)”, respectively.

94TH CONGRESS
1ST SESSION

H. R. 4986

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1975

Mr. WHITE introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, with respect to the retirement of customs and immigration inspectors, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 3307 (d) of title 5, United States Code, is
4 amended by striking out "or firefighter, as defined by sec-
5 tion 8331 (20) and (21)" and inserting in lieu thereof
6 a comma and the following: "firefighter, or customs or im-
7 migration inspector, as defined by section 8331 (20), (21),
8 and (22)".

9 SEC. 2. Section 8331 of title 5, United States Code, is
10 amended—

1 (1) by striking out "and" at the end of paragraphs
2 (19) and (20) ;

3 (2) by striking out the period at the end of para-
4 graph (21) and inserting in lieu thereof a semicolon
5 and the word "and"; and

6 (3) by adding at the end thereof the following:

7 "(22) 'customs or immigration inspector' means an
8 employee, the duties of whose position are primarily to
9 perform work as an inspector in the United States Cus-
10 toms Service, in the Immigration and Naturalization
11 Service, or in the Customs Service of the Canal Zone
12 Government, including an employee engaged in this
13 activity who is transferred to a supervisory or adminis-
14 tration position."

15 SEC. 3. (a) The first sentence of section 8334 (a) (1) of
16 title 5, United States Code, is amended by striking out "and
17 a firefighter" and inserting in lieu thereof "a firefighter, and
18 a customs or immigration inspector".

19 (b) The first sentence of section 8334 (c) of title 5,
20 United States Code, is amended by adding at the end thereof
21 the following new schedule:

"Customs or immigration inspector for	2½	August 1, 1920, to June 30, 1926.
customs or immigration inspector	3½	July 1, 1926, to June 30, 1942.
service.	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1975.
	7½	After December 31, 1975."

1 SEC. 4. (a) Section 8335 (e) of title 5, United States
2 Code, is amended by striking out "This section" and insert-
3 ing in lieu thereof the following: "Subsections (a) through
4 (d) of this section".

5 (b) Section 8335 (g) of title 5, United States Code, is
6 amended by striking out "or a firefighter" and inserting in
7 lieu thereof a comma and the following: "a firefighter, or a
8 customs or immigration inspector".

9 SEC. 5. Section 8336 (c) of title 5, United States Code,
10 is amended by striking out "or firefighter" and inserting in
11 lieu thereof a comma and the following: "firefighter, or cus-
12 toms or immigration inspector".

13 SEC. 6. The amendments made by the first section, and
14 sections 2 and 5 of this Act shall become effective on the
15 date of enactment of this Act. The amendments made by
16 section 3 of this Act shall become effective at the beginning
17 of the first applicable pay period which begins after Decem-
18 ber 31, 1975. The amendments made by section 4 of this
19 Act shall become effective on January 1, 1979.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAR 25 1975

Honorable David N. Henderson
Chairman, Committee on Post Office
and Civil Service
Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This is in reply to the Committee's request for the views of this Office on H.R. 4026, "To include inspectors of the United States Immigration and Naturalization Service, the United States Customs Service, and the Canal Zone Customs Service within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes."

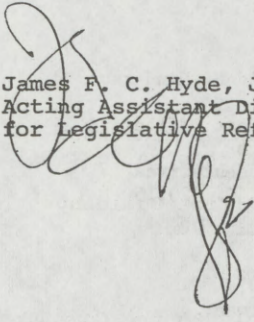
The purpose of H.R. 4026 is to extend the early retirement benefits of existing law to persons who serve as inspectors at ports-of-entry in the Immigration and Naturalization Service, in the Bureau of Customs, and the Canal Zone Customs Service. In its report on this bill the Civil Service Commission states its reasons for strongly opposing its enactment. The Commission states that the special law enforcement-firefighter provisions of the law are not designed to reward employees for so-called hazardous duties but rather reflect the need to maintain a younger and more vigorous workforce than is usually required for maximum efficiency.

We believe a distinction should be made between the demands of routine inspectional or protective work and the stress of criminal investigative duties. In this connection, we note that a recent report of the Comptroller General, "Premium Pay for Federal Inspectors at U.S. Ports-of-Entry," shows that the Customs and Immigration inspectors who would benefit under H.R. 4026 receive extraordinary overtime pay for the work they do.

We concur in the views expressed by the Civil Service Commission and, accordingly, strongly recommend against favorable consideration of this bill. Enactment of H.R. 4026 would not be in accord with the program of the President.

Sincerely,

James F. C. Hyde, Jr.
Acting Assistant Director
for Legislative Reference





UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

CHAIRMAN

March 17, 1975

Honorable David N. Henderson
Chairman
Committee on Post Office and
Civil Service
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

This is in further reply to your request for the Commission's views on H.R. 4026, a bill "To include inspectors of the United States Immigration and Naturalization Service, the United States Customs Service, and the Canal Zone Customs Service within the provisions of section 8336(c) of title 5, United States Code, relating to the retirement of certain employees engaged in hazardous occupations, and for other purposes."

Section 8336(c) was initially enacted to afford preferential retirement treatment to employees primarily engaged in the investigation, apprehension, or detention of persons suspected or convicted of Federal crimes. It was subsequently amended to include Federal firefighters. Section 8336(c) was further liberalized by Public Law 93-350, enacted July 12, 1974. Employees retiring under these provisions receive preferential treatment in the following ways:

1. They may voluntarily retire on immediate full annuity as early as age 50 after a minimum of 20 years' service in law-enforcement or firefighting work.
2. Their annuities are computed under a formula that is more liberal than the one used for employees generally: 2½% of the high 3-year average salary multiplied by 20 years of law enforcement or firefighting service, and 2% of the high 3-year average salary multiplied by all years of service over 20.
3. Premium pay is included as part of basic pay in the computation of average salary.

Before discussing the merits of this bill we would like to note that, in its present form, the bill presents certain technical problems because it does not take into account the recent amendment of section 8336(c) by P.L. 93-350. Specifically, this amendment removed the definitions of law enforcement officer and firefighter from section 8336(c) and re-located those definitions in section 8331(3) (20)-(21) of title 5, United States Code. H.R. 4026 attempts to amend section 8336(c) in its old form.

P.L. 93-350 also amended other sections in title 5 to provide for:

1. Minimum and maximum age limits for original appointments into law enforcement and firefighter positions;
2. Mandatory retirement at age 55 after 20 years of law enforcement or firefighter service; and
3. An increase from 7 percent to 7 1/2 percent of the employee deductions and agency contributions to the Retirement Fund for law enforcement and firefighter service.

The preferential provisions of section 8336(c) were originally enacted by the Congress to help assure a staff of young, vigorous, and capable individuals to carry out the government's criminal law-enforcement operations. The earlier retirement provision is to permit retirement, and replacement by younger persons of those employees who, because of the stringent physical requirements of their positions, are no longer capable of carrying on at peak efficiency. The more liberal annuity formula is provided not as a special reward for hazards encountered, but because the more liberal formula is necessary to make the earlier retirement (with resultant shorter service) economically possible.

We do not believe the Civil Service Retirement System is the appropriate medium for solving the special personnel problems that may exist in different occupational groups. We think a chaotic situation could develop rapidly if the retirement law were amended to provide different sets of rules for various occupations. Over the years, special retirement provisions have been proposed not only for customs and immigration inspectors, but also for many other groups of employees whose occupations subject them to hazards. Inevitably, employees in these other occupations would, with persuasive logic, demand similar preferential treatment in the matter of more liberal retirement rights and benefits if this bill were enacted.

It should be noted that these liberalized retirement provisions are not based on the element or degree of hazard which might be encountered in law enforcement or firefighter positions, and this intent was clarified when Congress eliminated reference to hazards in the restatement enacted in Public Law 93-350. Instead, hazardous work is generally compensated for in the Federal service by higher pay. These positions are placed in appropriate grades in accordance with their duties, responsibilities, and qualification requirements. The knowledge, skills, and abilities required by the hazards encountered in these jobs have been taken into account in setting position classifications, which in turn establish rates of pay.

In other words, the Commission recognizes an element of hazard in these occupations. However, any hazardous element is usually compensated for by higher pay which in turn produces a larger retirement benefit. We believe that the more liberal benefits provided by this bill will have little effect on recruiting, only minor effect on retention (except for those suddenly eligible for retirement) -- yet far-reaching morale effect on other Federal employees in hazardous occupations who are not similarly benefited. The Commission believes that a generally uniform policy is desirable in retirement programs classed as Federal, and does not favor deviations in retirement eligibility requirements and benefits in the absence of compelling reasons to justify them.

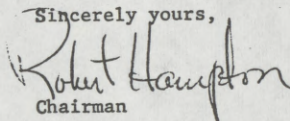
It is the Commission's view that by enactment of this bill the Government would itself be helping create a situation conducive to competition between various groups within the retirement system for even higher annuity formulas, without regard to such considerations as good management and retirement policy.

As regards cost, enactment of H.R. 4026 would increase the unfunded liability of the Civil Service Retirement Fund by an estimated \$184.5 million. This amount would be amortized by 30 equal annual installments of \$11.4 million. The normal cost to all employees would be increased by .02%.

For the reasons discussed above, the Commission opposes enactment of H.R. 4026.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of H.R. 4026 would not be in accord with the program of the President.

By direction of the Commission:

Sincerely yours,

 Chairman

UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

RL:RET
YOUR REFERENCE

APR 14 1975

Honorable Richard C. White
Chairman, Subcommittee on Retirement
and Employee Benefits
Committee on Post Office and
Civil Service
U. S. House of Representatives
Washington, D. C. 20515

Dear Mr. White:

During your Subcommittee's hearing of March 17, 1975 on H.R. 4986, you requested that I provide the Subcommittee with certain additional information. This letter and attachments are submitted in response to that request.

On page 9 of the hearing transcript, a question was raised concerning the average service entry grade for certain categories of Customs Service and Immigration and Naturalization Service employees. Research into the question disclosed that the entry level grade for Customs Inspectors, Customs Patrol Officers, and Immigration Inspectors is GS-5; for Border Patrol Agents, the entry level grade is GS-7. Personnel with applicable qualifying experience may, however, enter service in any of these categories at a higher grade level.

On page 24 of the transcript, interest was expressed in the classification and salary (grade) levels of Immigration Inspectors, Customs Inspectors, and Border Patrolmen, and whether or not such personnel receive extra hazardous duty pay. For the Subcommittee's reference, position classification standards for the Customs Inspection Series, the Immigration Inspection Series, and an extract from the Border Patrol Agent Series are attached. While a special hazardous duty pay differential is not provided to these employees, recognition of the presence of hazards in these occupations has, as the classification standards note, been considered in developing the evaluation factors for classifying these positions.

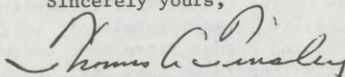
Finally, on page 26 of the transcript, questions were raised concerning the use of inspectors for night patrol duty, and the number of assaults on inspectors which occurred at points of entry, differentiating between bridge and airport points of entry. With respect to the first question, informal inquiry to the Customs Service and the Immigration and Naturalization Service indicated that neither Customs nor Immigration Inspectors perform night patrol duty (although on very rare occasions such employee may participate, together with other Federal officers, in such activity). With respect to the second question, our inquiry to the Federal Bureau of Investigation, which prepares annual Uniform Crime Reports containing analyses of reported assaults on Federal officers, yielded the following data for calendar year 1974:

<u>Employee Category</u>	<u>Reported Assaults</u>	
	<u>Bridge POE</u>	<u>Airport POE</u>
I&NS Inspector	4	0
Border Patrol	7	0
Customs Patrol	6	1
Customs Inspector	34	1

The FBI has, however, qualified its reporting of assaults upon Customs personnel with the notation that these data are based on investigative narratives prepared by the Customs Service which do not always clearly specify precisely where the assault occurred.

Please feel free to contact me again should you require any additional information.

Sincerely yours,



Thomas A. Tinsley
Director

○