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ABUSES OF OVERTIME PAY

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HEARINGS

BEFORE THE

SUBCOMMITTEE ON

PENSION AND EMPLOYEE BENEFITS

OF THE

COMMITTEE ON

POST OFFICE AND CIVIL SERVICE

HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

OCTOBER 26 AND NOVEMBER 3, 1978

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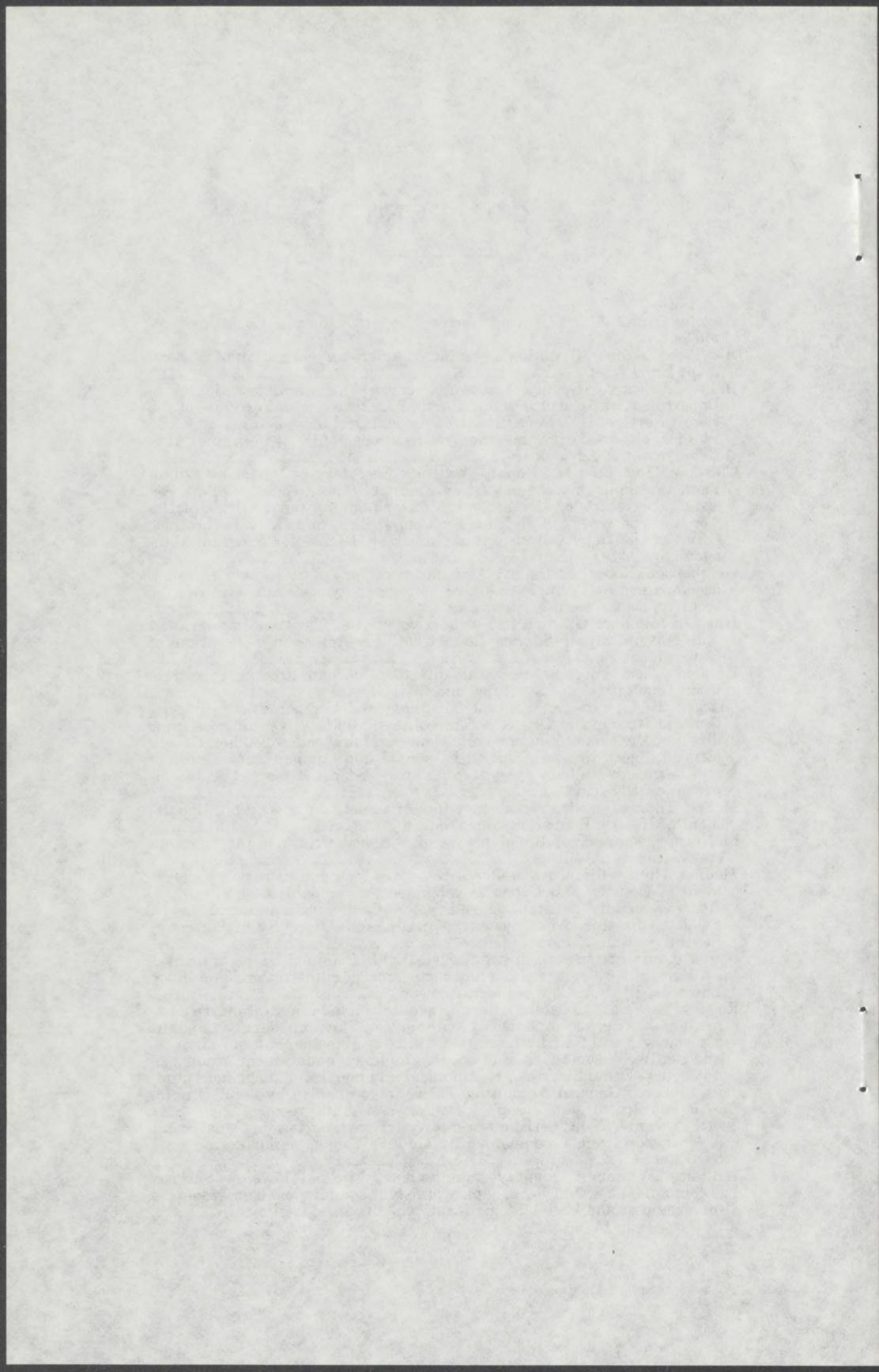
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ABUSES OF OVERTIME PAY

THURSDAY, OCTOBER 26, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION
AND EMPLOYEE BENEFITS OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 311, Cannon House Office Building, Hon. Gladys Noon Spellman, presiding.

Mrs. SPELLMAN. The subcommittee is convened this morning to receive testimony on the use of overtime by Federal employees.

During the last fiscal year on which figures are available, 1977, the Federal Government paid out—excluding the Postal Service—approximately \$1.5 billion for overtime work by executive agency employees. This figure represents a rise in the overtime use over 1976 of \$300 million.

The purpose of these oversight hearings is to determine how much of this is due to abuse as well as whether it is really necessary to have employees work so many overtime hours to fulfill the mission of the Federal Government.

The subcommittee has, for some time, been concerned about what appears to be a lack of a definitive policy for the use of overtime. It is concerned about the possible laxity in management or maybe even mismanagement which might enable and possibly encourage fraudulent claims.

We are in receipt of communications from Federal employees who pinpoint alleged fraud in a number of agencies. Most Federal employees, 99.09 percent of them, are very much concerned about the spending that goes on, and about how moneys are being used. Because they too are taxpayers and don't like to see misuse of funds. We often hear from these Federal employees when they feel that something is awry.

We also were aware of some articles in the Washington Star which described alleged overtime abuse in two other Government agencies, and as a result of the various allegations, the Chair requested the General Accounting Office and the subcommittee staff to investigate the matter of premium pay to determine whether the instances which have been called to our attention represent only very isolated incidents which are being perpetrated by a few, shall we say, ingenious employees, or whether the problem was deeper and more widespread, at a time when every dollar being spent by the Federal Government should be very, very closely examined.

Are we permitting waste because of a lack of policy or of poor policies?

When the General Accounting Office and our subcommittee staff began their investigations, it became very clear that indeed the problems were deep-rooted. Within days, overtime fraud was uncovered in several agencies. Some of these cases are already under investigation by the Justice Department.

The subcommittee intends to look beyond fraud and into the system itself. We find, for instance, that during a recent 1-year period, about 500 employees collectively received \$6 million in overtime compensation. These employees have been nicknamed the "Fortune 500," and they have compiled an average of 125 workdays or 6 months' worth of overtime in that 1 year.

One worker, a GS-7, in step 3, whose base salary is \$13,158, earned \$18,441 in overtime. Several others, GS-9's, averaged \$17,000 in overtime. And while we talk about the 500's, we are advised that before the investigation is finished, we will find that there are far more than that number.

Surely, management must take a look at its policies and controls which require or permit employees to put in so many hours to complete their work. With the Federal Government getting dollars' worth for each dollar paid, would it not have been more economical to hire additional personnel at straight time rather than spend \$5 or \$6 million in time and a half?

These are the kinds of things we hope to be looking into.

We have some new avenues open to the Federal Government which perhaps were not there before, flextime.

Could we use a flextime program here?

We have part-time career workers available today who were not available to the Government before, through legislation we passed in this last session. Should that be implemented?

And so through these oversight hearings, the subcommittee will be looking into three general areas: The management policies which are followed to determine when employees should work overtime, what controls exist to prevent employees from working overtime when overtime is not needed, and a statistical review of overtime payments during the recent past.

Are the procedures used today so lax that fraud is easy to perpetrate? These are the areas we want to be looking at.

Additionally, we don't want to overlook the thousands of Federal employees who toil beyond the normal workday without receiving overtime compensation, and we understand there are a great many Federal employees who do. This is a situation that will also be addressed.

We have another device available to us, something very new, called a timeclock. Federal agencies have not been able to use timeclocks in the District of Columbia since 1899. There is a law, Public Law 95-390, that is easing this prohibition. With the flex-time provisions, we can bring in timeclocks. But for all these years, timeclocks were not permitted. So we do have that additional avenue available to us.

If the outcome of these hearings could bring even a reduction of 1 percent in overtime use, it would represent a savings to the

American people of \$15 million, and 10 percent would be \$150 million or perhaps considerably more.

The other members of the subcommittee are very much concerned about this problem. Unfortunately, this is a time when people are having to campaign so that they can be back here again next year to work on this problem, and we discussed waiting until the beginning of the year to hold these hearings. But we know that when we get here in January, we will be spending time organizing here in the Congress, and it takes so long to get things underway that we probably would not have anything ready to go into the hopper, if it is needed, until March, April, or even May. So we decided to go ahead with the hearings with two ideas in mind: One, that maybe we won't need legislation. We would hope that the administration would be able, through an Executive order perhaps, or through administrative procedures, to make the necessary changes. However, if that should not happen, we would be ready to have legislation to put into the hopper in January, because when we are talking about large sums of money, then a half year wasted is a lot of money wasted, and so we are moving ahead.

We will be keeping in touch with the other members, even at a distance, so that we can have whatever remedies are needed available before we get back to work in the Congress, or surely by the first day of Congress.

At this point, we would like to call on our first witness, Mr. H. L. Krieger, Director of the Federal Personnel and Compensation Division of the General Accounting Office, a man we call on regularly, and a man whose staff we call on regularly.

STATEMENT OF H. L. KRIEGER, DIRECTOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHN J. CRONIN, ASSISTANT DIRECTOR, DIVISION OF FINANCIAL AND GENERAL MANAGEMENT STUDIES; GERALD MILLER, PROJECT DIRECTOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION; AND LAWRENCE KELLER, SUPERVISORY AUDITOR, FEDERAL PERSONNEL AND COMPENSATION DIVISION

Mr. KRIEGER. I would like to introduce my colleagues who are joining me this morning, Mr. John Cronin on my right, and Messrs. Gerald Miller and Lawrence Keller on my left.

I might say at the outset, Madam Chairwoman, that much of what you stated you will find in harmony with the perspective that we bring to this hearing. The General Accounting Office in large measure shares your concerns about this very important issue. We see this hearing providing a constructive forum for discussion, not only by us, but by others who will follow, of a problem that has persisted for some time and that does need attention.

We are pleased to be here today to discuss our work on overtime practices in Federal agencies, as the Chair mentioned.

In fiscal year 1977, the executive branch spent \$1.5 billion in overtime pay—an increase of \$300 million over 1976.

At your request, we examined time and attendance procedures at four Federal agencies. Two of the agencies—Forest Service and Civil Rights Commission—were involved in publicized cases of possible overtime fraud. Therefore, our work at these agencies was

necessarily limited to identifying payroll system deficiencies which could permit overtime abuses to occur.

At the other two agencies—the Department of Transportation and the Drug Enforcement Administration of the Justice Department—we reviewed payroll procedures and also examined payroll records of selected individuals to test the effectiveness of overtime controls.

As you know, this work resulted in the identification of three possible cases of fraud involving Department of Transportation employees which, at your direction, have been referred to the Department of Justice for further investigation.

Also during this review, we learned that at least two other agencies—Internal Revenue Service and Department of Health, Education, and Welfare—are involved in investigations of several cases of overtime abuse.

Before I get into a more detailed discussion of our work and the functions and responsibilities of the General Accounting Office with regard to Federal agency accounting systems, I would like to mention some other important, and in our view, related matters.

Much attention has been given to the current investigations at the General Services Administration which highlight the vulnerability of Federal agencies to white-collar crime. In a recent GAO report, "Federal Agencies Can, and Should, Do More to Combat Fraud in Government Programs," we stated that Federal agencies have not been doing enough to identify fraud in their programs and that the Department of Justice has been slow in assisting Federal agencies' antifraud efforts.

We recommended, among other things, that agencies (1) elevate fraud identification to a high agency priority; (2) fix organization responsibility for identifying fraud; and (3) provide agency investigators with appropriate training in the detection of fraud.

We believe these steps are necessary to help preclude not only program abuses, but also Federal employees' overtime and other payroll system abuses.

In this connection, the Comptroller General has established a special task force on the detection of fraud and other abuses. The task force intends to concentrate on agency controls over cash and receivables, inventories and supplies, and anything else of value that might be stolen or misappropriated if controls are weak. The task force will identify weaknesses in computer controls, analyze indications of fraud uncovered by agency internal audit staffs, and where these reports or our own reviews show that controls are weak, the task force will search for potentially fraudulent situations.

I might say that the testimony before this committee will also be of utility in the development of our report on conditions that exist in agencies. The task force will also explore the possibility of developing an audit program for use by Federal agencies that provides a systematic approach for identifying and preventing fraud and abuse in Government programs.

Overtime should generally be used to meet temporary needs during emergencies or for special projects which cannot be completed within normal working hours. When an agency or unit consistently uses a significant amount of overtime it raises certain ques-

tions. These would include, what kind of analysis did management make in determining that overtime was needed?

For example, was there really a need for the overtime work? If it was justified, did management consider other alternatives, such as hiring part-time or temporary employees? Or another option would be shifting staff from other activities.

As the subcommittee develops its hearings, it might also be appropriate to explore with agencies the degree to which they find that during the period of performance of overtime, leave is being taken by employees who are involved in overtime work. Thus this overtime merely serves to complete what would normally be their performance requirements. It also raises questions in terms of the process of approval for leave during periods where employees are going to be required to work overtime. This is something you might want to explore with agency officials.

Mrs. SPELLMAN. You mean an employee might take 1 hour off and then work 1 hour's overtime and be paid 1½ hours?

Mr. KRIEGER. Correct.

As I say, it raises substantive questions of the quality of the management of that particular unit that permits this to be a persistent condition.

When an individual or group is working an inordinate amount of overtime, it may indicate that either the staff is not large enough or that the staff is not performing efficiently. While we recognize that certain situations will arise from time to time which require overtime, if such situations occur consistently, it is a management responsibility to take the necessary action to correct this.

At the two agencies where we examined employees' overtime records, we noted several instances where individuals received substantial overtime almost every pay period. For example, two of the largest users of overtime at the Department of Transportation had worked overtime almost every weekday and most Saturdays for the previous year and a half. One of these individuals averaged about 36 hours of overtime every pay period. This overtime was consistently authorized for performance of typing and filing.

While we were focusing only on the propriety of overtime payments—and I might make clear in this instance we are not questioning whether or not the individuals worked those overtime hours; evidence is that they did work these overtime hours—we believe there may also be a question on the need for and appropriateness of such extensive overtime. In fact, it raises questions about managerial neglect for such issues as the quality of life available to the employees in an organization, where persistent overtime is such a continuing requirement.

GAO has been critical of the way some Federal agencies determine their work force requirements and has recommended that more systematic and objective methods and procedure be used, including use of work measurement techniques. We believe that as agencies move in this direction, they should be able to better match their resource requirements to the work to be done, thereby minimizing overtime needs. Further, we believe that more effective management of the agencies' work flow can reduce overtime.

I would like to inject an optimistic note in that we see some aspects of civil service reform legislation, particularly the emphasis

on managerial accountability and responsibility, providing a very constructive tool in the assessment of managers' performance. The committee might want to explore this aspect with agency managers about how they see this contributing to a resolution of some of the committee's and our concerns.

Agencies sometimes must pay employees overtime to accomplish programs and functions required by the President and Congress because personnel ceilings established by the Office of Management and Budget or the Congress restrict them from increasing the size of their staffs. When workloads fluctuate significantly, using part-time employees may be the best and most economical way of accomplishing necessary work.

The Chair has already commented on legislation recently enacted, which provides further flexibility in dealing with this situation.

In the past, however, constraints imposed by rigid personnel ceilings have also deprived management of this flexibility. In a January 1976 report "Part-Time Employment in Federal Agencies," we recommended the removal or relaxation of personnel ceilings for part-time employees, on a test basis, to allow agencies more flexibility in using these employees. The Part-Time Career Employment Act of 1978 alluded to previously provides that a person who works part time will be counted for ceiling purposes based on the number of hours worked rather than as one employee and should give management added flexibility to use more part-time employees.

While today we are primarily concerned with overtime abuses, we think it only fair to point out that in a recent GAO survey many Federal employees informed us that they often work overtime without receiving pay or compensatory time off. About 29 percent of 2,351 employees responding to our questionnaire reported that they work at least 1 extra hour each week in uncompensated overtime.

This is a study we are currently involved in, about which we hope to report to the Congress some time in early Spring. Our objective is to attempt to provide the Congress with a clearer picture of the level of commitment of Federal personnel to their obligations to provide 40 hour's work for 40 hour's pay. We are in the early stages of appraising and analyzing the data from our questionnaires, and we hope it will be helpful to this subcommittee early next session.

We identified some system weaknesses at each agency we visited. While our review was somewhat limited by the Justice Department's investigations and the limited amount of time available to us, we believe that the system weaknesses identified in our current and prior work suggests that such problems could be prevalent in other agencies.

DEPARTMENT OF TRANSPORTATION

At the National Highway Traffic Safety Administration, we found that overtime authorizations were not always properly approved and contained alterations with no indication that the changes had been approved.

For example, we noted an instance in which an employee approved his own overtime request, and some overtime payments had been made even though the authorization forms had not been signed.

Similarly, the number of overtime hours appeared to have been changed on some time and attendance cards, and overtime claims in some instances were not supported by attendance logs.

As I mentioned earlier, at your direction we have referred three such cases to the Department of Justice for investigation. We did find the Department of Transportation most responsive to the concerns developed in our work and very eager to get into an exploration of these issues.

We also found that time and attendance and payroll processes did not have controls to assure that documents and data affecting employees' pay were not lost or added during processing.

DRUG ENFORCEMENT ADMINISTRATION

At the Drug Enforcement Administration, we identified procedural weaknesses which could permit erroneous or fraudulent claims for overtime payment. For example, overtime is not always authorized in writing and the authorizations do not include certifications that the work is actually performed. Overtime authorizations are not properly or consistently completed, and the payroll section does not check them before payment. Payments are routinely made for regular and overtime hours shown on the certified time and attendance card. In addition, supervisors are not provided feedback on overtime hours paid to employees.

I might mention that this is not an unusual problem. In other work that we have performed at agencies, we find that all too often the feedback systems to supervisory levels, in terms of actual payments to employees, is not all that it ought to be.

This agency monitors overtime expenditures to see that each organization stays within its budget. According to an agency official, no organizational element or region has been found to exceed its allocation. However, missing or inaccurate authorizations would not usually come to the agency's attention, and we do not believe that this is necessarily the kind of a control that overcomes the problems that we are talking about. Basically, overtime budgets are often based upon experience in prior years, and to the extent that there are problems prior years, the budgetary control would not necessarily deal adequately with the problem.

Also, data could be added or lost and not be detected because in the processing batch controls do not include control totals.

U.S. FOREST SERVICE

At the Forest Service, false overtime hours were apparently added to timecards of several employees. In a number of instances, a personnel office official added false overtime hours to the timecards for himself and others.

Based on our discussions with Forest Service officials, weaknesses existed in their time and attendance procedures which could permit such falsification. For example, supervisors did not consistently receive and review printouts of actual overtime hours paid

their employees, and supervisors were not always in a position to determine the accuracy of such payments.

U.S. CIVIL RIGHTS COMMISSION

At the Civil Rights Commission certain system weaknesses permitted some employees to be paid for overtime not worked. In one instance an employee, who learned that overtime authorization forms were no longer provided to the payroll contractor, obtained access to the approved time and attendance records before they were sent to payroll and added overtime hours. Neither batch controls which would indicate additions or deletions to the records nor routine feedback to supervisors showing hours paid for each employee were in effect. We were told that other similar cases have been identified and are being investigated.

OVERTIME FRAUD IDENTIFIED IN OTHER AGENCIES

During our review, we met with officials of the Internal Revenue Service and the Department of Health, Education, and Welfare to discuss time and attendance procedures and overtime abuse cases.

At the Internal Revenue Service we were told that they expect to prosecute 13 of 17 suspected overtime abuse cases. Five arrests had already been made.

HEW officials told us that five apparent overtime fraud cases have been identified. The cases are now being investigated internally, and they expect these cases will be referred to the Justice Department. According to HEW officials, these cases involve about \$75,000 in questioned payments.

Most of the cases at the two agencies involved either overstatements of overtime or changes in time and attendance cards after certification.

REVIEWS OF INTERNAL CONTROL SYSTEMS

The General Accounting Office is charged with helping Federal agencies develop accounting systems that meet the accounting principles and standards prescribed by the Comptroller General. GAO is also responsible for approving systems and reviewing approved, as well as unapproved, systems in operation. These approval and review efforts stress the importance of controls to prevent fraudulent or otherwise improper payments.

During fiscal year 1977 we issued 45 reports on Federal agencies' accounting systems and financial management activities. A number of those reports dealt specifically with the need for better control over Federal agencies' payroll systems.

I have with me today a report that we issued earlier this year on the status, progress, and problems in Federal agency accounting during fiscal year 1977. The report was issued in May 1978, and highlights on a broader basis, going beyond the issues of the payroll system and payroll abuse, some of the problems that are endemic in agencies in terms of making the kind of a managerial commitment to the improvement of accounting systems.

I would like to offer the report for the record, if the committee so desires. I would also like to read what I consider to be a key

paragraph in this report which effectively highlights the issues that are of concern to us. What we say is that:

Since agencies are required by law to have an approved system, and since well-designed systems have many managerial advantages, the question arises as to why it has taken so long for all agencies to complete the effort.

We highlighted in the report that we are dissatisfied overall with the progress being made.

We believe there are many interrelated causes, such as the following: Frequent changes in agency top management, particularly in recent years—The inability of accountants to convince agency management that better accounting is worthwhile. Some agencies' failure to design systems that comply with their approved principles and standards—The Office of Management and Budget's lack of strong support in the past for improvements in agencies' accounting systems to make them more effective, and thus approvable.

We have seen some encouraging developments recently, including the testimony of the Comptroller General on the report I mentioned earlier on fraud and abuse, together with the recognition of this problem by James McIntyre, Director, OMB, that was reported in the weekend papers.

As the committee goes forward in exploring these issues with agency heads, you might want to question them on the level of management commitment that they are making to overcome some of the problems and issues that we have been discussing here.

One of the long-standing elements of control over payments has been the functions performed by authorized certifying officers in the civil agencies and disbursing officers in the military services. These officers are required by law to assure that all payments are legal, proper, and correct, before making them. The advent of the computer, particularly in payroll systems, made it impractical for certifying and disbursing officers to make determinations on each disbursement.

Our report to the Congress entitled "New Methods Needed for Checking Payments Made by Computers," pointed out this problem and discussed ways to regain control over disbursements. As an alternative to the traditional certifying officer's function, the report recommended that the certifications be based on the agencies' reviews of computerized payment systems establishing that the systems' internal controls were in place and operating effectively.

Payroll systems must rely primarily on internal controls for assurance that the disbursements—the paychecks—are legal, proper, and correct. An effective payroll system requires that the duties of pay clerks and other employees are separated; checks and edits are present in computer programs, including those to establish accuracy and propriety of data entering the system, and effective physical controls are established over equipment, files, and negotiable checks.

My statement includes excerpts from a number of our reports, and is available in full for record purposes. I would like to highlight reports on two agencies:

We have issued four reports, for example, that discuss serious weaknesses in internal controls over the Department of Health, Education, and Welfare centralized automated payroll system. The

reports mention many control deficiencies that would allow fraudulent or otherwise improper payments to be made.

For example, one report pointed out that large numbers of time and attendance reports were not properly approved or were sometimes changed by clerks without proper approval. The reports contained over 50 recommendations designed to either establish controls or improve the controls over the Department's system which pays over \$2.2 billion to about 150,000 employees annually. We believe the continued existence of the weaknesses identified in these reports were contributing factors to the apparent HEW fraud cases I discussed earlier.

It is very evident that the HEW Inspector General is giving this area specific current attention.

A report on the Department of Housing and Urban Development's payroll system pointed out that deficient edits and checks in its computer programs allowed the Department's employees to receive excessive, and even duplicate paychecks and to accumulate leave at erroneous rates. The report cited specific instances in which these conditions occurred, and contained 13 recommendations for strengthening controls over automated payroll processing.

Other recommendations provide for strengthening existing controls over pay entitlement data, such as time and attendance reports, entered into the system. Weaknesses identified in this payroll system were the type that give us the most concern. Because of these weaknesses we were able to demonstrate the ease with which fictitious employees could be added to the payroll and paid exorbitant and erroneous amounts.

We have provided the committee with examples of the type of documents that we were able to introduce into the payroll system, and in effect produce checks to fictitious individuals in amounts that were clearly unreasonable. This documentation has been provided to the committee for its study.

A report on the Department of Commerce's payroll system emphasized control deficiencies in an automated payroll operation. It pointed out that edit checks in the Department's computer program were inadequate to prevent unauthorized and improper payments to current or former employees. The report cited examples of employees being issued incorrect and even duplicate payments, and former employees being issued paychecks. The report included six recommendations to develop or improve the basic controls needed in any automated payroll operation.

A report on the Department of Defense's civilian payroll systems discussed internal control weaknesses at 66 defense installations. The report contained specific examples of weaknesses that often left the Government unprotected against improper or fraudulent payments. For example, the Military District of Washington's payroll system had employees' duties inadequately separated to prevent collusion; lacked essential edits to detect missing or invalid data processed by computers; and did not provide for reviews to establish propriety of overtime payments. We made recommendations to correct problems at each installation we visited. However, because the problems were so significant and widespread in systems paying over \$15 billion annually, we recommended that the Secretary of Defense insure that its payroll systems contained ade-

quate controls for minimizing the potential for fraudulent payments.

Another report on the Department of Defense discussed problems with the Army's standard payroll system for civilian employees which was being developed for potential defensewide use. The report said the system continued to have many of the same basic control deficiencies we reported on the 66 different systems. We again recommended that appropriate internal controls be incorporated into the Army's standard civilian payroll system.

The reports I have mentioned are presented here primarily to illustrate the persistent problems, and in effect reinforce my earlier comment that we see the committee's specific interest in this issue as a very constructive step, and one in harmony with our concern that this issue gets a very comprehensive airing. Hopefully we can move forward toward a resolution of many of these issues. All agencies on which we have reported agreed to develop effective systems, including internal controls over their payroll operations. Such systems can reduce the probability that embezzlement, defalcation, fraud or errors can occur.

The most reliable system imaginable, however, can be compromised by collusion and unusual events, or can deteriorate over a period of time and lose capability to detect and correct errors. This potential, therefore, requires constant vigilance over the operations of the system by managers and by each agency's internal audit staff.

In summary, we believe there is a need for management to better monitor the use of overtime, not only for determining abuse but for insuring that the Government's work is performed in the most efficient and economical manner. We also believe there is a need for agencies' internal audit groups to constantly monitor their payroll systems, as well as other financial activities, to insure that internal controls are in place and properly implemented.

For these reasons we think the subcommittee's hearings are extremely important at this time and should serve to encourage agencies to give greater attention to their overtime practices.

This concludes my statement, Madam Chair. We would be most happy to respond to any questions you may have.

Mrs. SPELLMAN. Thank you very much, Mr. Krieger.

I do want to point out that in our working with the various agencies, we found them extremely cooperative. Maybe a couple are a little reluctant to be cooperative, but we think they will be coming along too.

One of the things we found was that this was the first time they themselves were taking a look at their overtime practices, and that a good deal of this information they were uncovering for us was totally new to them. In a sense they were glad to have their attention called to this problem. They just had not thought about it before.

I note that on page 4 of your testimony you say, and I quote:

Two of the largest users of overtime at the Department of Transportation had worked overtime almost every weekday and most Saturdays for the previous year and a half. One of them averaged 36 hours of overtime pay every pay period.

How much additional salary was accumulated by each of these employees over that period of time; would you know?

Mr. MILLER. About \$374 a pay period.

Mrs. SPELLMAN. \$374 a pay period, and a pay period is?

Mr. MILLER. About \$9,700 a year.

Mrs. SPELLMAN. \$9,700 a year. Were these two of the three cases of fraud?

Mr. MILLER. No; they were not.

Mrs. SPELLMAN. They were not?

Mr. MILLER. No. We pointed them out only as examples of people working what we thought was an inordinate amount of overtime.

Mrs. SPELLMAN. Right.

Mr. KRIEGER. I believe this goes back to a point made by the Chair in your opening statement that management does have an obligation to look at these issues. Certainly the individual may enjoy the additional income, may be a very devoted and dedicated individual, but there are other alternatives that are available, and ought to at least be considered in lieu of imposing such a heavy burden on the individual employee.

Mrs. SPELLMAN. Sections 5542 and 5543 of title 5 of the United States Code require overtime payment. I recall many years ago when I worked for the Federal Government and there was no such requirement, we were working in one agency on disaster loans. We knew the people were desperately in need of the money that the agency was disbursing, and some of us worked until 2, 3, and even 4 o'clock in the morning day after day after day to get that material out. Well, that did not cost the agency anything. As a matter of fact, when our jobs were finished, they finished paying us and that was the end.

It is really very different today, and so it does appear to be incumbent upon management to take a good look at practices like that.

I wonder if you would agree that sometimes it is more expensive to put ceilings on the number of employees. We just passed a "reform bill" that will also be requiring some ceilings, and I wonder if that is a proper way for us to be going.

Mr. KRIEGER. We have been concerned with the issue of ceilings. We recognize the need for the executive branch to constrain the Federal work force. However, we believe there are more effective ways of getting the work of Government accomplished and serving the public.

The imposition of a ceiling can lead to counterproductive activities, including recourse to, as the Chair indicates, more costly ways of getting that work done.

Mrs. SPELLMAN. Are all the agencies supposed to be maintaining an internal audit procedure for overtime?

Mr. KRIEGER. Well, agencies are required in consonance with the Budget and Accounting Act of 1950 to develop soundly based internal audit systems, and it is the responsibility of an agency head to assure that there is in place an internal audit system that will permit that agency head to discharge his accountability, his stewardship for the Federal funds that have been entrusted to him.

Mrs. SPELLMAN. You are finding, however, that that is not the case, that they have not really paid much attention to this avenue at all?

Mr. KRIEGER. We find that it is uneven. Mr. Cronin will elaborate.

Mr. CRONIN. We have made several examinations of the agency's internal audit activities, and we find that in some cases their coverage in the accounting and financial management areas should be increased, and we have encouraged them to do this.

Many of the agencies have been concentrating on program areas and program evaluations which also need coverage because of the large amounts expended in the program areas.

Mrs. SPELLMAN. GAO approves and reviews agencies' accounting systems?

Mr. CRONIN. Yes, we do.

Mrs. SPELLMAN. Did GAO approve the Department of Transportation's system in the past?

Mr. CRONIN. Yes. We approved the Department of Transportation system in 1975. We generally do the approvals in two steps. We approve the more general principles and standards, and then they submit their system's design to us and we review the design, which we approve. At some subsequent time we go in and we actually test the system operations.

Where there are approved systems and many of these problems occur, they usually occur because the approved system is not being followed.

Mrs. SPELLMAN. Was that the case here in their system? They have a system that you approved. Was it that they were just not following it?

Mr. CRONIN. Yes, any system that we would approve would require the approval of overtime. We suggest that time and attendance reports not be altered, that if any change is made, it must be approved by several individuals. These are pretty much standard requirements that are in the Federal agency accounting systems, and we find all too frequently in some agencies that these requirements are not being followed.

Mrs. SPELLMAN. I take it from your testimony in general that if you folks ran into a situation where an employee had accumulated 1,000 hours or more of overtime in a 1-year period, that you would take a second look at the case to determine one of two things: Whether the practice was a poor one, and in that case would you advise the agency that they were not following very good practices, or would you also at the same time look for the possibility of fraud?

Mr. CRONIN. When we are reviewing the accounting systems, we are concentrating on the controls in those systems to prevent these types of things. Often we do not have the extensive resources required, and we do not check the records in great detail to find out if fraud occurred.

We do make limited tests. We have done this at HEW and other agencies, and of course, when items come up that are questionable we do go to management with them. And many times when we bring these problems to management's attention they are either unaware of them or unaware of the degree to which some of these problems are occurring in their agency and, as we pointed out earlier, they are very willing to take corrective action.

Mrs. SPELLMAN. Mr. Krieger?

Mr. KRIEGER. I would like to comment on this.

I don't think I am at any great risk in complimenting the committee in this respect. It seemed to me that your communication to the agencies asking them to make an analysis and lay out in clusters the number of employees in different categories and cumulatively the number of hours that each of these employees was working is a very simple and straightforward method that any management could use to make its own assessment of the problem.

I cite this as an indication that at least it provides an early awareness and an indicator. The committee, in its request to the agencies, really set out a basic framework, and it is one of the techniques that we use ourselves in identifying whether there is a problem.

Mrs. SPELLMAN. And it certainly does appear to me that these figures the agencies were required to get for us served as an eye opener to them.

Mr. KRIEGER. Correct.

Mrs. SPELLMAN. They had had no awareness of what was going on and we called their attention to it.

Now, would you care to expand on that part of the testimony where you say that 29 percent of the surveyed employees stated they were not compensated for overtime?

Would those have been in the same agencies where others were getting considerable amounts of overtime?

Mr. KRIEGER. It would be premature for me to make any extensive comments on this. I would like to clarify the point.

What we are doing is based on a sample of the Federal community. We have attempted to take a representative sample throughout Government which will give us a credible basis for making some judgments. We have not done sufficient analytical work to really make sound judgments as to what that data means.

As the Chair knows, Government managers are precluded by law from requiring people to work overtime without appropriate compensation. I would be very concerned if our further analysis demonstrates that this is a persistent problem because, if these people are working these hours of overtime, under the "suffer and permit" concept, they could, at a future time, come forward with a claim for additional compensation.

We are really in the early stages of exploring this issue.

I might also mention that a number of people, I believe about 17 percent of the respondents, actually told us that they were not being fully utilized. In other words, they weren't really being required to or were not working a 40-hour week. So, I am reluctant now to make any analytical or judgmental appraisal of this data.

We are looking at the Government's work force and how it is deployed to do our work. Is it being properly compensated, and motivated? We hope to report to you, and the Congress, sometime early next year on this issue.

Mrs. SPELLMAN. Fine.

Would you tell us what led you to believe that there might be fraudulent use of overtime in three cases in DOT? Was it just a constant accumulation of hours of overtime over a prolonged period of time?

Mr. MILLER. That was the main reason. We looked at high users of overtime at the Department of Transportation. We then traced these individuals' payroll records back for the last year, reviewed their overtime approval authorizations, and their time and attendance records. We also checked the security logbooks at the Department of Transportation.

The process, for selecting individuals was simply looking at those who had worked the most overtime in the units.

Mrs. SPELLMAN. Is the system such that it's just easy to perpetrate fraud?

Mr. MILLER. I would say at the unit we looked at it was fairly easy.

Mrs. SPELLMAN. You don't have to be terribly smart, is that right?

Mr. MILLER. That's right.

Mr. CRONIN. Most of these occurred, as I pointed out a moment ago, because the people are not following the prescribed instructions and requirements of their accounting system.

Mrs. SPELLMAN. Now, if they were following the instructions that you have given, set up with the system that you have, then fraud would be difficult to perpetrate.

Mr. CRONIN. It would be minimized to some degree, but it could still be perpetrated particularly where collusion is involved. Most of the procedures we set forth require separation of duties to prevent these things from happening. When the duties are separated, if there is a collusive effort, then fraud is possible.

Mrs. SPELLMAN. Of course, we do get communications from Federal employees alleging that kind of collusion. In one case we will have you look into very shortly, it would appear to be a rather ingenious scheme being worked on by a number of people.

Mr. CRONIN. These items concern us very much, Madam Chair, and we look to these accounting systems to make sure that the proper controls are there to make these schemes extremely difficult to perpetrate. But sometimes when we go down and review these agency systems and their computers we find, much to our surprise, that the required controls are not existent even within the computer.

Mrs. SPELLMAN. And Mr. Krieger hit on this—it was difficult to convince the agencies that accounting practices were important. I have been involved in this sort of thing in the private sector too.

I recall one instance, this particular one was in Government, insisting that an eleemosynary institution of an accountant, and they didn't want to spend what at that time was \$12,000 in salary for an accountant.

You can tell how long ago that was. I did prevail, and the very first thing he did was uncover a situation within his first 2 days there, where we should have been getting \$40,000 a year that we weren't getting.

But I find over and over again that accounting is one of the areas that people feel isn't terribly important because somehow it isn't visible. Do you find that that is the case in the various agencies?

Mr. CRONIN. Very much so. As a matter of fact, and we cite this in our report that Mr. Krieger referred to earlier and you are

placing in the record, that two of the most derelict agencies in Government in getting their systems approved are the Department of Defense and the Department of Health, Education, and Welfare.

What concerns us the most here, even though these are only two of the many agencies in Government, when we stop and think, we find almost half of the Federal budget is expended through these agencies' accounting systems and they are unapproved.

Mr. McCLUSKEY. Mr. Cronin, in these systems that you approve, I believe they are computerized systems for the most part; is that correct?

Mr. CRONIN. Yes, particularly payroll systems.

Mr. McCLUSKEY. And they should have kick-out points; is that correct? If an employee is not in that department, if an employee is, indeed, making more money than a GS-15, is that correct?

Mr. CRONIN. Yes, sir; these are called edit checks, and they are required to be in every system we approve.

Mr. McCLUSKEY. I believe staff found in reviewing some of your audits sort of a Walt Disney affair with HUD, where in GAO went in and I believe you put Mickey Mouse and Minnie Mouse and Donald Duck through the computers at outrageous sums, did you not?

Mr. CRONIN. Yes, sir; we paid some of these fictitious employees amounts up to \$99,999. We included all sorts of other errors in these pay entitlement documents, and we entered them into the computer. A good system should have rejected them. They were not rejected, and out the other end of the computer came the appointment documents authorizing payment of these exorbitant amounts.

For example, as you referred and are aware from some of the documents we have discussed, we entered Donald Duck on the payroll system of the Department of Housing and Urban Development. We paid him at a GS-18 rate. But we paid him \$99,999, and the system accepted that transaction, which would give him a net pay of over \$2,000 for a biweekly pay period.

We entered about 30 such transactions into the system. We brought these problems to the attention of the officials at HUD, and they have promised and are taking corrective action. In fact, a new payroll system should be on line very shortly that will contain all of these edits.

I might add, in the case at HUD, when we went back to find out why these things occurred, and found that years earlier these required controls had been placed in the computer, but over the years the system deteriorated and those controls were no longer there.

Mr. KRIEGER. I think this is a point that will come up time and time again. It isn't enough to put a system in place, but management needs to make a commitment to keeping it healthy and periodically reviewing it to assure that it does meet management requirements.

Mrs. SPELLMAN. If they had a proper internal control they would have caught that themselves, wouldn't they?

Mr. CRONIN. Yes. Each of those transactions should have been rejected on its face. For example, the \$99,999 salary payment. As we all know, the maximum Federal salary is now \$47,500. Any pay

entitlement data going into any accounting system for a GS employee in excess of that amount should automatically be rejected.

Mrs. SPELLMAN. How often do you go in to check on them, to check on their internal audit? Would you make regular checks or do you go in only when we ask you to?

Mr. CRONIN. No; we try to make regular checks. Of course, we review these systems when they come in for approval, when they submit the designs to us, particularly the computerized system, we make sure the required edits and checks are there.

Then on a spot check basis, depending on the resources available, we go in and make these types of tests in the computers. We also spot check agencies with things we call reliability assessments. We look at their computer system very briefly to see if it gives indications that there are problems, and then we will go in and make a more detailed examination.

We also encourage the agency internal auditors, who are resident in these agencies, to go in and make these examinations. Traditionally we give the internal auditors first crack at their own systems.

Mrs. SPELLMAN. When was the last time that your agency checked HUD?

Mr. CRONIN. We have been working with HUD on a continual basis, not just their payroll system. For example, in the past several years we have appeared twice before the House Government Operations Committee testifying to weaknesses in HUD's accounting problems over mortgage insurance accounting, rehabilitation loan programs, and I might add, these are the same computerized systems we are talking about. So we have the same control problems in other types of program areas within HUD that use the same basic computer hardware.

Mrs. SPELLMAN. We will be having HUD here at our next hearing as we discuss these things with them.

What about HEW? Did you try the same kinds of things?

Mr. CRONIN. No. We did not try to put fictitious employees on the payrolls at HEW because we were concentrating on some of the more basic controls, like time and attendance reports, and we found a number of errors there and also we were trying to encourage HEW to submit their system to us for approval, and to adequately document the design.

So we felt it was better to try to encourage HEW to submit their accounting system to us for approval and we would certainly appreciate any assistance the Chair could give us in encouraging HEW to submit those systems to us for approval.

Mrs. SPELLMAN. I think we will give you considerable help along those lines.

Mr. CRONIN. Thank you.

Mrs. SPELLMAN. I expect that if we don't get cooperation, well, I won't even talk about not getting cooperation there, because I expect to get cooperation.

But, if we don't, then we will move and the law requires that there be a review by your agency:

The accounting systems of Executive agencies shall conform to the principles, standards, and related requirements prescribed by the Comptroller General pursuant to section 66(a) of this statute.

This is from title 31, section 66(b), United States Code, and so it is required by law, and there is no reason why this should not be done.

Where we find in a system that Donald Duck can earn as much as Donald Duck did, I dare say he earned even more for Walt Disney, but at least the taxpayer was not paying it in the same way, then something is very wrong, and we ought to be making sure that every one of these systems is working properly and that every one of the systems is as foolproof as we possibly can make it and as fraudproof as we possibly can make it.

Mr. CRONIN. Actually, and I might add that the law to which you refer has been on the books for 28 years and many of the accounting systems remain unapproved. We would like to have those agencies submit those systems to us and the list of those systems is contained in the report which we referred to earlier.

Mrs. SPELLMAN. With the President as concerned as he is about inflation, and with his recognition that part of the inflation problem is Government spending, I am sure we will get very fine cooperation.

Mr. Krieger?

Mr. KRIEGER. I think that is a key point. We see a healthier awareness now and a very great momentum to address these persistent problems. I would just recite the recent enactment of the Inspector General's legislation as providing, to a number of agencies that did not have an Inspector General, this focus on those issues which are of concern to us all.

We see the evidence of Mr. McIntyre's comments over the weekend in which he states that increasing attention needs to be given to recapturing public moneys and to get agencies to make a more specific commitment to recapture funds that are not utilized rather than funneling additional funds out into the public sector. We do see some encouraging developments.

I would also urge the Chair to look at 66(a), where the focus of the legislation is on the agency head. I believe we need to keep stressing that the basic responsibility under that legislation is for an agency head to provide the support, momentum, and emphasis that is required to bring these systems into being.

The Budget and Accounting Act of 1950 clearly mandates that this is a managerial responsibility. We have concern with what we believe is a lack of adequate management emphasis. However, we see some encouraging signs and certainly the committee's interest will be very supportive.

Mrs. SPELLMAN. As a matter of fact, HEW is testifying today, is it not? It is, and so we may get our answers right here.

As I read this law, "As soon as practical after August 1, 1956," these ought to be done, and it would appear that that is a fairly reasonable amount of time that has been permitted. I don't think anybody can say we are rushing things.

It is very disconcerting when we have set a budget figure and we do that each year, now we set a budget figure, and then within that budget we have to determine what our priorities are and what our spending is going to be. We have to make some very excruciating decisions, because we cannot possibly have everything we feel we would like to have.

As I say, it is disconcerting to see moneys like these being wasted, and we can't help feeling that they could very well be wasted, and surely we don't want to do anything to help with fraudulent use of Federal moneys. So we will be moving along on that.

I turn to counsel, Mr. McCluskey. Do you have additional questions?

Mr. McCLUSKEY. I just believe with some of the remarks GAO has made concerning the fraudulent cases, the three fraudulent cases they turned over to the Justice Department, the fact that they feel the use of 36 hours was sufficient to at least turn the cases over, kind of puts the subcommittee staff in a small dilemma as we have Justice Department and Agriculture using over 40 in every pay period.

Agriculture will be here today, but Justice Department on November 3. As you well know, Madam Chairman, the Justice Department had some 458 people accumulating approximately \$5.4 million in overtime. These people had worked over 1,000 hours, and in Agriculture we have 90 employees working over 1,000 hours accumulating \$1.1 million, and that is 6 months of overtime. That is not considering holidays and leave, et cetera.

Mrs. SPELLMAN. There may very well be extenuating circumstances. On the other hand, it may be with better personnel practices we could be getting better use of our moneys.

I want to thank you very much for your work on this, for the effort that you have made, and we will be continuing to work with you and, hopefully, working together we will bring about a better system.

Thank you very much.

Mr. KRIEGER. Thank you.

Mrs. SPELLMAN. Our next witness is Anna Marie Angolia, who is a former Department of Agriculture employee.

Before Miss Angolia begins her testimony, I would like to inform the press that she wishes not to be interviewed by the press, that she will be escorted to her car immediately following the testimony. We would appreciate your cooperation in this matter.

We have permitted Miss Angolia the opportunity to testify here before the committee in order to emphasize that this isn't a problem that has just begun in the last few days. It does not concern only people who are presently working for the Government, but apparently this has been in existence for some time, and also that it isn't a situation which has only recently come to the attention of agency heads.

Miss Angolia, would you state your full name for the record, please?

**STATEMENT OF ANNA MARIE BOLLING ANGOLIA, FORMER
DEPARTMENT OF AGRICULTURE EMPLOYEE**

Ms. ANGOLIA. Anna Marie Angolia.

Mrs. SPELLMAN. And the period of your Government employment which you wish to discuss with this committee occurred from February 1969 to January 1970?

Ms. ANGOLIA. Yes, that is correct.

Mrs. SPELLMAN. You were employed by the Department of Agriculture?

Ms. ANGOLIA. Yes.

Mrs. SPELLMAN. That's right. And would you tell us just in your own words of your experiences, what occurred during the course of your employment at the Department of Agriculture, or would it be easier for you to have counsel ask a series of questions?

Ms. ANGOLIA. I think it would be much easier to have counsel ask questions.

Mrs. SPELLMAN. All right. Then we will ask counsel to do that, so that you can help Ms. Angolia describe her experiences.

Mr. McCLUSKEY. Thank you, Madam Chairman.

Ms. Angolia, you went to work for Agriculture approximately when?

Ms. ANGOLIA. February 1, 1969.

Mr. McCLUSKEY. And you were coming from another department?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. And what was that department?

Ms. ANGOLIA. I came from the U.S. Patent Office.

Mr. McCLUSKEY. And what are your total years of Federal service?

Ms. ANGOLIA. Eleven years, eleven months, and five days.

Mr. McCLUSKEY. Now, you worked in Agriculture from February 1969 until approximately January 1970.

Ms. ANGOLIA. January 30, 1970.

Mr. McCLUSKEY. How long after arriving at the Department of Agriculture did you start accumulating overtime?

Ms. ANGOLIA. About a month and one-half after I arrived on duty, on board.

Mr. McCLUSKEY. Did you request this overtime?

Ms. ANGOLIA. No, sir.

Mr. McCLUSKEY. Did you ever state that this overtime was not needed?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. You stated that to coworkers or your supervisor or to whom?

Ms. ANGOLIA. I stated it, first of all I went to my immediate supervisor and then I stated it formally in front of coworkers and supervisors and management.

Mr. McCLUSKEY. Now, during the course of your employment, as I understand it, you went to a particular file drawer and found that the drawer was not organized in any particular sequence, and you made some inquiries about this particular file drawer.

Ms. ANGOLIA. What happened exactly was I had no work to do, and so I had gotten all of the mail organized and all of my work completed, so we had a file cabinet which was usually kept locked, but I felt, well, I will just put these labels in here. And I opened it and I found all of this work in there I could be doing.

So I went to my fellow employee and I said, what is this work, and she said, you are not to go in that file, that is our overtime work. I said, we have 6 more hours to work, and I have nothing to do. At which time I was told to take a break, an extended break, it didn't make any difference, people have car payments, apartment

notes, and house notes. And I said, but I don't like working overtime, let's do the work now. And instead of me wasting time going off on a shopping trip or any such affair.

Why not do it now and then no one has to work overtime.

Mr. McCLUSKEY. What particular bureau within Agriculture were you working at the time?

Ms. ANGOLIA. I was working for Consumer and Marketing Service Technical Services Division. I was in the labeling department.

Mr. McCLUSKEY. And the average overtime started when?

Ms. ANGOLIA. Seven o'clock in the morning until nine, which was the regular hours, 2 hours in the morning, and—

Mr. McCLUSKEY. Were there any additional hours in the evening?

Ms. ANGOLIA. Yes, sir; we got 2 hours at night, generally 7 to 9.

Mr. McCLUSKEY. And on Saturday?

Ms. ANGOLIA. On Saturdays we worked from 7 to 3:30, 7 in the morning until 3:30 in the afternoon.

Mr. McCLUSKEY. And that was all overtime?

Ms. ANGOLIA. Not always. If it seemed to be too much they asked if we minded taking comp time, which not being—before this part of this I had 2 years' Federal service, but it was a temporary, but I mean I worked 8 hours a day. But, I didn't understand what comp time was exactly, that you got 8 hours on the books and you just took a day off whenever you felt like it, and I said but that didn't make sense to me.

Again I said why can't we just do the work and get it out and, of course, I was given the same explanation again.

Mr. McCLUSKEY. Now, your normal work hours were from what?

Ms. ANGOLIA. From 9 to 5:30.

Mr. McCLUSKEY. And you maintain that most of the work that you were doing in overtime, if not all of the work, could be done during 9 to 5:30?

Ms. ANGOLIA. Yes, sir, it could have been.

Mr. McCLUSKEY. In your opinion?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. Approximately how many days would you estimate that you found your normal work day, the amount of work that you had to do during that day wasn't sufficient?

Ms. ANGOLIA. I would say 3 days a week. I mean, you would find yourself having to walk down the hall or go into the coffee shop, going to the dentist, go have your hair done, anything, because we have to work overtime.

Mr. McCLUSKEY. So you had to work overtime?

Ms. ANGOLIA. Yes, and it was not like where you are a volunteer and sign up for overtime, it was a mandatory thing that you worked this overtime.

Mr. McCLUSKEY. And was your supervisor aware of this?

Ms. ANGOLIA. Yes, sir. When I went to him he said we all work overtime. This had been the practice that had been going on for years. Everybody there was like one big family, and we all work overtime together, it was like one big happy family, and I kind of messed it up.

Mr. McCLUSKEY. And the justification for this overtime was that we needed or certain employees needed additional moneys to sus-

tain their car payments, house payments, or whatever their bills were?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. And that is what you were told?

Ms. ANGOLIA. This is what I was told.

Mr. McCLUSKEY. What happened when you approached your supervisor and told him of this situation and stated I guess, apparently, you thought the work could be done in a normal work day?

Ms. ANGOLIA. He told me not to create waves, and I told him I was just trying to express my opinion in telling him the way I felt, and I would work more effectively and the office could work more effectively and we could get our work done and everyone could enjoy their home life, and he said, no one creates waves, therefore you are not needed.

Mr. McCLUSKEY. You are not needed?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. Did he transfer you?

Ms. ANGOLIA. They arranged a transfer after I had consulted Senator Williams on this, yes.

Mr. McCLUSKEY. Where were you transferred?

Ms. ANGOLIA. I was transferred down the hall to another supervisor.

Mr. McCLUSKEY. And were you able to or were you required to work overtime in this new bureau?

Ms. ANGOLIA. No, sir.

Mr. McCLUSKEY. I see. How was your relationship with your new supervisor?

Ms. ANGOLIA. My new supervisor had very little to say to me. I was not trained for my position, and things went from there.

Mr. McCLUSKEY. You weren't trained for your position, but you were sent there?

Ms. ANGOLIA. Yes, sir, I was also sent out to typing school and then I was notified by a personnel manager that I would not be reporting back to my post in Rosslyn, where we were located at that time, that I would be coming immediately back to main Commerce, because I had training and a college education they were going to use me in another field.

But when I reported back to Rosslyn I found out I had been transferred back, when I went to back up my articles, you know, that I was going to stay there, and everything had been changed, and we were working differently.

Mr. McCLUSKEY. And your new supervisor, this new agency, how long did you work there?

Ms. ANGOLIA. Under the new supervisor I worked about 2 months before I received notice.

Mr. McCLUSKEY. You received notice from your new supervisor of your termination?

Ms. ANGOLIA. Of Government service, yes, sir.

Mr. McCLUSKEY. After 2 months of arriving there?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. Now, you arrived there to do typing, but what was your job description originally?

Ms. ANGOLIA. You mean when I was originally employed?

Mr. McCLUSKEY. Right.

Ms. ANGOLIA. I was originally hired as a microfilm—I won't say expert—but I was a trained microfilm technician, and that is what I originally went there for, was to show them how to implement the system.

Mr. McCLUSKEY. Because you bucked the system, it's your contention then you were shipped to be a typist down the hall?

Ms. ANGOLIA. And to single out blueprints, which I knew nothing about, you know, for the plants, the descriptions of plants and you had to approve or disapprove, but I was never told how to do this work. I was put with my former coworker's roommate, which only was a very bad situation. There was a lot of friction, there was a lot of tension. My supervisor even stated to me on one occasion, I am sorry I had to take you, I am sorry for what I am going to end up doing.

Mr. McCLUSKEY. This is your new supervisor?

Ms. ANGOLIA. This is my new supervisor.

Mr. McCLUSKEY. He said I am sorry I had to take you, I am sorry I am going to have to—

Ms. ANGOLIA. When he let me go he said he was sorry he had to do this, was why he originally did not want to take me, because he knew what was in the plans.

Mr. McCLUSKEY. So, in effect, then you were purposely being shipped to an agency in which you had no training, with the intention of somebody to get rid of you?

Ms. ANGOLIA. Yes, sir, I mean, I fought this on more than one scale though.

Mr. McCLUSKEY. Did you at any time have a chance to see Secretary Butz and complain of this?

Ms. ANGOLIA. Yes; I went to Secretary Butz' office and I went to the Under Secretary of Agriculture, and I left my name and number, and they were supposed to contact me.

I tried to explain to them what was happening, and this was all taken off of my annual leave.

Mr. McCLUSKEY. You went to the office or did you see the Secretary himself?

Ms. ANGOLIA. I saw the Secretary himself, upon demand.

Mr. McCLUSKEY. I see.

Ms. ANGOLIA. It was rather bold on my own part, but I just felt that he should know what was happening to an employee, because I feel Government service is a fine place to work and when things like this happen to a little person, that means it can happen to anyone.

It is not a good feeling. Because, I mean, there would have been a lot of people that would be willing probably to come and talk to you, but everybody there is afraid to talk, everybody is afraid of losing their jobs.

Mrs. SPELLMAN. How many people were in the section that you were in initially?

Ms. ANGOLIA. There were 12, but to state another thing, I mean, to state my capabilities, we had an administrative assistant, and I took over for this administrative assistant and I had only been there 3 months, if that states anything of the type of worker I was.

There were employees that had been there 5 and 6 years, and none of them were asked to take over his work, and he was a GS-9,

and I took over his work and this created hard feelings, because, I mean, they were 5's, 6's, 7's, and 8's. But with the Ph. D. and everyone agreed I had the knowledge and know-how to carry on this man's work, and I did handle his overseas calls and everything while he was on vacation.

Mrs. SPELLMAN. There were 12 people in that section and all 12 were working overtime?

Mrs. SPELLMAN. And in your opinion were all 12 working overtime that really wasn't needed?

Ms. ANGOLIA. Yes.

Mrs. SPELLMAN. All 12 were?

Ms. ANGOLIA. You see, my work was to produce, give these people their work. There were people sitting there just drinking coffee, Mrs. Spellman. I mean, there is no need to pay an employee to sit and drink coffee. If people would sit at their desks and do their work, I am not saying you stay glued to your chair. I am not saying they should not get up and move around, and we have 15 minute breaks, but this was not the case.

In Agriculture we had a 2-hour lunch, which I have never heard of. We had 1 hour breaks in the morning and afternoon, and it was something unheard of to me in Government service. I mean 15 minute breaks are normal, and an hour for lunch is considered a long time. But you could do your work in that agency if they had not gotten to use this what I called the spoil system, it's too easy.

Now, there is inflation. People could even do it more. I mean, back in 1969, 1970 we didn't have the high costs we have now.

Mrs. SPELLMAN. Did you keep track of those people at all after you left, do you know whether the system was continued over a long period of time?

Ms. ANGOLIA. I have kept in touch with a few people because I was engaged when I left, and a few of them came to my wedding, and the same things were going on. But, as the girls stated, what can a person do?

Mrs. SPELLMAN. Were there people among them who really didn't like the system, but who felt compelled to be part of it?

Ms. ANGOLIA. Yes, because, you see you had reasons—there was discrimination, high discrimination against blacks, for one thing. I mean, I had worked in an agency where it was mostly black. I found it easier to talk to some people. I don't like to talk with people that are putting knives in your back while they are smiling at you. So I used to eat lunch with some of the black girls, and I was told one day, you will eat with so and so. And I said I don't like that person, I won't eat with them.

That is my hour or 2 hours, and I had said I will eat with who I feel like eating lunch with. If you don't mind and they said well, good, when you are transferred you won't have the same lunch hour. I mean, it's just that type of a situation you are put into.

Mrs. SPELLMAN. What was your base salary at the time you were working there?

Ms. ANGOLIA. I believe \$4,197.

Mrs. SPELLMAN. And approximately how much did you get in overtime?

Ms. ANGOLIA. I am not sure, Mrs. Spellman.

Mrs. SPELLMAN. You can't remember that?

Ms. ANGOLIA. I would say at least \$2,000, possibly.

Mrs. SPELLMAN. This was what grade?

Ms. ANGOLIA. A GS-3.

Mr. McCLUSKEY. And you have 4 hours overtime on the average per day?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. But sometimes you were told to take compensation?

Ms. ANGOLIA. Yes, sir.

Mr. McCLUSKEY. In other words, despite the fact that title 5 says you have to be paid, you were told to take compensation?

Ms. ANGOLIA. Yes, sir. This was just a general practice within the Agency.

Mrs. SPELLMAN. That is interesting.

Did you have any further questions?

Mr. McCLUSKEY. No, Madam Chairman.

Mrs. SPELLMAN. We certainly thank you for coming. That gives us a little insight into the way things have worked. We would hope that this isn't prevalent today. But it does give us an opportunity to make some determinations as to the sorts of things we will be looking for.

We thank you very, very much for coming.

Ms. ANGOLIA. I was glad to be of service, Mrs. Spellman.

Mrs. SPELLMAN. Our next witness is Mr. Louis Nunez, acting director for the Civil Rights Commission.

Mr. Nunez, we thank you for coming, and you may go ahead with your testimony.

**STATEMENT OF LOUIS NUNEZ, ACTING STAFF DIRECTOR,
CIVIL RIGHTS COMMISSION, ACCOMPANIED BY BERT
SILVER, ASSISTANT STAFF DIRECTOR FOR ADMINISTRATION,
AND LUCY EDWARDS, DIRECTOR, CONGRESSIONAL LIAISON**

Mr. NUNEZ. Thank you, Mrs. Spellman and members or representatives of the other members.

I am Louis Nunez, acting staff director of the U.S. Commission on Civil Rights.

Accompanying me are Lucy Edwards, director of congressional liaison, and Bert Silver, assistant staff director for administration.

I am pleased to be given this opportunity to testify before this committee on the abuse of overtime pay, not because it is a pleasant subject on which to testify—it is not—but because it gives me an opportunity to place what actually happened on the record, and let you know what has been done to correct the problems found.

As you are aware, the U.S. Commission on Civil Rights is a temporary, independent bipartisan agency established by Congress in 1957. The 95th Congress just extended the life of the Commission for 5 more years. Our jurisdiction includes study of discrimination or denials of equal protection of the laws "because of race, color, religion, sex, age, handicap or national origin or in the administration of justice."

Our current appropriation is \$10,752,000, of which we estimate \$45,000 will be spent for overtime payment. The Commission spent \$41,000 for overtime payments in fiscal year 1974, \$49,000 in fiscal year 1975, \$69,000 in fiscal year 1976, including the transition

quarter; \$72,000 in fiscal year 1977; and approximately \$53,000 through August of fiscal year 1978.

These amounts represent less than 1 percent of the Agency's budget in each of those fiscal years. It should be noted 70 percent of the Commission's budget consists of personnel costs.

In addressing the four issues of specific interest to this subcommittee, my testimony will focus primarily on the third issue, our system for insuring accuracy in the payment of overtime compensation.

In response to your first question regarding cost-benefit ratio, I would say that the Commission's use of paid overtime is cost effective. My testimony will also indicate, in response to your second inquiry, that greater reliance on part-time or intermittent employees would not be a satisfactory alternative for our use of paid overtime.

Although we have no specific recommendations regarding your fourth concern, strengthening the Federal overtime pay system, we hope to assist the subcommittee by candidly sharing our recent experience.

In February 1978, our fiscal staff, during a routine review of accounting documents, discovered a problem in reconciling overtime funds. The fiscal staff was told to investigate. By March 17, the investigation had established that in at least one instance an employee had claimed and had been paid overtime which had not been earned. On March 20, the following Monday, the U.S. attorney was notified and on March 28, the FBI began an investigation.

The Commission continued its internal review which soon indicated that several additional employees might also have claimed and been paid for overtime not actually worked. As a result, we audited the records for all employees where overtime documentation appeared contradictory or insufficient.

This audit covered all of calendar year 1977 as well as calendar year 1978 to that date, and resulted in a discovery of discrepancies involving eight employees, including the original employee, with amounts varying from \$300 to \$5,300.

In order to insure that we had discovered all irregularities, I established a special team of four employees to conduct an audit of all overtime records of the remaining Commission employees. The audit team checked all overtime records during the months of December 1977 and January and February 1978.

In cases where discrepancies appeared, records for those employees were checked for all of calendar year 1977 and 1978 through March. The results of the audit were made available to supervisors who examined the data to see if administrative action was necessary.

We have found discrepancies of just under \$12,000. Voluntary restitution of approximately \$5,300 has been secured and an additional \$700 will be recovered based on arrangements made already. Appropriate steps are being taken to recover additional money.

The Commission has initiated administrative action against all employees whose records indicated unexplained discrepancies. One employee was suspended for 2 months without pay. Another resigned and two were terminated. One employee had left Federal

Government employment almost 1 year before the problem was discovered and is beyond the reach of administrative action.

Adverse actions ranging from suspension to dismissal are pending against others. All cases which suggest that a crime may have been committed were referred to the U.S. attorney and the Federal Bureau of Investigation. We have been in constant communication with both agencies coordinating our efforts in this matter. The U.S. attorney has criminally prosecuted one case and is investigating others for possible criminal prosecutions.

I would now like to discuss how these overtime problems arose and describe procedures adopted to prevent future abuse. In the first and most serious incident, the employee admitted removing timecards from the timekeeper's desk and altering them after the supervisor had signed the cards.

We have now added a procedure whereby the fiscal office, after receiving the payroll runs from GSA payroll office which services the Commission, checks them against overtime authorization forms.

We have also inaugurated a "feedback" report whereby, based on this check, the Commission's fiscal office notifies each operating office of employees who worked overtime and the hours each worked.

We cannot be specific about the remaining incidents since each has been referred to the U.S. attorney for investigation and possible prosecution. However, it appears that in other instances, timecards and other documents were altered. We have tightened controls in the following manner to guard against abuses.

One, overtime authorization forms are now doublechecked against timecards by the chief timekeeper before the cards are sent to GSA payroll. Previously, that check had been made by each timekeeper but had not been doublechecked at a central point.

Two, the form authorizing and approving overtime has been redesigned in multiple snap-out form. The employee, the supervisor, the timekeeper, and the management office receive copies of the form which are checked at several managerial levels.

Three, the building security guard has been instructed to keep a separate sign-out book for Commission employees distinct from that used for other employees in the building. Photocopies of the sign-out sheets are provided our administrative office where they may be compared with other documents when necessary.

Four, timebooks, timecards, authorization forms, and other timekeeping documents are kept under lock and key at all times.

Five, a new administrative instruction containing revised timekeeping procedures was issued.

Six, timekeeping for a number of small units has been consolidated and the number of timekeepers reduced, thus allowing more control.

Seven, timekeeping regulations have been reviewed with supervisors and timekeepers on several occasions.

The question has been asked as to whether overtime work is necessary and cost effective. I do not think the Commission could operate effectively without using some overtime; we do not use it indiscriminately.

The Commission has a statutory obligation to hold hearings, study civil rights issues and to make recommendations to the President and Congress.

This responsibility requires considerable staff expertise and an ability on the part of the agency to respond quickly to new civil rights developments. In addition, there are times when reports have to be completed to meet stringent congressional and agency deadlines.

Also, staff preparing for hearings must sometimes work overtime to prepare for the hearing which is set for a certain time. Hiring part-time or intermittent employees would not be the answer because in most instances we cannot anticipate the need for overtime far enough in advance and the employees who have been and are familiar with the project are usually those best able to do the work.

I am confident that our revised system which emphasizes multiple checks will discourage abuses and facilitate their early discovery.

I will be pleased to answer any questions that the committee may have on this subject.

Mrs. SPELLMAN. Thank you very much. That is interesting testimony which indicates that your own internal audit system has been picking up the problems.

Mr. NUNEZ. The initial problem was picked up by our fiscal department's review, yes.

Mrs. SPELLMAN. And you are tightening up your procedures as a result of some of the problems that you did find.

Has your agency's overtime procedure been approved by GAO?

Mr. SILVER. Our fiscal and accounting system is operated by GSA, under contract to us. I assume the GSA system was approved by GAO, but I don't know.

Mrs. SPELLMAN. We think so.

Mr. NUNEZ. We are too small to actually have a payroll disbursement office, so we contract out to GSA for it.

Mrs. SPELLMAN. I see. Did the Commission discover eight cases then involving possible fraudulent overtime as a result of that routine audit investigation?

Mr. NUNEZ. We discovered discrepancies as a result of the review of all of the records. Where they were explained we dropped the cases, but there were eight cases, requiring further investigation, I might add.

Mrs. SPELLMAN. It was not that you noticed something exceptional that made you zero in, was that it, or was it just routine, a routine check?

Mr. NUNEZ. For the eight cases you are referring to, it was a result of our internal review.

Mrs. SPELLMAN. It was the result of the regular audit.

You have a yearly audit of your activities?

Mr. NUNEZ. We are audited by GSA.

Mr. SILVER. We contract with GSA and they perform the internal audit.

Mrs. SPELLMAN. Do they do that on a yearly basis?

Mr. SILVER. It's supposed to be on a yearly basis. Sometimes it slips a little, to 15 months or so. But that is about the time, yes.

Mrs. SPELLMAN. I see.

Do you know what the procedural steps are that are used and the ones you have instituted to prevent this kind of unfortunate occurrence from happening again?

Do you know what the steps are that you followed or should be asking GSA what they are doing?

Mr. NUNEZ. You mean their audit?

Mrs. SPELLMAN. Yes.

Mr. SILVER. I am sorry, I don't think I understand the question.

Mrs. SPELLMAN. You have some procedural steps I take it in your audit. How do you seek out, do you look into the record of each separate employee and pick out special cases?

Mr. SILVER. What we should make clear is the original problem was not discovered by the GSA audit but by our own fiscal staff reconciling GSA records against our records.

Once they discovered a problem they went back and checked the payroll against the overtime authorizations. In cases where those didn't check out, they checked further and that is how the problem was discovered.

Mrs. SPELLMAN. I see. We understand that you have a sort of eight-step system that you use.

I don't know whether that is your people doing that or GSA, and we might want to check with them if you don't have that.

Ms. EDWARDS. I am not sure that the question has been made clear to us. Are you referencing the eight steps that are normally used during an audit?

Mrs. SPELLMAN. Yes.

Ms. EDWARDS. Bert, maybe you could answer.

Mr. NUNEZ. I assume you mean a formal audit by an outside agency, and that would be the GSA audit, and I think we have to check with them.

Mrs. SPELLMAN. Check with them.

Mr. NUNEZ. And get back to you on this.

Mrs. SPELLMAN. Fine. If you would do that we would appreciate it.

Mr. NUNEZ. Madam Chairman, I just want to emphasize the point I made regarding the use of overtime. We have looked at our records over the last 5 years and we average about 1 percent of personnel costs in overtime, so, in our judgment we feel we have it under control.

Mrs. SPELLMAN. You feel that is a reasonable amount?

Mr. NUNEZ. That is a reasonable amount and we do it under very special circumstances.

Mrs. SPELLMAN. You know, we have a lot of retired employees indicating they would be willing and able to help in situations like this where overtime is required to get the kind of information that you were talking about, the sort of thing that Congress is requiring, and they feel they would like to be able to come in and assist.

I just throw that out to you. Do you think that is a possibility that makes some sense?

Mr. NUNEZ. We are going to be looking at that, especially since we have gotten the age jurisdiction, and I would like to explore the possibility of retaining some retired people or part-time people.

I think your committee and the Congress as a whole has developed some very exciting new procedures that might make the civil

service a lot more flexible, and allow managers to experiment with using people in a much more efficient way, rather than the rigid 9 to 5 setup we have now.

I think that it is a good suggestion, and I think we will pursue it.

Mrs. SPELLMAN. I want to thank you. It's very obvious that you are aware of the possibilities for abuse and that you are moving in to try to correct those.

We thank you very much.

Before you go, I think our counsel does have a question or a word.

Mr. McCLUSKEY. I just want to clarify for the record, you have been in existence since 1954.

Mr. NUNEZ. Since 1957.

Mr. McCLUSKEY. And this is the first time that your internal audit procedures measured against GSA's has discovered overtime abuse?

Mr. NUNEZ. As far as I know this is the first time something like this has occurred.

Mr. McCLUSKEY. Now how many times do you do this internal audit procedure against GSA or have you since 1957?

Mr. SILVER. Reconciling our records against theirs, is a constantly ongoing process. As you probably know they never reconcile completely because items go on their records at different times. When we see something that looks unusual we check it out and this is the first time we have found something like this.

Of course, it's possible there were other instances but we did not find them, but we don't know of any other instances.

Mr. McCLUSKEY. While I understand 1 percent of payroll does not sound like much, I think what concerns some people is how many people are getting that 1 percent. If only one or five people are getting 1 percent of payroll that could be abusive, so I don't know as just stating 1 percent of payroll as justification really shows there is no abuse.

I only point that out to you because many people have responded to the subcommittee with that type of a comment.

Mr. NUNEZ. There are, I would say, at least more than one-third of the staff, and that is generally the support staff, that have gotten overtime. We would be pleased to give you those figures more exactly.

Mr. McCLUSKEY. Is most of your overtime scheduled or unscheduled?

Mr. NUNEZ. Do you mean that it's ordered, yes. If that is what you mean, I am not quite clear what you mean by scheduled.

Mr. McCLUSKEY. Well, there is scheduled overtime, and then there is unscheduled overtime where the employee does not know he is going to have to work overtime, and as a consequence he is called back in, he is called in for just 30 minutes and he gets 2 hours.

Mr. NUNEZ. No. It would be scheduled. They would be notified in advance, because they have to submit a form. That would be true in the very vast majority of the cases. I cannot state categorically that it has never happened; we may have had an emergency, but in the vast majority of the cases the employee normally knows in advance.

Mr. McCLUSKEY. As scheduled overtime?

Mr. NUNEZ. Yes, scheduled overtime.

Thank you, Madam Chairman.

Mrs. SPELLMAN. Thank you very much. We appreciate your testimony.

[The letter which follows was received for the record.]

U.S. COMMISSION ON CIVIL RIGHTS,
Washington, D.C., November 27, 1978.

Hon. GLADYS SPELLMAN,
House Post Office and Civil Service Committee, Subcommittee on Compensation and Employee Benefits, Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE SPELLMAN: I am writing to convey additional information for the record of your hearings on the abuse of overtime within Federal employment. On October 26, 1978, I appeared before your subcommittee and presented testimony on the U.S. Commission on Civil Rights' overtime problem. Several questions were left with tentative answers. I hope that the following data will supply what the committee needs.

PROCEDURAL STEPS IN THE AUDIT

(Discussed at pp. 93-95 of transcript)

Our agency has a contract with the General Services Administration (GSA) for payroll and accounting services. We have been assured that GSA has an accounting system which has been approved by the General Accounting Office. GSA routinely conducts an internal audit which includes payroll and time and attendance records, on an annual basis for which we reimburse them. Our own management staff also routinely checks our records, compares and reconciles agency records with GSA's statement.

During our appearance before you on October 26, 1978, some confusion arose over "procedural steps in the audit." After receiving excerpts from the transcript and data prepared by Commission staff for your Subcommittee and the Subcommittee on Investigations, it became clear to us that the confusion centers on our listing of steps taken in our internal review or "audit" to tighten controls after we discovered that improper payment for overtime had occurred. The steps or measures are listed midway through my testimony. They describe the Commission's tightened controls to avoid abuse. While these steps appear to be adequate and workable for the Commission, they may not be for a larger agency with different systems.

COMMISSION STAFF USE OF OVERTIME

(At p. 94 of transcript)

Pursuant to our discussion about how many individuals utilize overtime within the agency, I am submitting the following analysis:

During fiscal year 1978, 5575 hours of paid overtime were worked by 165 employees (temporary and permanent). No one employee worked a disproportionately large number of overtime hours.

Again, I am hoping that the information regarding our agency and its overtime problems will be helpful to your subcommittee as you review use and payment of overtime throughout the Federal government. If you have further questions regarding our participation in your hearings you may wish to have a member of your staff contact Lucy Edwards, Director of Congressional Liaison at 254-6626.

Sincerely,

LOUIS NUNEZ,
Acting Staff Director.

Mrs. SPELLMAN. Mr. Edward Scott, Assistant Secretary of Administration, Department of Transportation, is next.

Let me start by thanking you for your cooperation. We got very, very excellent cooperation from the Department of Transportation. We appreciate your help.

STATEMENT OF EDWARD W. SCOTT, JR., ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY GAIL T. YOUNG, SENIOR SYSTEMS ACCOUNTANT

Mr. SCOTT. Thank you, Madam Chair.

I would also like to make an informal introductory remark. I am the senior career official of the Department of Transportation, and I have come to that position after 16 years in the career civil service. Because of that I am very concerned with the antigovernment spirit which seems to be sweeping the country, and also with many events which seem to be bringing discredit on career public servants, at the Federal, State, and local levels.

So it would be my preference, if I could have that preference, to come here today and say, Madam Chair, in every day in every way we are getting better and better, but I cannot say that. And it appears to me that there has been some abuse—if not abuse, very poor management—of overtime in our Department, and so I think you and GAO have done a real service to the Department by highlighting this problem.

I want you to know that we in our agency are moving to correct the problems we have identified, and are taking a very hard look at the use of overtime in our Department. With those preliminary remarks, I would like to give my formal opening statement.

Mrs. SPELLMAN. I thank you for that statement. I happen to believe that "bureaucrat" is a very honorable word. As a matter of fact, in my own newsletter I have a column that I call "Beautiful Bureaucrats." I think bureaucrats make the system work, and we want to do everything we can to make the system work better. We are finding that there are problems, and of course anybody who thinks that there are no problems in Government is living in a world none of us know.

While at the same time we want to help Federal employees and give them every possible break that they deserve, we know that we need to eliminate the abuses. You see, most people are not involved in abuses. Most Federal employees are working their jobs and doing them in a superb fashion. The trouble is that the few who do differently bring discredit on the many, and we do want to ferret out those few, as do all of the many honorable employees.

I think by doing what you are doing now, finding the problems and correcting them, doing what we are doing, leading you to find those problems, we are going to make the Civil Service an even more honorable place for people to be working in.

Mr. SCOTT. I agree with you very much, Madam Chair.

Mrs. SPELLMAN. I do want to make it clear, and I am glad you raised that point, we are not engaged in witch hunts; we are trying to make a better system.

Mr. SCOTT. We certainly do not take your committee's inquiry in that spirit at all, and we have moved affirmatively to try and find out some things we did not know before.

Mrs. SPELLMAN. Very good. Thank you.

Mr. SCOTT. Madam Chair, committee members, I appreciate the opportunity to appear before you today to testify on the subject of overtime pay abuse. We are equally concerned about the judicious and efficient, as well as effective use of the funds entrusted-

ed to the Department for the purpose of accomplishing our specific missions.

As you know, the Department presently has a civilian general schedule payroll of approximately 70,000 permanent employees in addition to our other civilian and military employees. Given the size of our Department, which is a total of about 110,000 persons, and the dollars spent on overtime last year, that was \$23.5 million, I cannot assure you that we have not been the victim of overtime abuse. The report you have received from GAO, in fact, strongly suggests that this may be the case.

Like most Government agencies, we rely heavily on administrative controls and on the first line supervisors to exercise their managerial responsibilities in assuring that departmental policies and procedures are executed and that the Government resources are productively utilized. We have understandably exposed ourselves to some degree of risk that tighter or duplicative controls might reduce or eliminate. To reduce the risk of exposure and to better protect the Government resources, we are now upgrading our systems, our internal controls, and the managerial reports provided to the various levels of management for the effective monitoring of resource utilization. Without exception our managers at the fund control level receive reports to monitor the use of their funds, including the use of overtime dollars.

Examples of our more recent and ongoing efforts to protect against improper use of resources especially as it relates to the pay of employees includes the design and distribution of an internal time and attendance report to all offices payrolled by the Federal Highway Administration's Payroll System which includes the Office of the Secretary, the National Highway Traffic Safety Administration, the Federal Railroad Administration, the Urban Mass Transportation Administration, the Research and Special Programs Administration, and the Federal Highway Administration.

I would like to emphasize this report was initiated before the current GAO inquiry, and is distributed to each region, division, and office director in the headquarters offices and provides a listing by employee of the pay status hours, overtime hours, compensatory hours earned, annual leave and sick leave hours taken for that pay period. The recipient of the report is further advised that positive confirmation in the form of a signature certification of the listing will be required on a periodic random basis.

The report has a twofold purpose of providing a tool for monitoring overtime use and highlighting potential overtime abuse, as well as reinforcing the responsibility for management to effectively utilize their employees.

Furthermore, the report has the potential for providing the manager with a tool for reviewing staff size and mix. The continual reporting of overtime for certain staff levels and skills could suggest that the staff needs to be strengthened in these areas either by supplementing the staff with part-time and intermittent employees or by restricting hiring to only those skills requiring heavy overtime usage.

Additionally, the Federal Aviation Administration is presently testing the design of a new payroll system which will replace the

11 present FAA payroll systems. Those systems pay about 55,000 employees throughout the Nation. The more salient internal control features are increased ADP edits and the introduction of the use of start/stop time and attendance card reporting. This new concept will more readily highlight for the supervisor signing the time and attendance card the actual hours worked; that is, John Doe arrived at 8 a.m., and left at 3 p.m., as opposed to the current system which just gives the number of hours worked.

The time and attendance clerk will no longer have the responsibility for determining the more difficult pay status hours, that is, shift differential, Sunday, overtime, and other premium pay. Determination of premium pay through the reporting of start/stop time will be calculated by either the more experienced payroll clerk or by the ADP software in the system itself, which will include information on scheduled shifts. This change will thus relieve the less experienced time and attendance clerk from what potentially is a bigger payroll problem resulting from honest clerical errors.

I mention these examples to let the committee know that the Department is reviewing our current policies and procedures, as well as taking a critical look at all 18 payroll systems currently in operation in the Department with a view to consolidating them into a single payroll system which will very much enhance our ability to control overtime and other pay matters.

I would like now to address the issues raised in the Chair's letter of September 26.

The first question raised, "Are we paying too much on cost-benefit ratio," is difficult to answer. The quality and quantity of the product produced and the deadlines frequently imposed by external sources dictate the necessity for using overtime in order to respond in a meaningful timely manner.

The issue would appear to center around overstaffing to avoid overtime versus predictable overtime necessitated by short turn-around cycles such as those experienced in the budgetary matters. In other instances unexpected increases in attrition or externally imposed hiring freezes frequently suggest overtime as the prudent way to meet deadlines that impact on third parties and ripple across the board. Taking the need for the product and the time frame as given, the cost-benefit question would then focus on alternative methods of producing within the deadlines. Obviously, as suggested in your letter, part-time and intermittent employees are possible alternative staffing sources. However, the cost comparison for similar expertise should not be restricted to time and a half as compared to straight time, possibly elongated due to lack of immediate familiarity with the subject matter and equipment.

Other factors, such as increased administrative support costs to hire and service additional employees which impact on the workloads of the personnel and payroll staffs, space and equipment cost, and the more immediate increased fringe benefit costs for sick and annual leave earned, employer health benefits contributions, and so forth, may negate the savings associated with straight time comparison. We have done a little analysis and we find it is a very close call.

In some situations overtime is the cheaper and more economical way to go. In other cases, it may well be that part time or intermittent employment is the cheaper way to go.

The Department on an overall basis has been consuming much the same relative level of overtime for fiscal year 1974 through 1977. Overtime as a percentage of work-years and overtime as a percentage of payroll dollars has been running as follows:

[The information follows:]

Fiscal year:	Overtime dollars in (millions)	Percent of overtime to—	
		Total work-years	Total dollars
1977.....	\$23.5	1.2	1.5
1976.....	24.5	1.2	1.7
1975.....	18.9	1.2	1.4
1974.....	18.3	1.3	1.5

Mr. SCOTT. The second question raised, "Should we be hiring more part time and intermittent employees?", is directly associated with the first and equally difficult to answer.

As mentioned previously, some level of productivity and work assignments require immediate expertise or familiarity with both the environment and machinery. In many occupations, such as air traffic controllers and even less sophisticated activities as payroll processing, learning time must be rigidly controlled. However, the Department will consider the use of more part time and intermittent employees both as a function of its closer surveillance of overtime usage, and also because the President has strongly urged us to do so.

The answer to your third question, "What are your agency's checks and balances on the accuracy of vouchers submitted for overtime pay?", varies within our Department.

Our several agencies' accounting systems use various checks and balances to verify the accuracy of the vouchers submitted for overtime pay. Some of our systems, and there are 18 of them, require that formal authorization for paid overtime be submitted to the payroll office in order for the employee to be compensated for overtime worked. These authorizations are then verified to the time and attendance cards. Still others, while not requiring written advance approval, maintain the fund authorization controls at such a high level that first line supervisors must seek advance fund use approval in order to authorize paid overtime for their employees.

The ultimate check and balance usually results from the fund control manager—manager with obligating authority for a pool of dollars—questioning the use of overtime funds which are identified as a separate object class on the weekly or monthly fund control reports. Also, the Department's audit staff conducts systems evaluations involving a review of the procedures and practices related to timekeeping and personnel actions, and an examination of the system used in computing and preparing the payrolls. Their audits also include testing, on a statistical sample basis, selected transactions against the basic source documentation.

In response to your last question, "How can we better strengthen this system?", our Department is considering installing the following controls:

One, preparation of a cumulative overtime usage report by employee for distribution to responsible supervisors and office directors. In many cases that will be a modification to a report we are already issuing where hours for that pay period are included but the cumulative hours year-to-day are not on it. You may look at 8 hours and it might not sound like a lot, but if you saw it was 500 to date, it might flag it as something that needed to be looked at.

Two, periodic verification of high overtime users.

Three, random sample verification of all overtime use, whether it seems excessive or not.

Four, finally as I mentioned before, we are taking a serious look at the advisability of consolidating all our 18 payroll systems into a single system.

In conclusion, let me repeat my earlier statement that I cannot assure you that we have not been the victim of either overtime abuse or bad management of overtime. However, I can state to you unequivocally that we will be taking measures to satisfy ourselves in the future that adequate controls are in effect for the management of overtime in the Department.

Mrs. SPELLMAN. Very good. As you say, you have closely cooperated. It does not surprise me at all because you know our first budget chairman here was the Secretary, Brock Adams.

Mr. SCOTT. Right.

Mrs. SPELLMAN. I remember how he was pinching pennies.

Mr. SCOTT. He still is.

Mrs. SPELLMAN. He still is a pennypincher. I am glad to hear that, that it still works when he is on the other side. I do not know whether most people realize it, but when the 94th Congress first came in, and we did a little kicking up of our heels, the freshman class, there were three of us who met initially to plot that little revolution, and one of the people—as a matter of fact the first person we consulted with—was Brock Adams, so you see he helped the revolutionists.

In response to the subcommittee's request, the Department of Transportation provided information on all employees who recorded 200 or more overtime hours in fiscal 1978. You cited 511 employees, 4 of whom had worked over 1,000 hours of overtime. The following are some standard questions which the Department of Defense asks of each major installation when performing annual audits, and I would appreciate your answering the questions as they apply to transportation personnel.

Would you cite for the record the statutes, the Civil Service regulations or the Department of Transportation regulations which restrict overtime for all but essential work? Do you have that as part of your regulations?

Mr. SCOTT. Madam Chair, I am afraid with the materials we have assembled, we are unable to respond in the hearings this morning. We can include them for the record, but I do want to mention in our October 3 letter to Chairman Nix we cited that and I will be happy to submit a complete copy of that letter which has the citation.

Mrs. SPELLMAN. That would be very helpful if you would do that. [The appropriate extraction from the Department of Transportation letters to Congressman Nix on October 3 and 18 follows:]

The statutes and regulations authorizing overtime compensation are somewhat varied. Title 5 of the U.S. Code is the legal basis for paying employees overtime compensation. A copy of Subchapter V of Title 5 is contained in Enclosure 1. Section 5542 of Subchapter V is the basis for paying overtime pay to General Schedule (GS) employees and Section 5544 provides the basis for paying wage employees. Section 5543 addresses the ceiling on the hourly rate and the granting of compensatory time in lieu of paid overtime. Section 5547 addresses the biweekly pay period ceiling on the amount of premium pay which includes overtime.

Enclosure 2 is a copy of the Civil Service Commission's regulations on overtime pay for GS employees. The regulations are based on the contents of Title 5 U.S.C. 5542.

Enclosure 3, pertinent parts of Supplement 532-1 of the Federal Personnel Manual, constitutes the Civil Service Commission's guidelines on overtime pay for wage employees. These guidelines are based on 5 U.S.C. 5544 and 5 U.S.C. 5550.

Public Law 93-259, the Fair Labor Standards Act (FLSA) Amendments of 1974 (Enclosure 4), also authorizes overtime compensation to those Federal employees not exempt from its provisions. In those instances where an employee is eligible for overtime pay under both Title 5 and the FLSA, the overtime is computed under both laws and the employee is paid whichever amount is the higher.

Enclosure 5, Federal Personnel Manual Letter 551-1, contains the Civil Service Commission's interim instructions for implementing the Fair Labor Standards Act. The Commission plans to ultimately have final FLSA overtime regulations included in a Part 551 of the Code of Federal Regulations.

Enclosure 6 is a Department of Transportation Order which establishes our policy with respect to crediting overtime in fractions of hours.

Mrs. SPELLMAN. How many cases did any of the 528 individuals drawing 200 to 1,000 hours in overtime take annual or sick leave during the same pay period that—

Mr. SCOTT. We do not have that information Madam Chair. I will tell you why we don't.

We have 18 separate payroll systems. As a matter of fact, I understand we are one of only two departments that was able to get the data together that your staff requested. We had a very difficult time because we had to take computer tapes from 18 systems and homologize them and produce a single report. It was all we could do to get just the accumulated overtime hours and usage. But the leave data is something we can get. We will be very happy to submit it for the record.

[The information follows:]

NUMBER OF PAY PERIODS INDIVIDUAL DRAWING MORE THAN 1,000 OVERTIME HOURS TOOK ANNUAL OR SICK LEAVE DURING SAME PAY PERIOD

	Number of pay periods		
	With annual	With sick	With annual/sick
Federal Aviation Administration:			
Case No. 1	10	2	2
Case No. 2		1	
Case No. 3	16	4	
Other Department of Transportation: Case No. 1	17		
Range for both groups	0-17	0-4	0-2

NUMBER OF PAY PERIODS INDIVIDUAL DRAWING 501-1,000 OVERTIME HOURS TOOK ANNUAL OR SICK LEAVE DURING SAME PERIOD

	Number of pay periods		
	With annual	With sick	With annual/sick
Federal Aviation Administration:			
Case No. 1	12	2	
Case No. 2	2		
Case No. 3	5	6	3
Case No. 4	3	4	
Case No. 5	2		
Case No. 6	4		
Case No. 7	12		
Case No. 8			
Case No. 9	6	4	1
Case No. 10	12	2	1
Case No. 11	10		
Case No. 12	2	1	
Case No. 13	11		2
Case No. 14	4		
Case No. 15	8	1	
Case No. 16	7	2	4
Case No. 17	4	1	2
Case No. 18	6		1
Case No. 19	9		
Case No. 20	4		3
Case No. 21	13	1	3
Range	0-13	0-6	0-4
Other Department of Transportation:			
Case No. 1	5	3	
Case No. 2	16	2	3
Case No. 3	14	2	8
Case No. 4	16	4	2
Case No. 5	8	2	5
Case No. 6	2		
Case No. 7	7	4	6
Case No. 8	14		
Case No. 9	3		
Case No. 10	6	9	
Case No. 11	9	2	
Case No. 12	6	3	4
Case No. 13	5	3	
Case No. 14			
Case No. 15	5	3	1
Case No. 16	11		2
Case No. 17	7		
Case No. 18	12	3	
Case No. 19	3	5	
Case No. 20	10	1	1
Case No. 21	5	5	2
Case No. 22	8	7	2
Case No. 23	7	9	3
Range	0-16	0-9	0-8
Range for both groups	0-16	0-9	0-8

Mrs. SPELLMAN. We did get seven responses out of nine.

Mr. SCOTT. I guess they must have come in after I had the earlier information.

Mrs. SPELLMAN. Yes, DOT was the first.

Mr. SCOTT. But I will say this about the report I had mentioned earlier. We had started that report before the GAO inquiry, and it has as one of its elements leave taken, both annual and sick, in the same pay period that the overtime is earned. So the supervisor now has that information from the Federal Highway Administration Payroll system, which pays about 8,000 people.

Mrs. SPELLMAN. Let me see if there are any others here that you will not need to have a lot of detailed information on with you. We would like to have this one in the record today if possible. The chairman of the Subcommittee on Investigations asked that you provide copies of any audit report completed in the last 5 fiscal years on the subject of overtime compensation. Fifteen reports were forwarded to the subcommittee; only one, relating to the Alaska Railroad and the failure of its timekeeper to apply the Fair Labor Standards Act, discussed overtime in any fashion.

Do you know whether the Department of Transportation has conducted any audits on overtime compensation in whole or in part in its history?

Mr. SCOTT. My impression is that we have not. We have provided Congressman Nix with a list of 12 audits performed since 1974 dealing with civilian pay matters, which would include a review of overtime compensation as a matter of course. Four of the twelve audit reports specifically identified overtime deficiencies requiring corrective action. None of those have been departmentwide audits. They have all been audits of different individual systems within the Department.

Mrs. SPELLMAN. Can you tell us why the Department of Transportation has not conducted audits on the question of overtime compensation on a regular basis?

Mr. SCOTT. I really can't, because it frankly puzzles me. However, we have developed an audit schedule which is intended to cover payroll audits on a 4-year interval. I will be very candid. When the story appeared in the Washington Star asserting that three DOT employees were suspects in possible fraud cases—the story appeared I believe on a Sunday morning—I went into the office on Monday morning and immediately held a meeting to determine the kinds of controls we had. And I was personally quite startled that there were certain things that I knew from my experience in computer systems we could have been doing that we weren't doing. And the response I basically got was our control system relies, in the main, on the certification of the supervisor, and we assume that the supervisor is the person principally responsible for seeing that that certification is valid and accurate.

I don't think that is a satisfactory response, and because I don't think so, we have started these other checks and balances.

As you recall, we recently had a very serious case of fraud in another program—not overtime. Again it was a question of the certifying officer not doing his job properly. So my response to those people during that meeting, and my very strong feeling, is that you simply cannot build a system based on certification of somebody because people become familiar with each other and

then they become lax. You do need some "antiseptic" controls that are mechanically produced. Just as IRS kicks out certain tax returns for audit, we ought to be doing the same thing in payroll. And we are modifying our systems to do just that. So I can't tell you why it wasn't done in the past.

Mrs. SPELLMAN. We need something untouched by human hands.

Mr. SCOTT. Right.

Mrs. SPELLMAN. Is your system GAO approved?

Mr. SCOTT. All are approved except for the FAA system.

Mrs. SPELLMAN. FAA?

Mr. SCOTT. As for the new FAA system, which is the consolidation of 11 systems, we are working very closely with GAO to see that when that new system is implemented, it meets GAO standards.

Mrs. SPELLMAN. FAA is what part of Transportation?

Mr. SCOTT. A very substantial part, because DOT has 76,000 plus or minus civilian employees of which 70,000 are in the general schedule. FAA has 55,000 of those. So although we have 18 payroll systems, the 11 FAA systems account for 55,000 out of 76,000.

Mrs. SPELLMAN. That, of course, is the substantial part.

Will we have any problems with getting their system GAO approved?

Mr. SCOTT. I don't think so. As a matter of fact, I think you will find in the coming months that I am going to take a much deeper personal interest in that system, because our look at the design of that system is concurrent with our interest and our commitment to have a single central department payroll system. So those two objectives are going to have to be melded together, and I am quite confident that we will have GAO approval.

Mrs. SPELLMAN. It does seem to me that when we have that service available and when the law requires it, that there really should be no question about working with the GAO to get an approved system.

Mr. SCOTT. I agree with you 100 percent. Just as a matter of information, I have been in the DOT 2 years, but prior to that, at the Justice Department, I was one of two or three key people who put together the Justice Department's payroll system, and they had 108 payroll systems at that time, including one in each of the 92 districts for the U.S. attorneys and marshals. We worked very closely with GAO to get that consolidated system approved by GAO.

Mrs. SPELLMAN. Good.

Mr. SCOTT. But you mentioned some statistics that were of concern to you today deriving from that system, so it seems that GAO approval isn't the whole thing. You have got to watch the system after it gets up and running.

Mrs. SPELLMAN. Exactly. There is no system that is going to continue to operate by itself.

Mr. SCOTT. Absolutely.

Mrs. SPELLMAN. I turn to our counsel, Mr. McCluskey.

Mr. McCLUSKEY. I would just state for the record for your considerations, based on what GAO stated today, which I am sure you heard, that they felt compelled to turn over to the Justice Department certain employees who had sort of a constant usage of 36

hours of overtime per pay period, and yet we find four employees having over 1,000 hours of overtime in DOT, which you supplied us, which is over 6 months of overtime.

Mr. SCOTT. It is really hard to believe, there is no question about it.

Mr. McCLUSKEY. According to the latest figures you gave us, another 44—between 500 and 1,000, which is 3 to 6 months overtime.

Mr. SCOTT. I agree with you 100 percent. But I will say, and you have already made this distinction in a lot of your comments from the Chair, we are not talking just about fraud and abuse. We are also talking about bad management. I will give an example. I have people under my immediate jurisdiction in our printing plant who work an incredible amount of overtime, and I can tell you without any equivocation that there is no fraud or abuse there, because we can check their records against our production records, and so we know that they are there working. But there is a question as to whether or not we are using those people most efficiently, and I am sure that if you go to any printing plant—

Mr. McCLUSKEY. On paper anybody working 1,000 hours of overtime would be working a 60-hour week every week of the year.

Mr. SCOTT. I agree, but some people—

Mr. McCLUSKEY. I don't know how they could sustain their health.

Mr. SCOTT. I agree. If you go around this town, I think if you check the printing plants, as an example, you will find that that is one place typically where people end up working Saturdays and parts of Sundays as a way of life, and I don't think that is a good thing, and I am not here to defend that or say that we ought to continue that practice. What I am basically saying is that we are looking both at fraud and mismanagement, and the solution to fraud is not the same as the solution to mismanagement. However, the controls that come out of your payroll systems might highlight both.

Mrs. SPELLMAN. I can tell you, Mr. McCluskey, I know Members of Congress who would think that 60 hours was a short week.

Mr. SCOTT. It is a short week for me, I can tell you that. Incidentally, I would like to also state for the record that in my 16 years of Government service I have never been paid for overtime worked.

Mr. McCLUSKEY. One final question.

In your opinion, to the best of your knowledge, would it be possible to go into your system as GAO did to the HUD system and throw in a fictitious person and have it go all the way through?

Mr. SCOTT. We don't have a single system. I suspect that you could go into 1 of our 18 payroll systems and do that. However, I don't know that to be the case positively.

Mr. McCLUSKEY. Right.

Mr. SCOTT. But I would be surprised if it weren't the case, because we have 18 different systems. Some of them are very good and some are not so good. The edit checks, which the GAO group referred to—those of us who know anything about payroll or personnel accounting systems realize—are the key. I think some of our systems would have detected those transactions as being invalid transactions. Others probably would have let them through.

Mr. McCLUSKEY. I would only hope though, since you say that it may be possible in some of your systems, that you are undertaking a review of all your systems.

Mr. SCOTT. Yes, we are, and what we would expect to do, if we are successful in consolidating these 18 systems into a single system, which I would hope we would be able to do within the next 18 months to 2 years—now that may be incredibly optimistic but I don't think it is because I have done it once before and I know what it takes—that the edit checks we have put in that single central system would meet the test you are speaking of.

Mr. McCLUSKEY. Thank you, Madam Chair.

Mrs. SPELLMAN. Thank you, and thank you very much for your testimony and for your cooperation.

Mr. SCOTT. Thank you.

Mrs. SPELLMAN. Mr. Rexford Resler, the Associate Chief of the Forest Service, Department of Agriculture, and Mr. Charles Bucz, Deputy Assistant Secretary for Administration in the Department of Agriculture?

STATEMENTS OF CHARLES A. BUCY, DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION, U.S. DEPARTMENT OF AGRICULTURE, AND REXFORD A. RESLER, ASSOCIATE CHIEF OF THE FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY CLYDE W. FISK, CHIEF SECURITY AND EMPLOYEE RELATIONS, OFFICE OF PERSONNEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. BUCY. To my right is Mr. Resler, Associate Chief of the Forest Service, and Mr. Fisk, Chief, Office of Personnel.

I would like to first note that we have heard the testimony of the young lady who was previously an employee of the Department of Agriculture. We will check into the matter. It has been so long ago and so many reorganizations, et cetera, that it is going to be a little different to trace to see if such a situation is possible.

Mrs. SPELLMAN. How long have you been in your position?

Mr. BUCY. One year.

Mrs. SPELLMAN. I can't ask you if you were ever aware of that kind of thing back then.

Are you aware of any kind of problem today?

Mr. BUCY. No, I am not. We have some problems but not of that nature.

Mrs. SPELLMAN. As I recall, your agency had about 90 employees who had earned over 1,000 hours of overtime in 1 year.

Mr. BUCY. Yes, 88.

Mrs. SPELLMAN. Am I jumping the gun? Why don't I let you give your testimony, and then we can discuss it?

Mr. BUCY. Madam Chairwoman and members of the subcommittee: I appreciate this opportunity to appear before your subcommittee to discuss the administration of overtime pay within the U.S. Department of Agriculture.

The amount of overtime pay disbursed has remained relatively constant in relationship to total salaries. From 1974 to date the figures reflect:

	Total pay	Overtime pay
Fiscal year:		
1974.....	\$1,415,713,176	\$62,253,973
1975.....	1,562,114,522	58,229,902
1976.....	1,656,592,621	67,780,721
1977.....	1,811,004,991	82,463,000
1978 [†]	1,440,167,893	59,117,045

[†] Through Sept. 9, 1978.

This works out approximately to 4 percent of our total payroll and has remained constant.

We do not have a mathematical formula for determining the cost/benefit ratio of overtime as opposed to alternative courses of action. Managers and supervisors are expected to work within dollar limitations and personnel controls to accomplish the mission. Generally speaking, it is less expensive to pay overtime than it is to recruit and train new employees and to pay the personnel benefits which accrue to each employee.

Also, the circumstances requiring the need for overtime are generally of an emergency type and/or not subject to administrative control. For example, for the fiscal year 1977, approximately \$77.5 million of the total of \$82.5 million in overtime cost was paid to employees of the Forest Service, Food Safety and Quality Service and the Animal and Plant Health Inspection Service. The Forest Service incurs the bulk of their overtime pay costs on firefighting activities. The Food Safety and Quality Service and the Animal and Plant Health Inspection Service incur overtime costs primarily in providing services which are mandatory by law and which are not subject to administrative control.

The Department of Agriculture has always utilized large numbers of part-time and intermittent employees. For example, in August 1978 we had 25,000 part-time and intermittent employees. Nonetheless the Department, in keeping with President Carter's commitment to increase part-time employment, is seeking to improve its record.

In the U.S. Department of Agriculture (USDA) employee time and attendance are monitored, recorded, reported, and processed for payment, where applicable, with numerous checks and balances to assure propriety of salary payments and leave administration. Employee work and leave status are observed and monitored initially by supervisory personnel at duty stations. The time is recorded and accounted for on Time and Attendance Reports (T. & A.) by trained timekeepers. The T. & A. are transmitted to the National Finance Center, USDA, in New Orleans, La., where various edits and audits are accomplished and appropriate pay is calculated and scheduled for payment at U.S. Treasury disbursing offices.

Subsequent to employee payroll processing, various reports are produced by the National Finance Center and furnished to USDA officials for control and management purposes. The T. & A.'s and related disbursements are subject to audit within USDA and by the U.S. General Accounting Office at the National Finance Center. Likewise, copies of the T. & A.'s are maintained at the applicable

employee and timekeeper location where they are also subject to these types of audits.

Overtime pay is covered by the above-described USDA system which has been approved by the General Accounting Office. More details regarding specific checks and balances to assure accuracy of overtime pay are as follows:

T. & A. reports prescribed for use within USDA are designed for daily posting of all time worked in a pay period, including overtime. Timekeepers complete these reports at 15,000 contact points throughout the Department.

Overtime must be approved by supervisors, where possible, prior to work being performed. In extraordinary circumstances, overtime which does not receive prior approval of the supervisors, must be post approved. In all cases, overtime is recorded on the T. & A. prior to payment and, with few exceptions, it is certified by the supervisor prior to submission to the National Finance Center for payment. Additionally, most departmental organizations provide special forms for the request, approval, and certification of overtime as a control that supplements the T. & A. procedures.

The National Finance Center maintains a master payroll file for all USDA employees, matches T. & A. data against that file, and calculates overtime and all other pay via electronic data processing techniques. A T. & A. must be prepared and furnished to the National Finance Center for every employee to be payrolled in a given pay period.

The automated system provides many edits and audits prior to scheduling payroll disbursements. Some of the salient computer program checks related to overtime pay are listed below: (a) Employee must be on USDA rolls, (b) Employee must be eligible for premium pay, (c) Pay amounts are within maximum legal limitations, and (d) Charges are against valid congressional appropriations.

The departmental payroll system provides several reports or documents which are used by USDA agency personnel to account for and determine propriety of overtime and other salary payments. These are listed below along with pertinent descriptive information.

EARNINGS STATEMENTS

This statement, Form AD-334, is produced each period that an employee is paid for overtime and is furnished to agency timekeepers and other management levels. It shows all gross earnings—by type, deductions, net pay, and other identifying information.

PAYROLL REGISTER

One large agency is furnished with individual payroll registers each pay period showing pay received by total hours, processing codes, and accounting data.

LISTING OF EMPLOYEE PREMIUM PAY

Another large agency of the Department is furnished with the listing of employees receiving premium pay on the basis of hours

reported on the time reports. These listings are furnished to all applicable accounting stations each payroll period.

ACCOUNTING REPORTS

USDA accounting stations are furnished with posting media and personal services reports showing overtime and other salaries disbursed against their appropriations. The reports are in sufficient detail to permit reconciliation with other documentation supporting overtime payments.

SPECIAL PREMIUM PAY REPORTS

The National Finance Center provides reports to USDA agencies on an "as requested" basis showing all overtime, differential, and other premium payments made to their employees for a given period. These reports show the hours and money for the premium pay by employee name and social security number.

In addition to the checks and balances described above, the Office of the Inspector General (OIG) performs a variety of audits and investigations.

As an aside, Madam Chairwoman, we furnished Mr. Nix a listing of the 18 recent audits that we have done on overtime.

With reference to overtime and time and attendance records, OIG is currently doing, or has recently completed the following audits and investigations:

An audit of accounts receivable and reimbursable overtime in the plant protection and quarantine program area of the Animal and Plant Health Inspection Service is currently being conducted with about 40 percent completion at this time. Review and verification of overtime compensation is one of the main objectives of this audit. Other objectives include an evaluation of internal controls to insure that payrolled and reimbursed overtime service hours are reconciled; and an analysis of assigned tours of duty and assigned overtime inspections to determine whether they minimize overtime incurred, and, where applicable, charges for service have been billed to shipping agents.

An audit of time and attendance records in the Food Safety and Quality Service (FSQS) has been completed. Comparisons were made of the overtime hours reported for billing purposes to the meat processing plants where the work was performed. Variances of up to \$1 million per year were projected nationwide based on differences found through this review. Further inquiry is being made by FSQS to determine the reason(s) for variances.

An investigation was recently conducted of overtime abuse by employees of the Forest Service. There have been several indictments and convictions. Criminal actions are pending on other Forest Service employees.

An investigation survey is currently being conducted to determine the validity of claims for reimbursable overtime by FSQS inspector, grader, and veterinary personnel. The initial survey stage revealed that some 13,000 USDA employees in the foregoing job series accumulated overtime annually. Through the use of a standard deviation process, about 300 of the 13,000 employees throughout the United States were identified as working an inordi-

nate number of overtime hours annually. We selected a workable number of these employees for investigation in five States. No tangible results are available at this time.

The Department is taking or considering taking additional actions to strengthen existing controls. These actions are listed below:

One, departmental guidelines will be updated and reissued to call attention to the need to assure accuracy of overtime payments and to identify the control mechanisms that are available.

Two, payroll registers now furnished to one agency may be furnished to all agencies.

Three, special premium pay reports will be furnished on a regular recurring basis to all agencies having a need for such reports instead of on an "as requested" basis.

Four, furnish special reports to supervisors each pay period showing all employees in their units who were paid in excess of a specified number of hours of overtime.

I want to thank you, Madam Chairman, for offering the Department the opportunity to participate in this study.

I would like to add that as we were preparing for this hearing, we looked over the past records in the Department, particularly since 1972 when we put in a departmentwide single payrolling system, and we have not in the last several years had any problems that we could attribute to system failure. Most of our problems are of a supervisory nature.

I will answer any questions. After that, I will ask Mr. Resler to give his testimony.

Mrs. SPELLMAN. Thank you.

Is your system GAO approved?

Mr. BUCY. It is.

Mrs. SPELLMAN. It is. Now, in an October 2 letter to this committee, Mr. Fisk stated no unauthorized or excess overtime is permitted, and yet the statistics provided by the DOA show no less than 90 employees recording over 1,000 overtime hours from January 1977 to December 31, 1977.

Would you please explain to the subcommittee what DOA means by excess overtime? This is over \$1 million that we are talking about and at least 90 employees.

Mr. BUCY. If I may, I was rather shocked when I received this. Frankly, I had not seen it before and I am sure Mr. Fisk had not either.

We have started as a result of the preparation for this committee an inquiry into all these employees who have accumulated over 500 hours of overtime, and what we will do, the National Finance Center is preparing us a printout in more detail than we had for this committee which will show each employee the specific hours worked, where he works in the Department, et cetera.

We will then follow up and have each agency document to us the justification for this overtime. I cannot at this time say if it's excess or not, it depends on the circumstances. But it would seem to me that 6 months of overtime, in some cases equivalent of 6 months of work would certainly warrant some careful scrutiny.

Mrs. SPELLMAN. I would find myself in agreement with that statement.

Now, you note on page 2 of your statement that the Forest Service incurs the bulk of its overtime for firefighting activities.

Do these employees receive time and one-half or 25 percent premium pay for this?

Mr. BUCY. I will ask Mr. Resler.

Mr. RESLER. I believe they receive the time and one-half, Madam Chairman.

Mrs. SPELLMAN. How was the decision determined, this decision made as to whether they would get premium or time and one-half?

Mr. RESLER. I have with me Deputy Chief for Administration of the Forest Service, Doug Leisz.

May I ask him to respond to that question, please?

Mrs. SPELLMAN. By all means.

Mr. LEISZ. Madam Chairman, we do have some people who receive differential pay for a set tour of duty, and, if they work beyond that tour, receive time and a half. For instance, fire look-outs who work an extended tour of 12 hours are covered by differential. Now, those people would only go on overtime when their tour is extended beyond the 12 hours. Most of our firefighters, in fact, get paid overtime when they exceed the standard work week, which is the 40-hour week.

Mrs. SPELLMAN. And then they would be paid time and one half?

Mr. LEISZ. That is correct.

[The additional information which follows was furnished for the record subsequent to the hearing:]

PAYMENT OF FOREST SERVICE EMPLOYEES WHEN FIGHTING FIRES

Differential pay for standby duty is not generally appropriate for our firefighters. This type of premium pay must be associated with the regularly assigned duties of the employee's job. Firefighting duties are irregular and unscheduled and are generally performed by employees recruited from our regular work force when the emergency arises. Differential pay for standby is intended to provide compensation to employees who, on a regularly scheduled basis, are required to remain on standby at the work station in excess of 40 hours a week and be readily available to perform work. The differential is paid whether or not any work is actually performed during the standby period. Employees on differential are paid at the overtime rate of time and one half for any work performed after the regularly scheduled standby period.

Currently firefighters are paid the regular overtime rate for time spent fighting fires plus any other differential to which entitled such as hazard pay. Our experience has shown it is more cost effective to pay firefighters at the overtime rate when they actually fight fires than to use differential for standby.

In the past year, the Forest Service used standby differential pay on only one unit, a Youth Conservation Center Camp which required 24-hour supervision of camp enrollees.

Mrs. SPELLMAN. You indicate that with few exceptions time and attendance records are certified by supervisors before submission for payment. Now, under what circumstances are time and attendance records not certified?

Mr. BUCY. That would be when a supervisor was unavailable, was not there, and then there would be another certification. They are always certified by a second person.

Mrs. SPELLMAN. What level of supervisors certify these records?

Mr. BUCY. It's usually the firstline supervisor.

Mrs. SPELLMAN. Aside from the audits that are mentioned in your testimony, which are all recent audits, has DOA conducted any previous audits on overtime?

Mr. BUCY. I could not definitely answer that. I presume they have.

Mrs. SPELLMAN. Would you know?

Mr. RESLER. Madam Chairman, I can speak only for the agency, but we conduct routine audits of all of our accounting activities by specialists in the fields of either personnel or fiscal management. Those are part of our internal management control system.

Mrs. SPELLMAN. I see. Did you, in conducting those routine audits, come across anything that would have made you take a second look at the system, or is it just these recent figures that you have been getting together for us?

Mr. RESLER. We are looking for such things as training needs, errors in the preparation of documents of whatever form and, of course, when we find those we immediately followup on them to correct those deficiencies.

That is a normal part of our control program within the Forest Service.

Madam Chairman, I do have a statement that I would like to present this morning, if I may.

Mrs. SPELLMAN. All right; be glad to hear that.

Mr. RESLER. Thank you.

First, let me say I am pleased to be here. I only regret that our appearance is occasioned by a recent case of overtime fraud by personnel in our Washington office.

Pursuant to acts of Congress, the Forest Service performs three basic missions: One, conducting forest and range research at over 70 locations; two, providing forestry assistance to the 50 States, Puerto Rico, the Virgin Island, the trust territories, and private landowners; three, managing the national forest system, which consists of 187 million acres of land in 44 States, Puerto Rico, and the Virgin Islands.

To accomplish our work, we employed, as of July 1978, 60,168 persons. In addition, we are involved in the various training and manpower programs. We operate 23 Job Corps Conservation Centers, plus the YCC and CICC programs, Older Americans, Volunteers for the National Forest, and various others that amount to roughly \$349 million a year in the budget.

Of the total number we use, 21,862 persons were employed in permanent full-time positions; 11,917 were permanent when actually employed. The remaining 26,389 employees were in permanent part time, intermittent, seasonal, or other types of temporary positions. Most of the employees in this latter category are hired for the summer, when most field work is accomplished.

In order to meet the hearing date, we were able to gather actual overtime figures only for 1976 and 1977. We also have estimates of overtime payments for 1978. For these years, overtime pay constitutes about 5 percent of the total amount disbursed by the Forest Service for salaries.

Of the total amount paid for overtime, 70 to 75 percent of the overtime results from firefighting operations on the national forests. Almost all of this is emergency overtime as opposed to management controlled overtime. About 25 to 30 percent of the overtime pay results from management controlled action. This repre-

sents about 1.5 percent of the total salary compensation paid by the Forest Service.

Given the unpredictable nature of forest fires, we believe the total percentage of overtime worked or paid by the Forest Service is quite acceptable. However, we will continue to focus on the 25 to 30 percent of overtime that is management controlled to see if this can be further reduced.

In your letter to Chief McGuire, you asked if we should be hiring more part-time and intermittent employees as a way to reduce overtime costs. As I am sure you know, President Carter is strongly committed to increasing part-time work opportunities in the Federal Government and has directed Department heads to aggressively seek to expand the number of permanent part-time jobs.

Accordingly, the Forest Service has developed an action plan which requires our managers to examine each vacant position to see if it can be converted to PPT status with a 16 to 32 hour workweek. We have had some success in the past year.

As of December 1977, we had 431 PPT employees in the Forest Service, of which 271 had duty tours of 16 to 32 hours per week. By the end of September 1978, we had a total of 489 permanent part-time employees, a 12-percent increase in 9 months.

The Forest Service is committed to increasing permanent part-time employment, especially to accommodate those who cannot work full time because of family or other obligations. However, we do not see increases in PPT and intermittent employees as a way to substantially reduce overtime needs.

At present, our financial reporting systems are not designed in such a manner to arrive at a separate cost-benefit ratio of overtime work. We charge supervising officials with the responsibility to work within the dollars and manpower ceilings allocated to find the most cost-effective method for getting the work done.

As Mr. Bucy has indicated, it is generally less expensive to pay overtime than it is to recruit and train new employees and to pay the benefits which accrue to such employees. For many operations, additional temporary hiring is not likely to be feasible or cost effective for a number of reasons.

These include the short duration of the task, the remote location of the worksite, the availability of trained professionals, and the corresponding lack of available skilled and experienced part-time personnel and, of course, personnel ceiling limitations.

For example, certain fiscal operations need to be completed at the end of each fiscal year which generally result in scheduling overtime. Trained and experienced fiscal officers are required to complete the necessary reports and accounting functions. Hiring additional part-time or temporary personnel to accommodate the end-of-year press of business would not be feasible or cost effective.

Another example is that of a work crew which discovers that, because of work progress made that day, it can complete its work with an hour or two of overtime. It is generally more cost efficient to authorize the overtime than to return the crew to headquarters and transport them to the worksite the next day.

I would like to discuss the time and attendance and payroll procedures within our agency, to explain our controls to check

overtime abuse, and to explain what we are doing to strengthen this system.

As Mr. Bucy has explained, the Department of Agriculture has instituted a departmentwide payroll system. All employees are paid through the USDA National Finance Center in New Orleans. Forest Service payroll procedures are part of the Department system.

The basic document that controls pay is the time and attendance report. The T. & A. records all leave taken and hours worked. It is prepared by a designated timekeeper and reviewed and certified by the employee and the supervisor.

In the case of overtime, the supervisor must authorize the overtime in writing and in advance, except in cases of emergency. Most T. & A.'s are sent directly to the National Finance Center. Some, however, are reviewed by an employee designated as the T. & A. contact officer prior to transmittal to NFC.

Following payment, the T. & A. contact officer is expected to review all earning statements and payroll registers to determine accuracy of payment. Any overtime payment which appeared out of line would be noted and checked. Until recently, this has been the only consistent postpayroll check on overtime pay in the Washington office.

However, in the field, in addition to T. & A. reviews, each project manager receives quarterly financial statements showing obligations and expenditures for programs under his jurisdiction. This includes salaries. The manager is responsible for noting any salary costs out of line with anticipated salary costs.

Finally, at periodic intervals the Forest Service conducts formal internal general management reviews of each organizational level and major program in the Service. More specialized activity reviews of fiscal management and personnel management operations address salary and payroll certification and review procedures. For these reviews, the Forest Service uses the guidelines and standards recommended by the GAO.

Despite this control system, overtime fraud did occur in the Washington office. The central figure in the fraud scheme was the employee designated as the T. & A. contact officer, who was responsible for reviewing and auditing overtime payments and T. & A. reports.

Also involved was the person who received and distributed the mail, which included pertinent payroll documents. Therefore, the normal controls failed. Ultimately, a new supervisor reviewing earning statements and payroll costs noted questionable overtime payments. This led to our own investigation and ultimate legal action against the employees involved.

As a result of this incident, we have reviewed our payroll controls and have taken several steps to prevent future abuse.

Mr. McCLUSKEY. Excuse me just 1 minute, Mr. Resler, if I may interject, what do you mean by T. & A.? Is that the timekeeper?

Mr. RESLER. Time and attendance report, excuse me.

First: The Washington office now conducts, at least quarterly, an unannounced, spot audit performed by a person not involved in T. & A. preparation and review. The first audit found no additional

abuse, but did result in several recommendations to further strengthen future audits and controls over overtime pay.

Second: We are issuing instructions to the Washington office staff that will clearly make those supervisors who certify time and attendance reports also responsible for verifying the correctness of amounts paid for overtime.

The supervisor will receive earning statements and payroll registers and will be expected to verify hours worked every 2 weeks.

Third: We are issuing a directive to all field units requiring them to establish periodic payroll audits or similar controls in their units. The directive will identify the documents to be used in establishing such controls. It will also require that all future management and activity reviews of fiscal and personnel operations include a spot check of timekeeping and payroll operations.

By strengthening our audit procedures, which will include requiring supervisors to verify salary costs, and by strengthening our formal internal management reviews, we believe we can discover and prevent future abuses of overtime in the Forest Service.

Our reviews and audits convince us that the overtime fraud discovered in the Washington office was an isolated case. Our field units have strong control systems for verifying overtime payments. We recently conducted a review of our eastern regional office, headquartered in Milwaukee, and found no evidence of pay irregularity.

However, the case here in Washington did lead us to realize that our policies were, perhaps, too slack in regard to reviewing and verifying overtime pay. As I have indicated, we have taken steps to correct this.

This concludes my formal statement. I do want to say that being requested to participate in these hearings provided us an additional opportunity to analyze our use of overtime and timekeeping and payroll procedures. We have found this additional review helpful.

I would be pleased to answer any questions you may have at this time.

Mrs. SPELLMAN. Thank you very much.

As we mentioned before, the DOA figures show that about 90 employees recorded over 1,000 overtime hours during 1977. Are any of those employees with the Forest Service?

Mr. RESLER. We don't know, but we will find out very shortly.

Mrs. SPELLMAN. You would be checking into that?

Mr. RESLER. Yes, I would seriously doubt it, but I don't know.
[The information follows:]

The USDA computer printout of employees receiving 1,000 hours of overtime pay contained the name of one Forest Service employee. However, the overtime pay shown for this employee was far too little for the number of hours worked. Upon investigation, it was determined that the computer list was in error and that the employee had worked only 100 or so hours.

The Forest Service is now checking the lists of employees who received pay for 500 or more hours for overtime worked. The results of this review will be included in the Department's comprehensive followup report to the subcommittee.

Mrs. SPELLMAN. You are convinced, as you say in your testimony, that the recent incident of overtime fraud was an isolated case?

Mr. RESLER. Yes, that is what we believe.

Mrs. SPELLMAN. You have looked over the system pretty carefully to make sure that isn't happening?

Mr. RESLER. We have, indeed.

Mrs. SPELLMAN. Exactly how many employees and what sum of money is involved in the alleged case of, or those cases of overtime abuse?

Mr. RESLER. There are six employees that are directly involved and possibly a seventh. The total amount of the fraud is roughly—

Mr. LEISZ. It's about \$50,000.

Mr. RESLER. It's \$50,033.24.

Mrs. SPELLMAN. That's over a period of how long?

Mr. RESLER. Over 3 years, I am sorry to say. Our basic problem, Madam Chairman, was, as I indicated in my statement, the system was designed to provide a central contact point to aid in the preparation of time and attendance reports, not only from an accuracy standpoint but also to aid in determining where training was needed for various others.

It did provide an opportunity that we did not catch in a timely way for the individuals involved to actually falsify the records going to the National Finance Center, and then intercept the vouchers or the scheduled payments coming back, so that there was no record that could be checked by normal audit procedures.

We believe we have that possibility terminated. But it convinces us of one thing, that we must be eternally vigilant on such things, and we are committed to that purpose.

Mrs. SPELLMAN. Did you have questions?

Mr. McCLUSKEY. I think it's rather interesting, Madam Chairman, that we have two agencies in which fraud was discovered and both these agencies has the time attendance clerk involved. I don't know how an agency guards against that.

Mr. BUCY. Very difficult. We don't think we have any magic answer to that one yet.

Mrs. SPELLMAN. Who takes the time and attendance of the time and attendance clerk? It sounds like something you could write a ditty about.

Mr. RESLER. Madam Chairman, one of the things we intend to do is to require verification so that the document going out must be verified by the work supervisor coming back. We don't see any way of falsifying or eliminating records that would be able to accomplish an inappropriate payment by that system. But we are not going to put all of our eggs in any one basket again.

Mrs. SPELLMAN. All right.

Mr. McCLUSKEY. Does either the Forest Service or Agriculture Department put into their computers these editing kickout blanks?

Mr. BUCY. Yes.

Mr. McCLUSKEY. So to the best of your knowledge, a Walt Disney affair could not occur?

Mr. BUCY. We don't believe it could.

Mr. McCLUSKEY. You don't believe it could, but then you stated, Mr. Bucy, that you don't know when the last time an internal audit was done.

Mr. BUCY. No; I didn't say that. As I understood the question, the question was prior to, we gave you 18 audits covering I think 3 or 4 years, and you asked a specific question on what other audits were there.

Specifically, I don't know. There were other audits, but I don't know the specifics of them.

Mr. McCLUSKEY. I see.

Do you have any routine in the Department?

Mr. BUCY. As part of the Inspector General's audit guide he has a regular rule, when he is conducting an agency audit he does look into this area.

Mr. McCLUSKEY. Annually?

Mr. BUCY. The Inspector General, of course, as you know, is completely a separate entity within the Department.

Mr. McCLUSKEY. Right, but he does this how often, annually or every other year?

Mr. BUCY. I don't have his audit schedule, but it's on a regular periodic basis.

Mr. McCLUSKEY. It has been alleged by some Department officials that they have caught various bureaus and agencies within their departments deliberately having their people use up a lot of overtime, and this may well have been the case of Miss Angolia back in 1969, in order that those bureaus within a department and so forth could come back the next fiscal year and say we need more resources.

Are you constantly, or is the Department, on the lookout for those types of bureaus or agencies in the Department that do that?

Mr. BUCY. I know of no documented instance where any bureau has—

Mr. McCLUSKEY. But are you on the lookout for things like that?

Mr. BUCY. Yes. That would show up doing the overtime and budget hearings, it should show up, I should say.

Mr. McCLUSKEY. Do you have some agencies in Agriculture that are just given blanket overtime?

Mr. BUCY. No. In the real world there are agencies where there can be large amounts of overtime. That overtime would come about as a particular emergency. I don't consider that a blank check to do overtime. All agencies work within an administrative budget, besides their program budgets, so they are limited in the funds they can spend on employee salaries, which would include overtime.

Mr. RESLER. Madam Chairman, if I could offer an additional point you addressed earlier today having to do with the use of overtime as affected by personnel ceilings, I would like to point out that our agency in terms of its permanent full-time work force is at the 1965 level now.

Mrs. SPELLMAN. That was very interesting, as I looked at the figures, to see there has been no growth.

Mr. RESLER. The only growth has been in the "Other Than Permanent Full-time," category, and we have increased that by about 7,000 grand total. But during this period of time our budget in terms of current obligations has risen from around \$400 million to roughly \$1.7 billion, and that does not include the employment programs which we are also administering.

At the same time, as a result of some very modest increases in the other than permanent full-time work force, not the permanent full-time work force, we found it necessary to move heavily into contracting, into various other methods of getting our work accom-

plished, and we still must continue to pursue every other alternative to Federal employment in order to accomplish what is still an expanding program.

I would just make the point that we must use overtime among other authorities available to us to try to accomplish this expanding workload, and we recognize very clearly the necessity of trying to manage that use of the overtime to get the most out of the moneys available to us.

Mrs. SPELLMAN. Yes. I was looking at Mr. Bucy's statement. In 1974, \$1.415 million; 1978, \$1.44 million. When you consider the inflation that has taken place in that period of time you are really down in your budgets considerably.

What are you doing about that? Are you contracting out a great deal?

Mr. BUCY. Yes. There has been an increase in contracting out.

Mrs. SPELLMAN. You have increased contracting out to make up for it.

Mr. McCLUSKEY. I would just like to follow up a second.

That seems to be one of the quandaries that is bothering some of the members of the committee, when we establish these ceiling levels and the President wants to establish additional ceiling levels, what are we really doing to the agencies?

Mr. Resler says we have to have more overtime because we have to accomplish the same mission. Of course, if we cannot do it by overtime, then we will just go ahead and contract it out.

I wonder if anybody has ever taken a look and extended this, and the Federal Government likes to say we employ 2.8 or 2.9 million people. Perhaps we really are employing closer to 9 million or 10 million if we take in all our contracting out. Is that a possibility?

Mr. BUCY. I have no idea what the numbers would be, but there is a great deal of contract work in order to accomplish the missions within the budget.

Mr. McCLUSKEY. That is what I mean. I just don't know what is being played with the American public here.

Mrs. SPELLMAN. Are we really leveling with the public? It would be interesting to get those figures to see what it is we are doing. We hold down the number of Federal employees and increase the number of people actually working for the Federal Government.

Mr. RESLER. Some of our agency's work, of course, is most appropriately handled by contracts because it is a physical type of work such as planting or thinning stands or building roads and things of that type, and we have always had a high proportion of contracting for that kind of work.

We are being pressed to the point now to accomplish the programs where we are stretching the available contracting capability and we are seeing signs of some increases in costs that do not appear to be in line with the normal trend of increases in costs.

That also requires close attention.

Mrs. SPELLMAN. Thank you very much, gentlemen.

Your testimony has been most enlightening.

Mr. RESLER. Thank you.

Mrs. SPELLMAN. Since we have spent so much time so far this morning and I know the time of the witnesses is quite valuable, we want to apologize for having kept you so late.

But we will ask you, since we do have your testimony here and it is going to be made part of the record, we will ask you to just submit it for the record and we will just ask you some questions about your testimony instead.

Mr. William E. Williams, the Deputy Commissioner of Internal Revenue Service, Alan Beck, Deputy Assistant Commissioner for Resources Management, and Mr. Lester Stein, deputy chief counsel, technical.

Mr. Williams, as I say, you may submit your testimony for the record, and if there is something special that you would like to say we would certainly be happy to hear that.

STATEMENT OF WILLIAM E. WILLIAMS, DEPUTY COMMISSIONER, INTERNAL REVENUE SERVICE, ACCOMPANIED BY ALAN BECK, DEPUTY ASSISTANT COMMISSIONER FOR RESOURCES MANAGEMENT AND LESTER STEIN, DEPUTY CHIEF COUNSEL (TECHNICAL)

Mr. WILLIAMS. Thank you.

Based on your statement that our entire statement will be placed in the record, I think we will be happy in the essence of saving time to move right ahead to the questioning.

[The full statement follows:]

PREPARED STATEMENT OF WILLIAM E. WILLIAMS, DEPUTY COMMISSIONER, INTERNAL REVENUE SERVICE

Madam Chair and members of the subcommittee, good morning. I am William E. Williams, Deputy Commissioner of Internal Revenue. With me this morning are Alan A. Beck, Deputy Assistant Commissioner (Resources Management) and Lester Stein, Deputy Chief Counsel (Technical) of the Internal Revenue Service. We are pleased to be with you this morning to discuss overtime pay and our administrative controls over the various forms of overtime.

To put these subjects in perspective, I would first like to give you a brief overview of the structure, size and functions of the Internal Revenue Service. During the past year, the Service employed an average of approximately 85,000 people. For reasons I will later explain, our employment totals vary substantially during the year. Approximately 5,000 of our employees work in our National Office in Washington, D.C. The remainder work at nearly 1,000 office locations in 794 cities in the United States and 14 posts abroad. As you can see, the Service is a highly decentralized, field oriented organization.

Our field offices are aligned in 7 regions. These 7 regions are in turn comprised of a total of 12 data processing centers, including 10 service centers—where we process tax returns—and 58 districts containing both principal district offices and outlying posts of duty.

Our employees perform a broad range of tax administration functions. In fiscal year 1977, the Service received and processed over 133 million tax returns and received 472 million information documents. Our audit personnel examined over 2.3 million returns; and our criminal enforcement and collection personnel took actions where appropriate to assure compliance with the law and payment of amounts owed. In addition, our employees responded to over 37 million telephone and walk-in inquiries from taxpayers concerning their rights and obligations. These are the Service activities which implemented a self-assessment system that produced gross revenues for the United States Treasury in excess of \$358 billion.

The variety of widely differing functions performed by Service personnel result in differing staffing needs and reasons for incurring overtime.

Our tax law specialists, audit personnel and collection personnel generally work in our offices or in the offices of taxpayers during normal business hours and have a fairly level demand for their services during the year. Typically, they incur overtime for themselves or their clerical and support staffs only when it is necessary to clear a backlog, meet a scheduled deadline, or contact taxpayers after regular working hours. These overtime needs can generally be anticipated.

Special agents who conduct criminal tax investigations and internal security personnel who investigate conduct violations also have a fairly even demand for their services during the year. But these personnel frequently work outside our offices—conducting investigations and surveillance—and are frequently required to incur administratively uncontrollable overtime to accomplish their mission.

In contrast, personnel who process tax returns and provide taxpayer assistance are in high demand during only a portion of the year—the filing season. To meet this increased demand during the filing season, the Service has for some time employed seasonal employees—referred to as “WAE’s” (“When actually employed”)—to substantially increase the number of our returns processing and taxpayer service personnel.

It is a challenge to manage an agency as widespread and diverse as the Service. The Commissioner and I are proud of the Service’s management—which we feel is among the best in government—and its efforts to assure that our appropriations are prudently spent. We are likewise proud of our employees—who do a difficult job well and who are, with rare exception, both honest and hard working.

In your letter of invitation to these hearings, you asked that we provide statistics on the amount of overtime pay disbursed by the Service each year since 1974. We interpreted your request to extend to all four categories of special compensation specified in the Federal Personnel Manual that normally would be considered overtime—Overtime pay, Administratively Uncontrollable Overtime, Holiday Pay, and Night Pay Differential.

The statistics which you requested appear in attachments to this statement. Appendix A shows the amount of Total Overtime, Administratively Uncontrollable Overtime, Overtime and Holiday Pay and Night Pay differential disbursed by the Service for the fiscal years 1974 through 1978, inclusive. In the case of 1978, we have projected estimates of our anticipated fourth quarter disbursements. Actual statistics are not yet available for that quarter. Appendix B provides statistics on total overtime disbursements by budget activity for the fiscal years 1974 through 1978 (again, based on fourth quarter estimates for 1978).

Overall, these statistics reflect a limited and prudent use of overtime. In fiscal year 1974, the Service disbursed \$21.2 million for overtime. For 1978, we estimate that we will spend \$14.4 million. Although these amounts are substantial, they respectively represent only 2.2 and 1.1 percent of the Service’s total personnel compensation for those fiscal years. Moreover, when you consider that federal pay raises between 1974 and 1978 have increased by more than 24 percent the base rate on which overtime is computed, I think you would agree that the Service has substantially improved what was already a generally good record.

These statistics also reflect that the majority of total overtime disbursements by the Service in this 5-year period was made to employees in five budget activities—data processing, internal audit and security, collection, audit and criminal investigations. In the case of data processing, a substantial portion of this overtime relates to the operation of the Service centers on a more than one shift basis during the filing season.

Criminal investigation and internal security personnel incur overtime in investigations and surveillance that continue beyond their regularly scheduled tours of duty.

In audit and collection, overtime is incurred principally to permit the timely handling of cases, particularly in certain peak periods in the audit or collection cycles where case closings are likely to occur.

In general, we do not believe that hiring additional full-time, part-time or intermittent employees would have been a more economic or efficient means of achieving the program goals for which the Service has incurred overtime. Most of our overtime has been incurred to meet peak periods of demand with experienced staff or to allow investigations to continue after normal working hours. Clearly, the Service could establish higher program goals given more personnel and resources; and for the reasons stated in the recently enacted Federal Employees Part-Time Career Employment Act, the Service, its employees and the public may all benefit from a re-examination of the circumstances in which we employ part-time rather than full-time personnel. But we believe that the nature and circumstances of the overtime which the Service has incurred to date indicates that overtime was an efficient and economic means of meeting program goals established under existing personnel and resource constraints.

You also asked us to explain our present internal management controls on overtime and to offer any suggestions as to how the system could be strengthened.

The Internal Revenue Manual contains detailed procedures for authorizing, reporting and controlling overtime. Separate procedures are established for adminis-

tratively uncontrollable overtime and for all other forms of overtime. However, these procedures have certain elements in common. First, each procedure requires prior authorization of the overtime. In the case of administratively uncontrollable overtime, this authorization covers a stated period of time rather than a particular occasion. Second, each procedure requires that a record be kept of the overtime worked. This record is approved by the employee's immediate supervisor. Third, each procedure provides for a comparison of the overtime paid to the overtime authorized. Finally, record and reconciliations are made available to management.

Our procedures require that requests for overtime—other than administratively uncontrollable overtime—be made and authorization of a duly delegated official received before the overtime is performed. Requests for approval of planned overtime are made on a form (Form 2787) which requires the requesting official to indicate the number of employees for which approval is sought, the number of hours to be worked, the estimated total cost of the overtime and the purpose for which the authorization is sought. Under the Commissioner's existing Delegation Order (Delegation Order No. 39, Rev. 7), the authority to approve overtime has been granted to Assistant Commissioners in our National Office and to the Regional Commissioners, Assistant Regional Commissioners, District Directors and Service Center Directors in our field offices. In turn, these individuals may redelegate this approval authority to supervisors with respect to employees under their supervision and control.

Once this approval has been received and the work performed, overtime must be claimed on the individual employee's time and attendance card, which is signed by the employee. If the task required more than originally authorized, the employee must receive additional approval of that added overtime from the delegated official. If the overtime is incurred on the last day of a pay period, the overtime is recorded on a separate form (Form 2788) to permit payment on the employee's check for the next pay period. Again, this form is approved by his or her immediate supervisor.

The records on overtime authorized are sent to the timekeeping sections in our National Office and in each Region. The records on overtime claimed are sent to our Data Center in Detroit, where they are used as a basis for overtime payments and are included in a biweekly report of overtime hours worked by each employee which is sent back to originating offices in the National Office and each Region for reconciliation with the information on overtime authorized.

In the case of administratively uncontrollable overtime, a strict limitation is placed on the circumstances in which it can be incurred. Administratively uncontrollable overtime is to be approved only in those instances where it is impossible or impractical to require prior authorization in each instance when overtime is incurred. In addition, administratively uncontrollable overtime can only be authorized for individuals whose duties require them to determine, without supervision, the circumstances requiring them to stay on duty. In the case of the Service, this involves our criminal investigators and internal security personnel.

An individual qualifying for administratively uncontrollable overtime is nonetheless subject to controls. The individual's immediate supervisor must recommend administratively uncontrollable overtime for that individual in a memorandum to the official delegated the authority to approve administratively uncontrollable overtime. Under the Commissioner's existing delegation order (Delegation Order No. 103, Rev. 3), the authority to approve administratively uncontrollable overtime has been delegated to the following individuals, with the powers of redelegation specified:

1. For criminal investigators under his or her jurisdiction in the National Office and the field who meet the eligibility requirements, the Assistant Commissioner (Inspection), who may redelegate that authority to the Director of the Internal Security Division and to the Regional Inspectors with respect to investigators under their respective jurisdictions.

2. For criminal investigators under his or her control (including those detailed to the National Office) who meet the eligibility requirements, the Director of the Criminal Investigation Division, who may not redelegate that authority.

3. For criminal investigators under their respective jurisdictions who meet the eligibility requirements, the Regional Commissioners, who may redelegate that authority not lower than the Chiefs of the Criminal Investigation Divisions in District Offices with respect to investigators under their respective jurisdictions.

This memorandum accompanies an authorization form (Form 5496) signed by the immediate supervisor. If the delegated official agrees, he or she also signs that form. These forms also indicate the number of hours of overtime expected to be incurred, and the pay rate authorization. a separate form (Form 5436) is completed by the delegated official and sent to the data center for payment.

On the basis of that authorization, the individual is paid on the basis of the amount of overtime the delegated official anticipates he or she will work during the period covered by the authorization, which may be either two or twelve weeks. The employee in turn reports the amount of administratively uncontrollable overtime actually worked and is monitored by his or her supervisor. If the employee has not actually worked the amount of overtime estimated, the supervisor at any time can either increase or decrease the authorization for future periods. At the end of the authorization period, the authorization must be reviewed and renewed.

These procedures alone are not enough to protect against the imprudent or abusive use of overtime. Procedures are not a substitute for competence and diligence on the part of our supervisors and managers. These procedures are only a tool which, if used properly, will help management promote the prudent use of resources and protect against abuse.

To a significant extent, overtime is one aspect of the larger management problem of insuring maximum utilization of resources and personnel. Managers at all levels must know enough about their activities and the activities of their subordinates to determine whether work being done on overtime should have been completed in normal working hours and whether the program goal achieved by incurring overtime is justified by its expense. This knowledge can also serve to prevent abuse.

Although the service's overall record in controlling overtime has been good, we have identified instances of imprudent use of overtime and of overtime abuse. We have learned some lessons from these experiences, and I would be glad to share them with you.

First, agencies should review their procedures to determine whether overtime approval authority has been delegated to a level in the organization that permits effective and knowledgeable review of the overtime request.

Second, agencies should actively monitor their managers and supervisors to determine whether they are following prescribed procedures. This should occur through both internal audits and regular programmatic reviews conducted by national and regional officials.

Third, managers should consider whether it is feasible to have a supervisor present during the performance of overtime, particularly when it is difficult to discern whether a planned task has been performed or how much time was required to accomplish the task.

Fourth, agencies should direct particular scrutiny at organizational components that are unique and do not function as a component of line operations.

Madam Chair, we admit that we have not done enough in some of these areas. We plan to increase our internal audits of overtime and to include overtime as a regular item in our National Office and Regional Program Reviews. We will also examine our existing delegations to determine whether they are appropriate.

We thank you, Madam Chair, for giving us this opportunity to appear here today. The service and other agencies have benefited from the attention you have brought to this subject. This concludes my remarks. My colleagues and I would be pleased to respond to your question.

APPENDIX A

INTERNAL REVENUE SERVICE—OVERTIME EXPENDITURES FISCAL YEARS 1974-78

[In thousands of dollars]

Fiscal year	Total average employment	Total amount paid	Sunday premium and administratively uncontrollable overtime	Overtime	Night differential and holiday pay
In actual dollars, reflecting pay increases:					
1974	75,762	21,227	5,660	13,560	2,007
1975	82,339	22,686	4,503	15,647	2,536
1976	84,264	16,148	2,846	10,468	2,816
1977	83,743	17,376	2,706	11,478	3,192
1978 (estimate)	84,941	14,387	3,611	7,962	2,814
In constant fiscal year 1974 dollars (excludes pay increases):					
1974	75,762	21,227	5,660	13,560	2,007
1975	82,339	21,434	4,254	14,784	2,396
1976	84,264	14,404	2,555	9,338	2,511
1977	83,743	14,570	2,269	9,624	2,677
1978 (estimate)	84,941	10,890	2,733	6,027	2,130

INTERNAL REVENUE SERVICE, OVERTIME EXPENDITURES,¹ FISCAL YEARS 1974-78

[In thousands of dollars]

Budget activity	Fiscal year—				1978 (estimate)
	1974	1975	1976	1977	
Executive direction.....	214	188	174	193	189
Internal audit and security.....	523	683	461	441	486
Data processing operations.....	9,050	12,145	9,601	10,565	7,435
Collection.....	3,259	2,419	1,289	1,563	762
Taxpayer service.....		681	524	369	280
Statistical reporting.....	253	70	88	104	141
Audit of tax returns.....	2,724	2,153	1,243	1,217	1,131
Tax fraud and special investigations.....	5,148	4,219	2,664	2,560	3,585
Taxpayer conferences and appeals.....	20	25	14	68	54
Technical rulings and services.....	30	46	35	38	47
Legal services.....	6	15	6	10	18
Employee plans.....		26	33	194	214
Exempt organizations.....		16	16	54	45
Total all activities.....	21,227	22,686	16,148	17,376	14,387
Total personnel compensation.....	971,134	1,104,517	1,196,199	1,290,083	1,374,543
Percent of overtime to personnel compensation.....	2.2	2.1	1.3	1.3	1.1

¹ Includes overtime, Sunday premium pay, administratively uncontrollable overtime, holiday pay and night differential.

Mrs. SPELLMAN. The next time you have any questions about me in the Internal Revenue Service, just remember, I took your word for it, now you take mine. [Laughter.]

On page 5 of your testimony you state the IRS feels hiring additional personnel would not be more economical or efficient as a means of achieving the program goals for which the Service has incurred overtime.

Would you be willing to elaborate on that statement?

Mr. WILLIAMS. A good deal of this would involve our vast data processing operation: Our 10 service centers located throughout the country that process the millions of tax returns and information documents, as well as our Computer Center in Martinsburg and our Data Center in Detroit. Because of the seasonal nature of the work, we use temporary employees who come in for a matter of 2 weeks to 6 months to deal with much of this workload. In fact, the permanent employees alone would not be able to deal with this workload even on an overtime basis.

Mrs. SPELLMAN. What type of compensation is it that IRS personnel will receive for administratively uncontrollable overtime?

Mr. WILLIAMS. This would be the special agents in the Criminal Investigation Division and personnel in the Internal Security Division of our Inspection Service, who are called upon because of the nature of their workload, the nature of their criminal type investigations, to work unusual hours to deal with their investigations. As a result, they can incur this type of overtime which can be anywhere from 10 to 25 percent I believe, of their base pay.

I would like Mr. Beck to comment further on that.

Mr. BECK. That is correct, Mr. Williams.

Our people on administratively uncontrollable overtime are authorized at one of four rates, either 10, 15, 20, or 25 percent of their salary up to the base of a grade GS-10. They are authorized this

overtime for specific periods of time—either 2 or 12 weeks—depending on the nature of their current assignment.

If it is anticipated they will work on the average from 3 but not more than 5 hours of overtime each week during this period, they are authorized at the 10-percent rate; work over 5 but not more than 7 hours, for 15 percent; over 7 but not more than 9 hours per week, for 20 percent; and if it's anticipated they would work more than 9 hours of overtime each week during this period, they would be authorized 25 percent of either their current salary or a grade 10, whichever is lower.

Mrs. SPELLMAN. That's an interesting schedule there.

Mr. WILLIAMS. I might add, Mrs. Spellman, that this is the same type of system found, I think, in all the major law enforcement agencies, this same type of payment is authorized by the law. So I believe it's fairly uniform.

Mrs. SPELLMAN. Several IRS employees have been accused of abusing overtime. Exactly how many employees are under investigation and what sums of money are involved?

Mr. WILLIAMS. I will ask Mr. Stein, our deputy chief counsel, to comment on that.

Mr. STEIN. There were 17 employees who were investigated by the Inspection Service. These 17 cases have been referred to the local U.S. attorney in accordance with Inspection's procedures.

The assistant U.S. attorney determined that in four cases the evidence that he would have for prosecution would be insufficient in his judgment and he, therefore, declined to move them forward for prosecution.

Mrs. SPELLMAN. When the evidence was insufficient, was that because the procedures that the employee had to follow were not specific enough so that you could make a case or that it just was not easy enough to follow up or that there was a question about whether there had really been fraud?

Mr. STEIN. The proof he would rely on was not sufficiently probative in his judgment. He wanted more witnesses in some instances, in certain categories. He had a standard by which he determined that he wanted at least two witnesses, not both of whom were to be from one category.

Specifically, he did not want to have all of the witnesses in a case solely from management. He wanted to have some Inspection witnesses in each case and apparently that was not so.

With regard to the remaining 13 cases, 5 have pled guilty to misdemeanor charges, 1 will have his preliminary hearing at the end of October, 4 are still under consideration in the U.S. attorney's office, and in 3 instances the U.S. magistrate at a preliminary hearing dismissed the charges but those people are not free and clear. The cases are still with the U.S. attorney, and it is entirely possible that a grand jury may be involved.

Mrs. SPELLMAN. What led you to finding those cases?

Mr. WILLIAMS. In this particular situation one of our alert managers was able to detect indications of possible abuse, and the matter was referred to our inspection service which conducts inves-

tigation of this type dealing with any alleged misconduct on the part of our employees.

Inspection conducted its investigation and ultimately, under our procedures, referred its findings to the Justice Department for possible criminal prosecution. That is the case in most situations. The minimum number of such cases we have had over the years usually has been found by one of our supervisors, or Internal Audit Division, who may be looking into the area. If they find indications of alleged misconduct, then our Inspection Division would investigate. In this case it was found by an alert supervisor.

Mrs. SPELLMAN. Was the system itself weak so that those abuses were permitted?

Mr. WILLIAMS. We operate in a heavily decentralized organization. If you notice from our opening statement, our organization is highly decentralized, not only in our national office operation but in the field. We rely heavily on our managers and supervisors to discharge their responsibilities, and in this case there was a supervisory breakdown which caused the situation to occur.

We are looking into this now to determine if we should make changes in our delegation of authority in terms of the approval authority for overtime and its monitoring. But I guess in an organization of some 86,000 employees, human beings being what they are, these things are apt to happen.

We believe that they happen on a very exceptional basis. We have not found any significant number of areas of abuse in the overtime area in the Revenue Service.

Mrs. SPELLMAN. Good. Did you mention how much money was involved?

Mr. BECK. I think I can respond to that. As far as we can tell, Madam Chairwoman, we are talking roughly between \$600 and \$700 during the period we are fully aware of, which was during the surveillance that led to the referrals to the Department of Justice, so it's a minimal amount of money.

Mrs. SPELLMAN. Right. Very good.

In each case?

Mr. BECK. No; that is the total for the 17.

Mr. McCLUSKEY. You picked that up on a \$40 discrepancy? You are talking about some 13 or 14 people, and you take \$600 and divide that, so—

Mr. BECK. That's right.

Mr. STEIN. But bear in mind that I think these figures are based on what would have been included in an indictment. These are the amounts that were clearly provable by witnesses in observing that an individual, say, having claimed 5 hours of overtime really was there only 3 hours. When you prepare a criminal case you must do it on solid evidence rather than speculation.

Mr. McCLUSKEY. The point being, though, we don't know for a fact how long this may have been going on or really what total amount of money is involved.

Mr. BECK. That is correct.

Mr. WILLIAMS. That is correct, yes.

Mrs. SPELLMAN. The Department of the Treasury is the only agency which supplied detailed statistics which did not report cases of employees working more than 1,000 hours overtime during a 1-year period.

How would you explain Treasury's distinction in this area?

Mr. BECK. I really don't have a good explanation for that. In IRS, the numbers do run about 500 people working from 200 to 350, and another 100 from 350 to 500, and I think only 33 above that.

Basically, the overtime in the IRS tends to be concentrated in our service centers, where we have significant numbers of people, and during the filing season, most of them work considerable amounts of overtime.

Mr. WILLIAMS. Mrs. Spellman, we are looking into this now. The data we were furnished from our payroll center did not have this breakdown and it's possible we did not have any employees over that level, but we are now looking into it on a more detailed basis.

I will be happy to furnish it for the committee at a later time if you would like.

Mrs. SPELLMAN. We would appreciate your doing just that to keep us advised.

Are there any further questions?

Sorry to have kept you so long, and we do thank you for coming.

Mr. WILLIAMS. Thank you very much.

[The information was furnished as follows:]

OVERTIME PAID IN 1977 TO IRS EMPLOYEES

A review of overtime paid to IRS employees in 1977 showed the following results:

Overtime hours	Employees	Amount
200 to 350.....	490	\$1, 148, 776
351 to 500.....	99	381, 378
501 to 1,000.....	33	168, 979
1,000 plus.....	0	0
Total.....	622	1, 699, 133

These figures are based on information provided by the IRS Data Center, and are the figures referred to by Mr. Beck in his testimony.

We believe these figures reflect good management controls on overtime authorizations and expenditures, as well as our continuing efforts to make the most effective use of resources, including hiring temporary, part-time, and WAE (when actually employed) personnel. The Service will, however, be taking the additional actions noted in Mr. Williams' prepared remarks, to be certain this area receives the proper management attention.

Mrs. SPELLMAN. Our last witness is Mr. Thomas McFee, Assistant Secretary for Personnel Administration, Department of Health, Education, and Welfare.

You heard your agency being discussed a little while ago.

Mr. McFee, in your case, too, we will put the entire statement into the record but you are certainly free to tell us anything from within or without the statement that you would like to discuss.

[The statement follows:]

PREPARED STATEMENT OF THOMAS MCFEE

Madam Chair and members of the subcommittee, I am pleased to be here today to testify on the use of overtime pay in the Department of Health, Education, and Welfare.

The amount of overtime pay disbursed by the Department for each calendar year since 1974 is as follows: 1978 (first 9 months), \$48,564,548; 1977, \$75,037,338; 1976, \$95,056,982; and 1975, \$104,645,347.

These numbers in the aggregate are not very meaningful. By taking a deeper look, however, you can get a better feel for the overtime situation in the Department. For example, you can see that the greatest amount paid for overtime was in 1975. This was primarily due to the large amount of extra work required in the Social Security Administration that year to implement the Supplemental Security Income program. Though this need has gradually decreased over the last three years, SSA continues to account for a large part of the overtime used in the Department. In fiscal year 1977, for example, the Social Security Administration accounted for about 78 percent of the overtime in HEW. In fact, each year SSA estimates the amount of overtime which will be needed to process projected claims and budgets for this requirement as a specific line item in their appropriation request to the Congress.

The Public Health Service, in fiscal year 1977, accounted for another 17 percent of the Department's overtime usage. The overtime used in that organization was required in large part to meet the needs of the Public Health Service and Indian Health Hospitals. Overall, the Department had an annual payroll of \$2.4 billion in fiscal year 1977, and overtime was 3.5 percent of this figure. Taken from the point of view that HEW expends over \$400 million a day, the amount spent for overtime work in one year does not appear excessive.

I believe we can expect some increase in overtime payments as a result of the provision in the Civil Service Reform Act to keep employment in 1979, 1980, and 1981 at the September 1977 level. It is the policy of this Department, however, to keep the use of overtime work to a minimum and to authorize it only where it is necessary and consistent with efficient and economical administration. Overtime work must be approved or ordered in advance by a manager of the Department. The manager is responsible for ensuring that the overtime work is necessary and cannot be accomplished by other methods such as shift changes, staggered working hours, realignment of work, or changes in operating procedures.

The manager is also responsible for considering whether the need for additional work can be met by other means, such as through the hiring of part-time or intermittent employees. In a publication we recently issued on part-time employment, we encourage managers and supervisors throughout the Department to use part-time workers in situations where there is frequent use of overtime work. While additional full-time employees may not be warranted in a situation like this, in many cases part-time workers can provide the solution. Secretary Califano has also issued a policy statement urging an increase in the use of part-time employees to meet the needs of the Department.

However, the use of part-time or intermittent employees is not always possible, because the need for additional work may occur only occasionally. In such situations, it may not be cost-beneficial to hire and train a part-time or intermittent employee. It is sometimes also difficult to find people who are interested in part-time work. In addition, ceiling limitations may preclude being able to hire additional part-time and intermittent employees. There are also situations where the knowledge, skills, and accuracy of a full-time employee who is intimately familiar with the work are more effective in getting the job done well on a timely basis. However, we strongly support the employment of less-than-full-time workers and we are actively seeking to use them wherever feasible.

Up to this point I have been talking about what is considered in deciding whether overtime should be used or authorized. I know the Committee is also interested in the possibility for fraud and abuse in accounting for overtime, and I would like to discuss briefly what we do to reduce this possibility. After overtime has been authorized by the manager and worked by the employee, it is recored by the timekeeper on the employee's timecard. The timecard is the basic document in our time and attendance reporting system. It is used to record the time worked by the employee, including overtime, and the periods during which the employee is on leave. After the card is completed by the timekeeper, the supervisor reviews and initials it to certify its accuracy. If there is overtime recorded on the timecard, the

card is signed by the official who has the authority to approve overtime. The information is then put into the payroll system and the paychecks are issued.

There are several checks and balances in our procedures which are designed to promote the accuracy of timecards. Among the safeguards are procedures for not allowing timekeepers to keep their own timecards; not having supervisors give the timecards back to the timekeeper after certifying them as accurate; and having the paychecks and earnings statements distributed by someone other than those involved in completing or submitting the timecards. These procedures have been in effect for some time.

However, we realize that when human beings are involved in any process, some errors are inevitable. Among our efforts to better control the payroll process and reduce the human error factor is our increased use of automation. Over the last few years we have established a system of automated input of personnel and payroll documents. A later step will include increased use of automation in submitting time and attendance reports. In addition, the computerized payroll system contains edits which can prevent erroneous payments. For payments, one such edit prevents an employee from receiving an aggregate payment for any single pay period in excess of the top step of grade GS-15, a limit which is imposed by title 5, U.S. Code.

We are also concerned about the accounting procedures used to control payments to employees, including overtime payments. A report is produced each pay period which lists all the employees in an organization and shows how many hours they worked and how much they were paid. There is a separate entry on the report for the number of overtime hours each employee worked and the amount paid to each employee for overtime. This report, called the "Data Flow Back" report, provides the manager of an organization with the information needed to verify that the overtime paid was in fact authorized.

Within any system, there are also "special" things we do to ensure that the system is operating properly. For example, our central payroll office looks at a sample of timecards each pay period to determine if they are properly certified, leave is properly documented, and the cards are properly completed. When irregularities are found, the director of payroll sends a letter to the organization involved to take necessary remedial action. Such reviews also enable us to identify parts of the system that need to be changed.

Another check on the system involves the reviews that are conducted periodically by the internal HEW Audit Agency. These reviews are made for the purpose of evaluating the adequacy of management controls, practices and procedures and include the examination of payroll transactions on a test basis. In the last five years, the Department's Audit Agency has conducted nine reviews of various aspects of payroll or timekeeping procedures. These reviews covered the HEW central payroll operation, as well as a line organization involved in providing service to the public. The Audit Agency also has a review of the Department's payroll operations scheduled for this fiscal year. It is just beginning this review, which will include a study of the internal payroll controls over time and attendance reporting. The General Accounting Office also conducted a review of our centralized payroll system in 1977, which helped us identify several areas that needed improvement.

We believe that our policies and procedures provide reasonable safeguards to prevent the misuse of overtime pay. However, we believe that we can further strengthen these safeguards by ensuring that our instructions are clearly stated and that periodic reminders are issued to those involved in authorizing and recording overtime. We will also continue to make necessary changes which are identified by the various reviews or by individual cases. Our Office of the Inspector General currently has under investigation three cases of potential fraud regarding overtime pay. This is a fairly small number of cases for a Department of more than 150,000 employees. We are, however, concerned about these cases, and when the investigations are completed, we will review the results to identify any further steps we need to take to strengthen the safeguards in our system.

I would be happy to respond to any questions you may have.

**STATEMENT OF THOMAS McFEE, ASSISTANT SECRETARY FOR
PERSONNEL ADMINISTRATION, DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Mr. McFEE. Thank you, Madam Chair.

I may say being the last witness provided me with the distinct advantage of an education in the overall process, and I learned a

number of things which I will be looking into in more detail when I return to the Department.

I have submitted testimony for the record that answers most of the questions that concerned you.

In the interest of time I would like only to comment on just a couple areas.

One of the things that I have not heard here today is the negative impacts that various collateral actions, such as ceiling limitations, freezes, et cetera will have on the overall use of overtime and the positive, I think, effects that some of the actions of this Congress in the flexi-time bill and part-time employment will also have.

We believe the flexi-time bill, which allows us to organize our work schedules and not have to pay overtime beyond an 8-hour day will allow us to make a much more effective use of work schedules and that can have an impact on the use of overtime.

It is obvious that after the number of comments concerning the lack of approval of our payroll system by GAO that a comment in that area would also be appropriate.

One of the first things that Secretary Califano found when he arrived in the Department was that none of our accounting systems had GAO approval. He immediately launched a fairly extensive financial management initiative which has as one of its major components, approval of all of the Department's accounting systems.

The Secretary was terribly concerned when he realized that the Department which spends and looks after over one-third of the total Federal budget, and had not had its accounting systems approved. The payroll piece only accounts for about 1 percent of the total funds dispensed, we recognize it is very important.

We have made some significant steps by reorganization. We have transferred the accounting aspects of the payroll system to my office. Prior to this time it was centrally administrated but we moved it in order to have it closer to the operations of the system.

We have negotiated with GAO and we are working very closely with them, on a target for submission of our accounting system in the payroll area in July 1979.

I want to also say that the fact that we do not have an approved system stem from the fact that we are undergoing a massive systems reform in the payroll area. In HEW we have a consolidated payroll system, which integrates the personnel system along with the payroll system. These were very extensive changes, and they have been a number of years under development. We have been working with GAO, as we design these new systems, to insure that when we do complete them this summer that they will meet the GAO requirements.

Mrs. SPELLMAN. You say you are working with them?

Mr. MCFEE. Yes.

Mrs. SPELLMAN. They gave no such indication as we discussed that this morning.

Mr. MCFEE. I was not personally familiar with the gentleman that spoke. We have been working very closely with GAO. They

have audited us. They have provided us continuing advice, and we have an overall master plan which the Comptroller General and the Secretary have agreed to.

I stress the area of automation, because it is terribly important as we look at the overall management of the Department that, not only from the standpoint of fraud and abuse but from the standpoint of good data for management's use, that we have accurate consistent data that is available to managers in a form that they can use and help make decisions about both use of overtime as well as other decisions that they have to make.

Our systems do have many of these edits built into them, and just because our systems have not yet been submitted for approval, they have not been submitted because we are not done building them, not because we do not have them operational. Many of the checks which were discussed here today are already built in. I have not tried Mickey Mouse in our system. I may try that when I get back, but I am fairly sure that there would be no way for such a situation to occur in our system.

One of the things we found early in the review of our systems was that we had two systems; A personnel system that kept track of who our employees were, and a separate payroll system that paid our employees, and inputs were required in both systems.

We have consolidated these now into a single system. There is no way one can be paid unless they are on our rolls. There is a series of checks and balances built into both of these systems so that the only possible way Mickey Mouse could be paid would be that he would be approved and certified for employment by the Civil Service Commission, and actually brought on our rolls. Given the difficulty we have getting qualified employees through the civil service system, I doubt that this would happen.

We have a number of reports, some of which I addressed in my prepared testimony, that are provided managers that assist them in the review of the use of overtime, and these reports have been both useful and vital in detecting fraud. In most of those cases that we have under active investigation, they have been initiated by managers who have reviewed these reports, detected overtime which they did not remember authorizing, or excessive amounts of overtime which they were not aware of.

One of the more interesting aspects of the counting of overtime hours which we have done in a number of cases over the years, is to give us some ideas as to how overtime is used. Many secretarial employees are part of a pool, and the overtime that is worked is not necessarily in the office to which they are assigned. There are employees who make their availability for overtime on weekend and evening work known. They are then assigned that overtime in an office that has need for it. Therefore, the manager that authorizes the overtime is not always the supervisor of that employee, so our automated system has allowed the supervisor to know the amount of overtime that is being worked, even though it was authorized by another manager.

This has brought to light some employees who have been working overtime, probably to the detriment of doing their regular job,

having spent late hours, and then coming back to their regular office in the morning not exactly rested and ready for duty.

These are the kinds of things, and there are lots of others, that can be done with a centralized information system, and we think we have made maximum use of this in attempting to manage the overall department's overtime work.

I think on this point I will close and let you react.

Mrs. SPELLMAN. You know that audit reports that have been supplied to the committee reveal that during a period reviewed by the HEW auditors 89 percent of the Social Security Administration employees nationwide who worked overtime took approximately a half-hour's leave for every hour of overtime worked. These employees worked 2.9 million hours of overtime and in the same period took 1.5 million hours of leave in addition to their pay.

I think maybe I will go through a few of these, and then we will ask you what you think might be done on these.

HEW auditors completed a study which found that the National Institute of Health had devoted 3,300 hours of overtime to a group of people in order that they might have a hot meal in the cafeteria before going home at the end of each day.

A June 1976 audit report on the Civil Rights Office of HEW in New York City found that employees were significantly later, made up time lost by overtime hours authorized by the employees themselves without reduction in hours compensated for the late arrival.

The auditors discovered that a laundry room at NIH required 7 persons for overtime work each Saturday, and yet had 21 persons assigned for morale purposes. They would feel better if 21 were there, and it would appear that they were not favoring any of the people, so 21 were assigned where only 7 were needed.

X-rays were given to patients after 5 o'clock, which was a complete overtime operation, and these X-rays as we understand it could have been given earlier in the day. I certainly want the X-rays given after 5 when they need it after 5 and get very upset when they are not available. On the other hand, apparently these are some that could have been worked out during the day.

I wanted to ask if HEW has applied the recommendations of its auditors to cease these kinds of practices?

Mr. McFEE. We found in general the GAO audits that discovered the things that you describe are tremendously helpful. We have little problems in agreeing to their recommendations in all of those cases that you described. We have taken action and have corrected it, with the possible exception of some of the OCR employees in one of the regions which you mentioned. That is an area where we have been in some dispute with the GAO as to the validity of their particular findings. But as far as the other ones are concerned, we have taken steps to implement recommendations that were made by the auditors.

I would like to add on the SSA example that you gave—the use of leave along with the use of overtime, I believe this is one of the real areas where flextime is going to be very, very helpful. SSA is unique in the fact that it is a large production operation, and we actually, in budgeting for our resources, have a fairly extensive

budgeting for overtime, and the requests to the Appropriations Committees contain a detailed analysis of the trade-offs of increased ceiling versus use of overtime.

SSA also has an extremely sophisticated work measurement system, and probably is further ahead than any place in the department, and maybe most places in the Government, in measuring productivity. They have found that there is a point of no return in the use of overtime, and they have, with the exception of the crash effort back in 1975 in implementing the supplementary security income program, adhered to these particular schedules.

When an office works 10 or 12 hours a day as a total office, and as part of a production function, it does become necessary sometimes for employees to take time off for personal emergencies and personal needs, and that is why we do not have a blanket rule that says you cannot get overtime during the same day that one would receive annual leave. I personally have a policy in my own office that I do not allow overtime and leave on the same day.

Mrs. SPELLMAN. The Chair requested that all copies of audit reports bearing on overtime compensation that have been prepared during the last 5 fiscal years be submitted to the committee. Are you aware of whether all of those reports have been submitted?

Mr. McFEE. As far as I know they have.

Mrs. SPELLMAN. They have, good.

The Comptroller General has directed a number of reports to the Secretary of HEW: "New Methods Needed for Checking Payments by Computers," this was a November 7 report; "Improprieties in Time and Attendance Practices at Medical Facilities," that is a January 14 report; "Need To Apply Adequate Control Over the Centralized Payroll System," that was September 22; "The Need for More Effective Controls Over Computerized Payroll Processing Operations," and all of those were in 1977, and this one is November 10, 1975.

All those reports are concerned with payroll control and administration. There were 27 recommendations that were made. Would you have any idea of how many of those have been applied?

Mr. McFEE. The number 27 comes as a surprise. I count 22, and I have a detailed breakdown of each of the 22, and a status report not only as to when we anticipate action, but in many cases when action has been taken.

[The following additional information was furnished:]

In regard to your question concerning 27 recommendations made by several GAO reports on June 30, 1978, we made 22 responses to recommendations made in the September 22, 1977, report. Additionally, on September 30, 1978, we made a follow-up response on the 22 recommendations.

There never were 27 recommendations to the report you have cited because: The GAO report concerning new methods for checking payments by computers, November 7, 1977, was a report made to the Department of the Treasury. The report concerning improprieties in time and attendance practices at medical facilities, January 14, 1977, was made to the Bureau of Prisons, Department of Justice. The report concerning more effective controls over computerized payroll processing operations of November 10, 1975, is a report made to the Department of the Treasury.

Mr. McFEE. Again you will find that almost all of these recommendations we agree with, we appreciate, and have no problems in

moving to implement them. We are a little slow sometimes in implementing them, but we do not disagree with the fundamental recommendations.

Mrs. SPELLMAN. The committee was a little bit puzzled, because it was our understanding that your central payroll system had been reformed according to the information we got from your agency, and yet we could not understand how it was that the operation of the system itself then did not alert you to some of the information that we have, and that actually the information came as a result of this subcommittee's request rather than being kicked out of your own operation.

For example, a GS-7 step 3 whose base pay was \$13,158 a year got \$18,441.94 in overtime compensation in addition to the base pay, and that would mean that that employee had to work at least an 80-hour week for a year. That would be accomplishing 2 years' work in 1.

We are kind of surprised that your system did not pull that out before we asked for this kind of information. We have the GS-4, step 4 employee who earned an annual income of \$9,073, and then overtime compensation above that of \$8,089.27. That is 83 percent of the base pay there in overtime. Why doesn't your system show that?

Mr. McFEE. I think our system does show it. I am not familiar with those two examples specifically that you point out, but in conjunction with our own Inspector General's Office, we continually use the system to search out possible areas to dig into.

One of the things which we have the capability of doing and have been doing it on an isolated basis is to make runs of the overall data base, asking questions like who are the employees who have made 40 percent in overtime, 40 percent of their base pay or more in any particular quarter. When we make these computer runs, we spot check those that look suspicious, turn them over to the various management officials in the Department for further investigation, and some of the cases that are presently under investigation were indeed detected by those methods.

We have nothing in the system that automatically throws out a case and refuses to pay. We do it on a postaudit basis.

Now when I said we have nothing that is automatically is thrown out, I mean that is beyond the checks that are required by GAO, like the maximum of \$47,500 or a rate equivalent of \$47,500 in any one pay period. I know the system works because a high level member of the Secretary's staff who was at the \$47,500 rate angrily came into my office and informed me that he was not granted "comp-time" credit by our computer. He said he knew he couldn't get overtime, but he thought he could get "comp-time."

Well, the GAO opinion on that is that comp-time is considered overtime, and even though you do not receive extra dollars, anyone at the maximum rate cannot be credited with comp-time. So we have a lot of checks already in place in the system.

We don't have one that automatically stops payment if it reaches a certain maximum of overtime in relationship to base pay. It

might be a good idea to explore that. It would be fairly simple to install such an audit. We have a number of others like that.

Mrs. SPELLMAN. Good.

Does the fact that 25 employees worked over 1,000 hours in overtime or 125 working days or 6 working months, and who earned an average of over \$11,000 in overtime compensation attract the attention of HEW auditors sufficiently to lead to an agencywide review of overtime payments by the Department?

Mr. McFEE. This did not come as a surprise to us. We had this information available in past audits, and depending upon the nature of the circumstances, most of those cases have been looked at in fairly extensive fashion. Looking at whether this is a repeated fixed kind of an overtime use that may look like there is a deal with a boss that every week you get x number of hours. We have a lot of tools that we use and a lot of criteria that we apply against these particular areas, and we also look at patterns by organizations.

One of the cases that is presently under investigation, and I cannot go into detail because it looks like we are going to have to turn this over to the Justice Department very shortly, involves a collusion amongst a number of employees within an organization.

The gross number of 25 over 1,000 hours did not in itself surprise us or cause us concern. There are things on that list that did bother us like some GS-14's, getting overtime. In fact, there is on the material that we sent you, for example, a GS-15 making overtime last year. It wasn't at the rate you are talking about. These things immediately cause us to look into concerns and problems.

As an aside, that GS-15 that is in the material that we reported to you actually was not a 15 when the individual made the overtime. The individual was a 14, but our system works on their current pay status, and so it fell out as a GS-15.

Mrs. SPELLMAN. Mr. McCluskey, do you have some questions?

Mr. McCLUSKEY. Mr. McFee, for the record we do realize that you have taken your position within the past year or 2 years?

Mr. McFEE. My current position as Assistant Secretary?

Mr. McCLUSKEY. Right.

Mr. McFEE. Since January 25 of this year.

Mr. McCLUSKEY. So you can't be held responsible for all this. I am just a little bit amazed though at some of your answers to the Chair's questions, because the Chair asked you about internal HEW audits, not GAO audits the first time around, and your answer was: "We cooperate with GAO." These are internal HEW audits which expressly state that: "We are giving 21 employees overtime when only 7 are needed, for morale purposes," and in none of these have you specifically stated that corrective actions were taken.

Mr. McFEE. I will go back and check the particular examples. These are audits that were referred to by the Chair, were done by our own audit agency, which is part of our Inspector General's operation, whom we work together with on a hand-in-glove basis.

Mr. McCLUSKEY. But to the best of your knowledge, you don't know whether or not these things actually were corrected.

Mr. McFEE. Yes, I do. We handle our internal audits in the Department just like we handle GAO audits. They are presented to

the manager or the head of the agency. They have to come back with an explanation of what they have done, and the Inspector General runs a process identical to the audit followups that GAO applies.

[The following information was furnished for the record:]

Concerning the particular follow-up to the reports you cited, I have found the following:

Concerning the HEW Review of Medical-Related and Administrative Activities of the Clinical Center, National Institutes of Health (NIH), the Subcommittee was given a copy of the Institutes' response at the same time it received a copy of the report. At that time, NIH stated it would no longer pay overtime for periods of training. We are informed that NIH has carried through this promised action.

In regard to the statement that 15-21 employees worked in the laundry on Saturday when only 7 were needed, NIH has informed us that it has never worked more than 7 persons in the laundry on a Saturday, that the HEW Audit report is misleading and gives the impression that 15-21 persons were working overtime on a Saturday. Rather, now, as well as in 1974, a crew of seven persons work every Saturday; however, the work was and is rotated among the employees so that each employee rarely works more than once on Saturday in a three-week period. In regard to the Audit Agency's recommendation to change the work schedule of one or two employees to include Saturday in their regular workweek, NIH found this recommendation unacceptable. This is because Mondays and Fridays are very heavy work load days during which no employee can be spared. This is caused by the weekend backup of laundry which is received from the Clinical Center on a Monday and the need to assure a sufficient quantity of linens and garments for the weekend on a Friday. Accordingly, the recommended change could not be adopted without increasing the available manpower.

In relation to our Audit Agency's recommendation that a portion of the work force of the Clinical Center's X-Ray Department work at night, NIH initially found this impractical because scheduled work then fully occupied the 8:30 a.m. to 5:00 p.m. shift. At that time, only emergency work occurred at night. With a staff of only three persons, no person could be spared from the day shift to staff an evening shift. However, it has recently become feasible to set up an evening shift and this has been done.

Concerning overtime incurred as a result of the 10 day shift Nurses relieving evening shift Nurses so that they may have a hot meal between 4:30 p.m. and 6:30 p.m. before the cafeteria closed, the Clinical Center was to investigate the situation. However, NIH management is unaware of any results and it appears that no follow-up has occurred. However, NIH believes that if the practice were changed, extra staff would have to be hired resulting in no savings.

Additionally, and so as to make its department managers more aware of the cost of overtime, NIH has informed us that overtime funds are now distributed as a separate budget control item for each Clinical Center department.

Concerning the HEW Audit Agency's report on the Review of the Administration and Use of Overtime, the Social Security Administration (SSA) believes that the majority of its offsetting leave problem as related to overtime work was mostly related to the granting of leave without pay. Accordingly, in September 1976 and November 1977 it issued guides to its supervisors concerning the appropriate usage of leave without pay as well as other factors related to the granting of overtime. Copies of these guides are submitted as part of this report. They are: Manual Circular-Personnel SSA 550-8, Chapter IV, SSA Guide 4-1, dated September 2, 1976; and a change issued to its Personnel Guides for Supervisors, Chapter IV, SSA Guide 5-1, dated November 8, 1977. In addition to these, SSA had already issued prior to the date of the report, Manual Circular-Personnel, SAA 630-23, Chapter IV, Guide 5, dated April 30, 1976. In addition, one must realize that, in accordance with Civil Service Regulation 550.112(b), leave without pay must be made up before on overtime rate of pay is earned.

Though the Social Security Administration has not recently conducted a study of leave usage as compared to overtime worked, it believes its efforts concerning leave in general and especially leave without pay has ameliorated the situation described in the Audit Agency's report.

Additionally, in the above cited publication SSA 550-8 of September 2, 1976, SSA believes it has closed areas of potential problems cited in the Audit Agency's report. That is:

1. Daily overtime reports must be prepared in ink;
2. No space should be left blank on the daily overtime reports;

3. Employees shall initial the daily overtime reports in the presence of a supervisor at the time they begin and end overtime shifts; and

4. Managers shall periodically assign someone other than timekeepers to verify the amounts of overtime shown on biweekly employee Earnings and Leave Statements.

In regard to the HEW Audit Agency's Review of Selected Aspects of the Award and Administration of Discretionary Grants and Contracts in Region IV, there has been (as with the other reports) no follow-up survey. However, because of some time and attendance problems and related problems concerning conflicts of interests, the report was turned over to our General Counsel's Office. Further investigation resulted in the prosecution and conviction of an employee of this Department; sentencing has not as yet been passed. While under charges, the employee was detailed to the Washington headquarters office. He retired on a disability retirement for cancer on December 31, 1977, prior to conviction.

Regarding the Civil Rights report in New York City, the Office of Civil Rights (OCR) disputed the facts as depicted in the audit report. OCR believed its system of time and attendance reporting was "both workable and highly accountable." In a later follow up, the HEW Audit Agency stated "OCR has taken or is in the process of taking corrective action in most areas."

In relation to the report on the Review of Travel and Per Diem Paid to Consultants, Social Rehabilitation Services, the record shows that on November 27, 1974, the Office of Personnel and Training would initiate action to recover the amounts in question. In addition, the Department's Assistant Secretary for Administration and Management issued a memorandum re-emphasizing that travel expenses between home and place of service and per diem at place of service may be paid only when the consultant's service is truly intermittent.

Concerning the Review of the Financial Affairs of the National Advisory Council on Vocational Education (NACVE) for Fiscal Year 1975, this report involved a difference of accounting data between the Office of Education and the Council. The report also disclosed a problem of duplicate pay checks because of the Council not submitting time and attendance reports on a timely basis. We can find no follow up for this report. However, since the report was issued at the request of the Council itself, we must presume (in the absence of any contradictory information) that the Council rectified its own problems.

Regarding the letter report concerning time and attendance problems in the Office of Civil Rights in Region VIII, the Regional Office has taken steps to make sure that flexitime sign-in/sign-out sheets coincide with time and attendance reports. The steps included a letter to all employees from the Acting Regional Director and a check of time and attendance records.

Concerning the report on our payroll office's procedures and practices for the handling of personal checks received for deposit in HEW Appropriation Accounts, checks are being deposited promptly in accordance with new procedures established in our Time and Leave Accounts Manual, Chapter 3-30, paragraph 40.

In regard to the report concerning undeliverable Treasury checks, by memorandum of June 30, 1975, the Director of our Division of Central Payroll reminded and advised all Designated Agents concerning their responsibility to return them to the Treasury. He also established procedures whereby if checks were inadvertently sent to our payroll office, they would be returned to the Treasury directly rather than returned to the Designated Agent. He also set up a procedure to remind the Agents of their responsibilities in the event of such occurrence.

Concerning the report on the Review of Procedures and Practices for the Collection of Salary Overpayments, Division of Central Payroll, we instituted better procedures in May 1975 to make scheduled collections in accordance with the amount of the debt. The procedure may be found in our Payroll Manual, Chapter 4-120.

Concerning the letter report to the Director of the Division of Central Payroll that he hire 15 additional employees to reduce overtime, the Division has hired 15 Stay-in-School employees to assist in handling mailing operations and relieve the permanent staff in performing these duties.

In regard to the letter report concerning Overpayments to Three Consultants (1973), the records have been retired to the records depository and are not readily available. However, the problem of dual payments to consultants who work for more than one agency of the Department is one which has concerned us, and our payroll office is now manually auditing Consultant and Expert accounts and is in the process of devising computer edits to prevent such dual payments.

Mr. McCLUSKEY. So for the record, then, you are saying that all these things, these HEW internal audits, have been corrected?

Mr. McFEE. I would like to be given the opportunity to check that. It was my understanding that that is the case. I will obviously return and individually check each one of these to make sure, but the information that has been provided to me is that we were taking steps to impliment all of those recommendations.

Mrs. SPELLMAN. Would you advise us which, of course, have been corrected, and which are still in the process of being corrected.

Mr. McFEE. Definitely.

[The following information was furnished for the record:]

Regarding the number of reports sent to the Subcommittee on Investigations, Committee on Post Office and Civil Service by Thomas D. Morris, Inspector General, HEW, on October 13, 1973, the Inspector General sent to the Subcommittee on Investigations nine reports concerning time and attendance covering the last five fiscal years as requested. Only five of these nine reports concern overtime in one manner or another.

In addition, the Inspector General sent a copy of the fourth in a series of a GOA reports. This makes a total of ten reports sent to the Subcommittee.

However, the first three sections of the GAO reports were inadvertently omitted even though they are part of recent history. These, as well as our responses, are included here.¹

Mr. McCLUSKEY. One additional question.

The subcommittee did ask for all audits done in the past 5 years, and you stated that you believe we have received them. We have received a few, and if that is it, as you said, HEW may be a little bit slow in developing their system. But I would like to read to you from your own internal audit. Apparently only the central payroll system has been audited only once, and that was February 28, 1973, in which your auditors state that, in discussing overtime, that:

Based on fiscal year 1972 data, had the money spent for overtime been used to hire additional employees, it would have provided DCP with 15 additional employees at the GS-5 level and yielded many more man-hours of service than was obtained through overtime.

The audit goes on—

DMC officials, while agreeing in principal with our conclusion, advised us that they were not inclined to substitute additional employees for overtime. They mentioned the possibility that certain DCP employees would resent losing overtime because of their relative low grades.

Here is another internal audit of another department let alone the one down at NIH, and apparently this idea of granting overtime to a lot of people for morale purposes seems to be running—I don't want to use the word, "rampant"—but it certainly is in more than one agency of HEW.

What amazes me is it is not GAO. You are to be commended. Your own internal auditors are to be commended for finding these, but the responses that they are getting doesn't show the cooperation that you are saying.

Mr. McFEE. DCP is the Division of Central Payroll, and it is part of an organization that is directly under my control. I am not familiar with that specific answer. I don't know when it was given. I have, since I have been running DCP, been looking at the use of overtime as well as various staffing levels.

¹ Retained in subcommittee files.

We have brought on part-time employees to take up some of the overtime area. I know we have 15 additional stay-in-school employees which we have put on the rolls recently, again as a direct result of some of the recommendations of the internal audit.

I can look into that particular report. I am not that familiar with it. I will, and see where the answer came from, and what the overall action is on it.

Mr. McCLUSKEY. From your own records, and in response to a question from the committee, this appears to be the only audit ever done on the central payroll system, and it is within there, and it is dated February 28, 1973.

Thank you very much.

Mrs. SPELLMAN. You can understand why we are as concerned as we are that HEW be properly audited, with all of the money that is being spent in HEW. That is the most serious situation that we would have.

We thank you very much. We look forward to hearing from you on what is being done to correct any of the deficiencies, and we are very happy to work with you, help you. GAO is delighted to be able to work with you, and we would like the next time we talk with you to be able to know that indeed the system is one that is going to be approved.

Thank you very much for coming.

Mr. McFEE. Thank you.

Mrs. SPELLMAN. The hearing will be recessed until November 3 at 9:30 in this room.

[Whereupon, at 1:27 p.m., the subcommittee was adjourned, to reconvene at 9:30 a.m., Friday, November 3, 1978.]

ABUSES OF OVERTIME PAY

FRIDAY, NOVEMBER 3, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION
AND EMPLOYEE BENEFITS OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:36 a.m., in room 311, Cannon House Office Building, Hon. Gladys Noon Spellman, presiding.

Mrs. SPELLMAN. The Subcommittee on Compensation and Employee Benefits is meeting again this morning to continue its investigation into overtime use in the Federal Government.

It is almost 150 years ago that Thomas Carlisle, the Scottish essayist and historian, observed that a fair day's wages for a fair day's work is the everlasting right of man. I could not help thinking about that this morning as I was coming down because that is what we are attempting to do, to determine whether indeed Federal employees are getting a fair day's wages for a fair day's work; whether we are getting the taxpayers a fair day's work for a fair day's wages.

We have heard from a great many Federal employees. We did before we started these hearings. They felt there were concerns that they had about the system and about individual cases, and since we had this hearing we have heard from even more Federal employees who want to make sure that we have all of the information that we ought to have. And I must say that their attitude has been a most responsible one. There are very few people who want to see the system abused and very few people in the Federal Government who do not want to see a fair day's work for a fair day's wages.

The subcommittee has been concerned about the lack of a definitive policy for the use of overtime and about possible inadequate management control and review, or maybe in some cases even mismanagement which might facilitate or encourage fraudulent overtime claims.

As a result of the various allegations that have come to our attention, we have decided that we would look into this situation and the General Accounting Office has assisted us. The General Accounting Office and the subcommittee staff have been investigating premium pay to determine whether the instances called to our attention were only isolated incidents or whether they represented a deeper and more widespread problem. The question arose at a time when a dollar being spent on the delivery of Government services is expected by the public to be examined very carefully.

We want to be very sure that we are not permitting waste by failing to adequately control use of, in this case, overtime.

As the General Accounting Office and the subcommittee staff got into their investigation, it became clear that there are indeed some deep-rooted problems in the Federal Government's overtime system, and within days additional cases of alleged overtime fraud were uncovered in more agencies. A good many of these situations were called to the attention of the Justice Department and are being investigated by them. The subcommittee, of course, intends to look beyond these cases of fraud and into the entire way that overtime pay is given out in the Federal bureaucracy.

We reported during our last hearings that approximately 500 employees had collectively received \$6 million in overtime compensation during a recent 1-year period. These figures have been raised to 1,000 employees who have received approximately \$12 million in overtime pay during that year. Each of these employees worked more than 1,000 hours of overtime in those 12 months. That averages out to 4 hours of overtime per employee each working day, or about 6 months of 8-hour days worked as overtime; 6 months of 8-hour days, that is.

We are not seeking sensationalism, we are not seeking to point the finger and find fault. What we are attempting to do is take a good look at the situation and ask management to take a good look at its policies and its controls that would require or permit employees to put in so many hours to complete their work. We want to know whether it would have been more economical to have hired additional people at straight time, rather than spend \$12 million on overtime payments. There are situations where we know that that would be less practical than overtime, but we just want to be sure that when this kind of overtime is being worked there is a reason for it, that it has been looked into by management, that it knows what is happening and that things have not just been growing like Topsy.

So we are particularly interested in several general areas: One, the management policies that determine when employees should work overtime; two, what controls exist to prevent employees from working overtime when overtime is not needed; three, a statistical overview of overtime payments in the recent past, and four, are there employees who are working overtime—and we understand that there are a great many of them—who are receiving no additional compensation.

We would like to look into that, too, but if the outcome of the hearings is a reduction in overtime pay of even one percent, then that would be savings of about \$15 million to the American people. Ten percent of course would be \$150 million—we think that savings can be brought about and we cannot ignore figures like that.

During last week's hearings, some statements were made and subsequently reported by the media concerning the accounting systems within the Department of Housing and Urban Development. I know the kind of job that Pat Harris, the Secretary, is attempting to do there and is doing there and I would want, under no circumstances, to leave unsaid the fact that the system that was being reported here was a system that had come from the past Secretary Harris and her organization will be working with the GAO to

attempt to have a system that has everything in place, and that a great many changes had indeed been made in the system.

Perhaps you people can enlighten us on that subject. But I understand that a great many corrections had indeed been made by HUD. So I want to also make the point that this administration has been most cooperative.

I have talked to James McIntyre, the Director of the Office of Management and Budget, and he has given me his very, very full assurance that we are working together, that he will do everything he can to help. He is as concerned as we are that a law that was passed in 1950 has not been implemented and he will be doing all he can to help us to make sure that the systems are put in place as they should be and that we are operating with the very best procedures possible.

Our very first witness today is Mr. Donald Scantlebury, Director of the Division of Financial and General Management studies with the GAO. Mr. Scantlebury is accompanied by Mr. John Cronin, Assistant Division Director.

I have asked the GAO to come back this morning for purposes of some clarification, as it appears that there may have been some misunderstandings about what the GAO was saying to us. I do not think I misunderstood. It may be that others did. I think the committee knows exactly what you were attempting to say but perhaps in some of the translation there may have been some exaggeration, perhaps, in some ways and we did want to make sure that the record was straight.

As I said, we are not seeking sensationalism, we are seeking facts and we are seeking cooperation. So we want to be very sure that we have the record straight.

STATEMENT OF DONALD L. SCANTLEBURY, DIRECTOR, FINANCIAL AND GENERAL MANAGEMENT STUDIES DIVISION, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY JOHN CRONIN, ASSISTANT DIRECTOR, AND JOSEPH J. DONLON, ASSISTANT DIRECTOR

Mr. SCANTLEBURY. Thank you, Madam Chairman. I would like to make a very brief statement.

As the Comptroller General advised the subcommittee in his letter of November 1, 1978, the testimony provided by Mr. Krieger and Mr. Cronin on Thursday, October 26, received considerable press coverage, as you mentioned. Certain of these press accounts have been critical of the present Secretary of Housing and Urban Development, apparently with the misunderstanding that the audit made by the General Accounting Office took place during the present administration and, hence, have been critical of Secretary Harris.

We regret that this matter was not reported more accurately. It would be unfortunate if the highlighting of this point obscured the importance of the issue that your hearings are bringing out. Mr. Krieger's statement, and your questions emphasized the importance of management's involvement in all aspects of the personnel system and how good accounting systems and the feedback that they provide would serve this aim.

In responding to followup inquiries by representatives of the press, we made it clear that the report was issued in June 1975 and covered a period prior to that time, obviously before Secretary Harris assumed responsibility as Secretary of HUD.

In rereading the statement presented by Mr. Krieger and by reviewing the transcript of the hearing, the emphasis on the broader issues is clear. However, the date of the report did not come up. This undoubtedly accounted for some of the impressions which were carried over into the news coverage. There was no intention on the part of Mr. Krieger or Mr. Cronin to obscure this point in any way.

The example cited with respect to HUD was only one of the many examples covered in the testimony and it may well be that the fictitious name of "Donald Duck" had a great deal to do with the fact that the press gave it such a wide coverage. The check made out to Donald Duck, I might add, was a dummy computer transaction and no real check was issued.

The testimony states that corrective action is in process. The corrective action referred to was the introduction of a new payroll system called TOPPS, which means terminally operated personnel/payroll system, which was to include measures to correct the problems we had reported. Originally this system was to have been operational in April 1976 and HUD officials advised us that, since the introduction of the new system was imminent, they did not consider it practical to make any changes to the system that was to be replaced.

In May 1976, they determined that TOPPS could not be completed as originally scheduled and have furnished us a copy of a letter they wrote advising us that they would not bring the new system into operation until a later date and therefore they were taking action to correct many of the problems we had noted with the existing system. The letter, however, was not received by GAO and we did not know about this action.

I might add that I was advised by HUD officials last evening that the letter was never sent. They indicated it was informally forwarded to GAO staff members but it never came to my attention nor to the attention of Mr. Cronin.

We met yesterday with officials of HUD and they outlined the changes in payroll procedures they had implemented in 1975 and 1976 to correct the problems we reported. We have not had a chance to check out whether the controls they told us about have been effectively implemented but it appears to us they would correct the problems that were reported if they work as described to us. The committee might wish to ask HUD whether their auditors have tested the controls to see if it works since we have not had an opportunity to do so. HUD has now proceeded with TOPPS and now plans to have it operational in January 1979.

We appreciate having the opportunity to set the record straight on this matter. Also, we at GAO are pleased you have undertaken these hearings which can do much to encourage agencies to place higher priority on the need for adequate financial and auditing controls. Without such controls, the door is open for fraud, abuse and errors which do much to weaken public confidence in government.

Mr. Cronin and Mr. Donlon and I will be pleased to try to answer any questions you may have.

Mrs. SPELLMAN. Thank you.

It has been very interesting to me to see what has evolved since we had our last hearing. I find that some people are very defensive, and that they prefer that we not have GAO take a good look. On the other hand, I find that the department heads themselves are calling me and saying, "Good for you, Gladys, glad you are doing this. This is making us do what we should have been doing." So their attitudes for the most part have been most constructive and they are not defensive.

I think we all recognize that they came into their offices just a couple of years ago with a million things to do in each of these departments, some changes that they had to make. Every now and then we need to call to their attention some additional things that need to be done; in most cases, those at the very top were not aware that there had been criticism of the systems. This now gets them busy looking into it and I think a great deal of good will come from this.

At our last hearing, on page 49 of our transcript—if you have that, you said that a couple of agencies that you were having some difficulties with in terms of getting them to secure GAO approval of their systems were HEW and DOD.

Mr. SCANTLEBURY. Yes.

Mrs. SPELLMAN. Would you tell us how many accounting systems are maintained by DOD, how many of those have been GAO approved?

Mr. SCANTLEBURY. The numbers I have include all accounting systems. Some of them are payroll systems and some of them are regular accounting systems like appropriation accounting systems. First, I should explain we review accounting systems for approval in two stages.

We first approve the accounting principles and standards that are going to be followed to design a system. Second, we approve the design of the system itself. And then ultimately we go back and check to see, after the system is put into operation, whether it is operating as designed.

In terms of approvals of system designs, we have approved 67 in the Department of Defense, and there are 70 systems that are unapproved. That is the current figure as of September 30, 1978.

Mrs. SPELLMAN. Seventy not approved?

In your opinion, if DOD had had all of its accounting systems approved by GAO, operating in accordance with your standards, would there be substantial savings to the Department of Defense?

Mr. SCANTLEBURY. I think there would be, yes, particularly in the area of foreign military sales. We issued a number of reports over the past few years which indicate that the Government was not recovering the full cost of the items that it sold to foreign governments, and that many of these cases, the reason they were not recovering the full cost was because they had omitted some element of the cost that should have been included. I think had they had an accounting system that picked up all these cost elements, they would have recovered the full costs of the items sold and that would have meant larger receipts for the Government.

Mrs. SPELLMAN. I will send that message over to the Armed Services Committee. I think they would be most interested in taking a look at that.

As we talk about savings, would you say those savings would be in millions?

Mr. SCANTLEBURY. Yes. The amounts we have identified were sizable amounts. As a result of actions that the Department of Defense has taken in response to some of our reports millions of dollars have been saved. They have recovered millions, I think the last figure was in the hundreds of millions of dollars range, as a result of corrective measure that they have undertaken.

Mrs. SPELLMAN. Very good. How many accounting systems relate to payroll in DOD?

Mr. SCANTLEBURY. There are a total of 34 accounting systems in payroll. Of that group, 19 relate to pay of military personnel and 15 relate to pay of civilian personnel.

Mrs. SPELLMAN. In the written testimony that was submitted to the subcommittee by DOD, they tell us that all their payroll systems have been GAO-approved. Is that so?

Mr. SCANTLEBURY. I believe they will correct the record on that. That is not true. At this time there are 11 payroll systems that are not approved; 6 of them are military personnel payroll systems and 5 are civilian payroll systems.

Mrs. SPELLMAN. Approximately how many various accounting systems are there, Governmentwide?

Mr. SCANTLEBURY. It changes from time to time as new agencies are formed or agencies are consolidated, others eliminated. But at the present time the total accounting systems subject to approval is 326.

Mrs. SPELLMAN. How many of those would have been approved by GAO?

Mr. SCANTLEBURY. 195.

Mrs. SPELLMAN. Would you submit a statement to the subcommittee showing the various agencies?

Mr. SCANTLEBURY. Yes, I have that with me.

Mrs. SPELLMAN. In your opinion, if all those accounting systems presently used by the Government were GAO-approved and properly working, would there be a substantial saving to the Government?

Mr. SCANTLEBURY. Yes, I believe so. There are a number of advantages of approved systems. In the first place an approved system generally provides better information for management to use in making decisions. There are many decisions managers are called upon to make, choices of, for example, getting a service outside the Government or doing it yourself, which you are better able to make if you have good financial information.

Good accounting systems, as we have already said, which have effective controls in them, are a protection against errors and fraud. There are just a number of ways in which the systems aid management in carrying out their responsibilities.

Mrs. SPELLMAN. Have you a way of estimating how much we might be saving?

Mr. SCANTLEBURY. That is very difficult to do. I think the best indication of the value of good accounting systems is a speech made

by the Comptroller General to the Association of Government Accountants last year. I gave your staff a copy of that speech. It outlines as well as we can describe it the advantages of good accounting systems.

Mrs. SPELLMAN. We are talking about millions of dollars in savings?

Mr. SCANTLEBURY. Oh, yes; the protection that you can get against fraud and error, and the better management decisions I am sure would run into many millions.

I might also add that to maintain a good accounting system and keep it working effectively requires vigilance. Just because one gets it approved does not mean that it will stay operating effectively. It has to be implemented effectively and then it requires vigilance to see that it continues to operate effectively.

Mrs. SPELLMAN. I am told that perhaps savings might even come in the billions. Am I correct?

Mr. SCANTLEBURY. We would agree. However, it is a very difficult thing to try to estimate what the savings would be because so many of the results of good accounting are judgmental, but we think it would be very large sums of money.

Mrs. SPELLMAN. What are some of the reasons that are given to you by the various agencies for not wanting to comply with GAO standards?

Mr. SCANTLEBURY. Well, I guess the most common reason we probably get is that it takes additional effort and takes additional people. Many of the agencies say they do not have the people to do the job that needs to be done. I guess that is probably the most common thing.

Mrs. SPELLMAN. It would take more personnel?

Mr. SCANTLEBURY. Yes.

Mrs. SPELLMAN. But in spite of that additional personnel, you feel that there would be a net saving?

Mr. SCANTLEBURY. We believe good accounting is cost-effective and is worth the effort. In many cases the number of people who would be required are not all that great.

Mrs. SPELLMAN. Thank you.

Mr. McCluskey, did you have any questions?

Mr. McCLUSKEY. For the record, when you reviewed HUD, was that 1974?

Mr. SCANTLEBURY. It would be—the report was issued in 1975. So I think our work spanned 1974 and 1975.

Mr. McCLUSKEY. At that particular time you were told that the TOPPS system would be operating by 1976?

Mr. SCANTLEBURY. Yes.

Mr. McCLUSKEY. And to your knowledge it is still not operating?

Mr. SCANTLEBURY. No. We were told yesterday that they will soon be going into parallel operations, which is a common test procedure to see that the system works before you adopt it officially. They expect to have it fully implemented by January of next year.

Mr. McCLUSKEY. I see. So you have not been able to test out the new TOPPS plan?

Mr. SCANTLEBURY. We have been examining what they are doing as they go along and—

Mr. McCLUSKEY. But you have not run any computer checks?

Mr. SCANTLEBURY. I do not believe so.

Mr. CRONIN. No.

Mr. McCLUSKEY. Do you know if HUD has run any themselves?

Mr. SCANTLEBURY. I assume they are running checks. That would be normal procedure. But they could probably give you the details on this.

Mr. McCLUSKEY. Thank you, Madam Chair.

Mrs. SPELLMAN. Thank you very much for your testimony and for your help in this whole matter.

[The following letter was received for the record:]

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., December 1, 1978.

Hon. GLADYS N. SPELLMAN,
Chairwoman, Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives

DEAR MADAM CHAIR: We have written a letter to William Medina, Assistant Secretary for Administration, Department of Housing and Urban Development to set the record straight with respect to our test procedures. We had read his testimony and felt that he had not accurately stated what our work consisted of. I am enclosing a copy of the letter of today so that you will have a complete explanation of our procedures.

Sincerely,

D. L. SCANTLEBURY, *Director.*

Enclosure.

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C.

Mr. WILLIAM A. MEDINA,
*Assistant Secretary for Administration,
Department of Housing and Urban Development*

DEAR BILL: Since your testimony on November 3, 1978, before the House Subcommittee on Compensation and Employee Benefits concerning our June 1975 report on the Department of Housing and Urban Development's payroll system, we have had a chance to read the record of your testimony. We have also received a November 13, 1978, staff bulletin from your agency. Both indicate, in essence that our audit procedures were incomplete and did not provide a fair test of the ability of your payroll system to detect erroneous payments because we did not give appropriate consideration to input and output controls that supplement the controls in the computer.

As you know I have been sorry that so much of the publicity that was given the hearing was inaccurate and detracted from the main purpose of the hearing; however, I feel I must set the record straight with regard to our audit procedures. The tests we made with the fictitious transactions were only a part of a total procedure and were only intended to test the controls in the computer itself. We made separate tests of input and output controls and found them inadequate. As proof of their inadequacy as reported in our audit report on this review, HUD's records for calendar year 1973 show that 211 paychecks were returned after being issued to persons not entitled to receive pay. They included:

94 checks totaling \$21,700 issued to separated employees,

78 checks totaling \$16,800 issued to employees who had not worked, and

39 checks totaling \$14,700 issued to former employees who had died.

If HUD had had adequate input and output controls, these errors could not have occurred regardless of what went on in the computer. We, therefore, did not have reason to believe and, still do not, that the input and output controls you had in effect at the time of our audit would have provided reasonable assurance that the fictitious transactions we ran through the system would have been detected and corrected had we allowed them to be processed and sent to Treasury for issuance of a check.

The system you outlined in the hearing has features that would appear to correct many of the problems noted in our review. We, of course, cannot be sure without testing them. We are also hopeful that the new system you plan to implement in January 1979, will provide tight control over the entire payroll process. My account-

ing system approval staff is advising your staff on this system and stands ready to give you our views on the adequacy of the planned control procedures.

We are sending a copy of this letter to the Chairwoman of the Subcommittee on Compensation and Employee Benefits, House Post Office and Civil Service Committee, because we believe that the record should be clear about our views on this matter.

Sincerely yours,

D. L. SCANTLEBURY, *Director.*

Mrs. SPELLMAN. Our next witness is Mr. Tom Kennedy, the staff director of the Subcommittee on Investigations. I have asked him to appear here this morning in order to place into the record some additional allegations made by Federal employees, allegations which pinpoint potential areas of abuse. These are areas that all agency and department heads should be alerted to.

I say this because while the allegations to be espoused by Mr. Kennedy happened in only three agencies, they could very well be happening in many more.

Mr. Kennedy, do you know of any allegations received by this committee alleging the forced use of overtime at the end of a fiscal year in order that the agency could use up all of its allocated funds for overtime pay?

STATEMENT OF TOM KENNEDY, STAFF DIRECTOR,
SUBCOMMITTEE ON INVESTIGATIONS

Mr. KENNEDY. Yes, we do, Madam Chair. We received a visit from a retired Federal employee from GSA who stated that in April of 1977 her superior, a division head in GSA, stated that money was left in the division budget and employees would be needed to work overtime on Saturdays until it was used.

Mrs. SPELLMAN. You are saying that there was money left over and they were asking Federal employees to work overtime in order to use up the money?

Mr. KENNEDY. That is right, Madam Chair. The employee later asked her superior how much money was involved and he told her it was \$23,000.

Mrs. SPELLMAN. Was this work necessary?

Mr. KENNEDY. It appeared not to be necessary at all. Its sole purpose, its single purpose was to use up the \$23,000.

Mrs. SPELLMAN. Are you aware of any allegations received by this committee alleging that employees are, in some cases, forced by intimidation to work overtime but without compensation?

Mr. KENNEDY. We have received several allegations of that kind involving a major Federal agency, and the allegations were to the effect that the employees were required to work overtime and they were not, in fact, paid and that the employees in each case asked us not to forget that there are many Federal employees working overtime who are not compensated for that overtime.

Mrs. SPELLMAN. We have employees being asked to work overtime to use up money and others being required to work overtime at no additional compensation?

Mr. KENNEDY. That is right.

Mrs. SPELLMAN. Do you have reason to know of any allegations claiming that because of the personnel ceiling limits imposed either by OMB or the Congress that all employees in this given

agency accumulate more in overtime than they do in their base pay?

Mr. KENNEDY. Yes, Madam Chair. We received allegations from two employees of the State Department Dignitary Protection Service to that effect. The second employee supported the allegations by the first employee. We have their names.

The first employee had contacted his superiors and told them that they had been in touch with the subcommittee and he felt conscience-bound to do so. The first employee told us that employees of the State Department Dignitary Protection Service averaged 78 hours a week, and recently many of them have been working 16 hours a day 7 days a week. There are 50 persons attached to this unit in Washington, D.C. They are in a state of exhaustion at the present time and this matter may have some further implications because of the sensitive international negotiations being carried on in the city at this time.

Mrs. SPELLMAN. They were working 78 hours a week?

Mr. KENNEDY. Seventy-eight hours a week on the average; that was the low, and they were working recently, more recently, 16 hours a day for 7 days a week.

Mrs. SPELLMAN. Might as well be a Member of Congress.

They just felt that created a dangerous situation for themselves and the people they were supposed to be protecting?

Mr. KENNEDY. Yes, Madam Chair, and so reported to their superiors.

Mrs. SPELLMAN. Did they say whether there had been any discussion of bringing more people into the system or are we holding hiring down by law?

Mr. KENNEDY. We are holding them down because of an imposed personnel ceiling and that is the cause of the problem, that there are no slots available for additional personnel.

Mrs. SPELLMAN. I did not have a chance to read the paper this morning. There are other things happening at this particular time and I had to be off to something earlier. I see there is a newspaper article which says that Mr. John Thomas, Assistant Secretary for Administration at the State Department, said we are concerned about the long hours to the point that we have already started a review of the method of assignment and the effect on the efficiency of agents.

I believe we do have their attention at any rate. It is too bad that an employee has to come here to this subcommittee to get the attention of his superiors, but that seems to be the way it is working. He says the nature of the work and the long hours combined cause ulcers, high blood pressure, possible drinking problems, high rate of marital difficulties. Looking at what we may be able to do for these people; I am very pleased. I hope that all their wives and husbands will be appreciative.

Mr. KENNEDY. Madam Chair?

Mrs. SPELLMAN. Yes.

Mr. KENNEDY. This is an impression and an opinion on my part. It did seem that the problem was an immediate one and one would hope that the State Department was capable of quick study since this is an immediate need.

Mrs. SPELLMAN. Very good.

Are there certain agencies such as the Corps of Engineers which, because of disasters, other happenings, receive emergency allocations of overtime?

Mr. KENNEDY. Yes, Madam Chair.

Mrs. SPELLMAN. Are you aware of any allegations made that in some instances allocation of overtime was never withdrawn when the disaster was over?

Mr. KENNEDY. Yes, we are, Madam Chair.

An employee of a major Federal agency in a Southern State alleged that for the past 12 years management of this unit has requested unnecessary overtime. The original overtime was authorized as a result of a natural disaster.

Mrs. SPELLMAN. Twelve years ago?

Mr. KENNEDY. Twelve years ago.

Mrs. SPELLMAN. Then they have just continued to get that additional overtime?

Mr. KENNEDY. Yes, Madam Chair. We intend to follow up on that allegation. GAO investigators were in touch with the individual but he was not forthcoming. So we have not been able so far to get into it.

Mrs. SPELLMAN. That one is indeed interesting and I wonder if we would not find that pattern over and over again.

Mr. KENNEDY. We do get the feeling that there is a common problem that once overtime is authorized, it tends to be dragged out. Whether it is a small amount of time or a large amount of time; we have no way of knowing, beyond the fact that it is excessive.

Mrs. SPELLMAN. That certainly points up that we should take a good look at our whole budgeting system. The President himself says we ought to have zero-based budgeting instead of incremental budgeting.

Mr. KENNEDY. Yes.

Mrs. SPELLMAN. As it is, the agencies now show that this is what they had last year and we merely build on what they had last year. But if we would go to zero based budgeting and they had to justify each item in the budget from the start, from scratch, we could find those kinds of things.

Mr. KENNEDY. We on occasion have asked representatives of agencies for an off-the-cuff justification of some of the overtime discussed between us and on those occasions the words "historical" and "historical basis" were used as justification.

Mrs. SPELLMAN. You have submitted to us some information that I consider to be rather serious about some real losses that are taking place because of the poor accounting systems in some of the agencies, and I will be turning those over to the committees that have direct jurisdiction over those.

Mr. KENNEDY. Thank you.

Mrs. SPELLMAN. I thank you very much.

Mr. McCluskey, did you have any questions?

Mr. McCLUSKEY. No, Madam Chair. Thank you.

Mrs. SPELLMAN. Thank you, Mr. Kennedy.

Our next witness is Mr. Robert Gershenson, the Deputy Assistant Secretary of State for Personnel, Department of State.

STATEMENT OF ROBERT S. GERSHENSON, DEPUTY ASSISTANT SECRETARY OF STATE FOR PERSONNEL, ACCOMPANIED BY VERNE F. ST. MARS, ACTING DEPUTY ASSISTANT SECRETARY FOR SECURITY, DEPARTMENT OF STATE

Mr. GERSHENSON. Thank you.

Madam Chair and members of the committee, I am Robert S. Gershenson, Deputy Assistant Secretary for Personnel for the Department of State. I am happy to respond to your request of October 26, 1978, to testify about the Department's use of overtime.

We have attempted to supply all the statistics you recently requested. These show the Department's overtime expenditures for American personnel have increased from the \$3 million level in fiscal year 1974 to the \$7 million level in fiscal year 1978. In other words our expenditures for this purpose have more than doubled during this period; 32 percent of this increase is accounted for by Government pay increases. Another portion of the increase is accounted for because, prior to 1977, the figures do not include overtime payments for approximately 10 percent of the work force. This is because other agencies paid this overtime for these departmental employees.

The major reason for increased overtime expenditure in the Department of State is the increased workload the Department has absorbed over the past 5 years without any appreciable increase in personnel.

The marked increase in international terrorism has dramatically affected the Department's workload, and particularly its overtime requirements. There are two factors involved:

First, the requirement for increased protection for the Secretary, both here and abroad, and for visiting dignitaries—between 1976 and 1978, the number of visits were up from 148 to an estimated 253, and the average duration of each visit was up from 8 to 12 days.

Second, terrorism-related problems threatening international stability and U.S. citizens and installations around the world frequently require us to establish and staff crises management task forces whose members literally must work around the clock until the crisis is resolved.

Also, Madam Chair, there are other circumstances which require the Department to incur significant overtime costs. These include:

Staffing regular around-the-clock operations such as the operations center and communications center. These are vital and complex operations, and unexpected absences can only be handled by other employees extending their shift or coming in on a day off.

Covering extended international negotiations and conferences invariably requires overtime.

Providing assistance in natural disasters frequently requires overtime work.

Providing services to American citizens abroad requires substantial overtime work.

Madam Chair, I would now like to summarize briefly the procedures we use to authorize and pay for overtime work—our fiscal and management controls.

In the first instance, funds are allocated to the various bureaus and offices of the Department as determined to be necessary in

accordance with the many reviews conducted pursuant to the annual budget process. Thereafter it is the supervisor's responsibility to identify the need for, and control overtime work. Except in emergencies, he or she must get advance approval from the funds manager who has been allotted funds for that area of the Department.

In an emergency, supervisors are authorized to approve up to 8 hours of overtime work and to justify the need for the work after the fact. After a funds manager has approved the work and certified that funds are available, he or she must establish an obligation. The employee performing the work reports it to the time and attendance clerk, who in turn records it on the time and attendance card. That card must then be certified by the supervisor and forwarded to the payroll office where payment is made.

At the end of each payroll period, the payroll office prepares a report for each funds manager, showing the amount of overtime and other premium pay earned by each employee under his jurisdiction.

There are numerous checks and balances in this process. In all my years with the Department of State, I do not recall an allegation of a fraudulent claim for overtime pay.

Thank you very much. I will be glad to try and answer any questions you may have.

I would like to introduce Verne St. Mars, Acting Director of our Office of Security, in the event you might wish to ask some questions of us concerning the article in this morning's paper. I thank you very much and we will be glad to try our very best to answer any questions you may have.

Mrs. SPELLMAN. Thank you very much.

Do you know of situations where, through Congress limitation on the number of employees that you may employ, you have people having to work overtime where additional employees would work out to greater advantage for you?

Mr. GERSHENSON. That is a very difficult question. I can answer that probably yes. I think in many of our operations we are in a position where we must staff for average workload time. We cannot staff for peak workload times. We do find that some of the peaks are getting longer and longer and we have to take a new look at our averages, if you will, to determine whether or not our staffing is adequate.

Mrs. SPELLMAN. We do know, of course, that in many cases you really would not want to hire additional people to do a job that your base staff can do so much better, to take care of the peaks. But, as you say, when the peaks get to be too long then you need to be taking a look.

Do you suppose that part-time careers, which we have just passed in the Congress this past session, or flexitime would be of help to you in the State Department?

Mr. GERSHENSON. On the part-time side, we certainly look upon that as a high potential for being helpful to us. Right now we have authorization for some 1,350 part-time and intermittent employees, and we use them very heavily around the world. We have many cyclical-type operations such as consular work and so forth. However, those are also controlled, Madam Chair. They are not an unlim-

ited commodity and we must seek and justify additional part-time ceilings.

Mrs. SPELLMAN. To talk about the Dignitary Protective Service, were you aware that they were working 76 hours a week on the average and that some of the employees had been working 7 days a week, 16 hours a day?

Mr. GERSHENSON. Yes, I have been.

Mrs. SPELLMAN. How many of these employees have worked over 800 hours this year?

Mr. GERSHENSON. I do not know the exact number, but I would think it would be very significant.

Mrs. SPELLMAN. Quite a few.

Is the overtime compensation accrued by the personnel in the Dignitary Protective Service a direct result of personnel ceilings?

Mr. GERSHENSON. Yes, as well as a sharp increase in the number of dignitaries for which we have responsibility.

Mrs. SPELLMAN. You do have a ceiling on you at the moment?

Mr. GERSHENSON. Yes.

Mrs. SPELLMAN. Then when this increase in your duties comes along, you are not able to handle that by hiring additional people?

Mr. GERSHENSON. We are not. We have been, in order to try to resolve the short-term problem we face now and the real human problem we face now, we are beginning to move some of our headquarters staff periodically part time into the protective side of the house in an effort to provide relief for those working very long hours.

Mrs. SPELLMAN. Is the efficiency of the employees impaired after they have worked 800 hours overtime in 10 months?

Mr. GERSHENSON. I would say that any medical or psychological study would suggest that very strongly, yes, ma'am.

Mrs. SPELLMAN. Is the safety of the people they are supposed to be protecting related to the physical well-being of these employees?

Mr. GERSHENSON. I would like to answer that question two ways.

I believe that we have a very high degree of professionalism in the Dignitary Protective Service, and I do not believe that the people who work in that activity would allow their vigilance to be reduced. On the other hand, there is no question that, working those kinds of hours, it is impossible to maintain a high level of readiness.

Mrs. SPELLMAN. It is our impression in looking at your staff there that you are absolutely right, they would be right on their toes doing the very very best job that they could of protecting the people they are attempting to protect. But the human factors are there and it does seem to me we ought to be able to have a better relationship, a better degree of cooperation to the point where you won't find yourselves having the difficulty that you are having there. You could come to us and say, "Hey, we need more people," and the Congress would be receptive.

Is the State Department making an effort to reinforce the District of Columbia office of the Dignitary Protective Service?

Mr. GERSHENSON. Yes. As I indicated, we are moving headquarters personnel to augment that staff. In addition, we have recently revised our criteria for determining who will receive protection. In fact, we have raised the level of threat required before we will

consider providing protection. That has resulted since August of 22 persons or groups who might previously have received protection not receiving it.

Mrs. SPELLMAN. Is it possible for the FBI or the Secret Service to assist the Department of State in peak times, or are they also overburdened? Would you know?

Mr. GERSHENSON. I can't speak for them. I think they are also very heavily involved.

We have in the past been in discussion with the Secret Service, particularly, and are again in discussion with them about perhaps working more closely together to increase efficiency and increase the effective use of both of our staffs. We also have in the past been able to arrange for assistance from U.S. marshals participating in our prospective details; and the military has also been helpful to us in providing help.

Mrs. SPELLMAN. Then you do reach out to other agencies?

Mr. GERSHENSON. Whenever we can.

Mrs. SPELLMAN. Have employees complained about this situation to the Department of State?

Mr. GERSHENSON. They have.

Mrs. SPELLMAN. Has the Department noted their complaints? What steps were taken to correct the situation?

Mr. GERSHENSON. I think we have not only heard their complaints but also solicited additional ones, so that we had a true understanding of the entire situation; and we are really examining every possibility for reprogramming personnel within the agency, for looking at the criteria question that I described, and, finally, if necessary, for soliciting additional staff. But we are determined to not only provide long-range solutions but also short-range action.

Mrs. SPELLMAN. If personnel ceilings were lifted, specifically on this particular activity, what would you consider to be an adequate force for this purpose?

Mr. GERSHENSON. My colleague on the right indicated to me that perhaps 100 additional agents would provide us with an adequate number.

Mrs. SPELLMAN. One hundred additional? How many employees do you have now?

Mr. GERSHENSON. 145; I believe it is 145, yes.

Mrs. SPELLMAN. Mr. McCluskey, do you have any questions?

Mr. McCLUSKEY. No.

Mrs. SPELLMAN. We thank you very much. We will be watching to see what happens here. We are very interested to see how you solve the dilemma, and obviously there is a dilemma.

Mr. GERSHENSON. Thank you very much.

Mrs. SPELLMAN. Mr. Clewlow, Deputy Assistant Secretary of Defense.

STATEMENT OF THE HON. CARL W. CLEWLOW, DEPUTY ASSISTANT SECRETARY OF DEFENSE (CIVILIAN PERSONNEL POLICY), ACCOMPANIED BY EMANUEL ROSEN, ACTING DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MANAGEMENT SYSTEMS, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR COMPTROLLER; AND DOUG FARBROTHER, OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR PROGRAM MANAGEMENT, OASD (MRA & L)

Mr. CLEWLOW. Good morning.

I should like to introduce to you those persons with me. On my left and your right is Mr. Manny Rosen, who is the Acting Deputy Assistant Secretary of Defense for Management Systems; and on my right and your left is Douglas Farbrother, a program analyst in the Office of the Deputy Assistant Secretary of Defense for Manpower.

We appreciate the opportunity to be here and provide the subcommittee with information on the use of overtime work within the Department of Defense.

In this short statement I will provide some brief answers to the four questions which were posed in your letter to Secretary Brown concerning these hearings and then my colleagues and I will be glad to provide any further explanations which the subcommittee may desire.

One, are we paying too much on cost benefit ratio?

The Department is organized so that the general mode of operation is one of decentralized authority. Within this framework there has been a reasonable delegation of scheduling of work, including authorizing overtime, to major officials in the field throughout the United States and other parts of the world. Field commanders are required to grant overtime only when justified by a realistic weighing of costs and benefits.

It is the general rule that overtime is authorized only in very special circumstances, such as (1) in unforeseeable occurrences requiring special attention to preserve health, welfare, and safety of personnel or to protect Government property; (2) to meet peak workloads, seasonal or otherwise, where the work can be performed more economically through overtime use than through hiring additional personnel; (3) for sustained workload surges which outstrip hiring and training capabilities; and (4) for unique operational tasks which can be performed economically only through use of overtime.

Two, should we be hiring more part time and intermittent employees?

Within Defense, we believe we are achieving some increases in the use of part time and intermittent workers at the same time as we are experiencing some fairly significant total work force reductions. Part-time employment in August 1978, was up 18 percent over 1974 and intermittent employment was up 27 percent.

Overtime use has not increased substantially since 1974 and the total work force has reduced more than 7 percent over that same period of time.

While it is expected that part-time workers will make up a larger portion of our work force under the initiatives associated with the Federal Employees' Part-Time Career Employment Act of

1978, it is not clear to us that hiring part time and intermittent workers is a practical alternative to some of the overtime, particularly as we use it currently.

Most of our overtime is in industrial establishments, and workers with the kinds of skills we need in those activities generally want full-time work and can get full-time work. Also, frequently it is in the industrial activities where workload surges occur which outstrip hiring and training capabilities.

Three, what are your agency's checks and balances on the accuracy of vouchers submitted for overtime pay?

I would like to make a general comment that the majority of all payroll systems in use at headquarters or in the field for civilian personnel in the Department of Defense have been approved by the General Accounting Office for use. In that connection, I would like to address the 15 systems out of the 137 systems which were mentioned by Mr. Scantlebury and his associate.

Of the 15 systems, 10 have been approved, which makes for a majority, we believe, of the systems pertaining to civilian personnel. Of the five remaining, one is at the General Accounting Office awaiting approval. We were informally advised that it was to have been approved and returned to us sometime in October of this year. Four others have just been added to our inventory, three of which are overseas. One is in the developmental stage.

Our targets for approval of these in our early discussion stages suggest that the one in development, we hope, will be approved in September of 1981. Two of those we hope to get approved in 1980 and one of them in 1979. I hope this will provide some clarification for the record, and perhaps erase in the minds of some people a possible delinquency on the part of the Department of Defense in having dual systems for management of personnel.

One further statement in closing on that point is that the one major system which is in the developmental stage will eliminate seven others, which would be a good stroke of management insofar as the intent of both the Congress and the Department of Defense are concerned.

In connection with overtime, individuals designated by field commanders to authorize overtime are generally at the next higher organization echelon from the unit that is required to carry out the overtime work. Those individuals designated to authorize the overtime are identified to the payroll office in writing. Under our procedure, proper authorization is required before overtime work payments are made to employees.

The four centralized internal audit organizations—Defense Audit Service, Army Audit Agency, Naval Audit Service, and the Air Force Audit Agency—with 2,357 employees, including 1,935 auditors, apply about 10 percent of their resources on audits of personnel management and related payroll functions.

The payroll function audits generally include the examination of the requirements for, utilization of, and payment to military and civilian personnel and specifically include civilian pay and time-keeping systems.

We think the current allocation of available audit resources to personnel management and related payroll functions is reasonable. Within the last 3 years, audits of civilian payroll systems have

resulted in the finding that relatively few individual instances of potentially fraudulent overtime pay actions have taken place. These few instances which were identified, involve small amounts, most of which were less than \$1,000.

The systems of controls on authorizing overtime, the checks and balances when paying for overtime, combine with the use of DOD internal audit organizations of well-defined and highly detailed audit guidelines for examinations of civilian payroll and timekeeping activities to supply this Department with a strong program designed to prevent fraud and abuse when authorizing payment for overtime work.

Overtime payments made in 1976 were \$327,904,000. Funds budgeted in 1978 were \$399,191,000. I did not show 1977 in there, but our estimates for 1979 are about \$12 million less than the actual payments made during the fiscal year just ended.

We would like to supply for the record today a summary of overtime payments made for this period as some measure of response to your initial request for information in this area.

[The information follows:]

ACTUAL OVERTIME EXPENDITURES REPORTED FOR FISCAL YEAR 1974-77, U.S. DEPARTMENT OF DEFENSE

[In thousands of current dollars; fiscal years]

	1974	1975	1976	1976 plus	1977	1978 ¹
Army.....	79,600	92,400	86,000	26,900	123,400	118,300
Navy.....	184,783	203,047	192,329	54,838	235,299	219,563
Marine Corps.....	1,382	1,777	2,087	520	1,902	2,274
Total.....	186,165	204,824	194,416	55,348	237,201	221,837
Air Force.....	² NA	² NA	33,400	7,542	33,410	37,800
Defense agencies.....	² NA	16,076	14,088	³ NA	18,878	21,254

¹ President's budget for fiscal year 1978.

² Data no longer available.

³ Data not readily available.

Four, how can we better strengthen this system?

We believe that on balance the system is working well in the Department of Defense but we recognize that improvements are always possible. One area where we intend to put more emphasis in the future is on the prompt followup and implementation of audit reports.

This concludes my statement. We will be glad to answer any questions you may have regarding these matters.

Mrs. SPELLMAN. Thank you very much.

In a letter dated October 9, 1978, we requested a detailed statistical breakdown of overtime use by DOD personnel, and in response to that letter DOD replied on October 20 that the information which we requested "is not available in our regular reporting system" and that, further, "to comply would require an extensive manual effort at the installation level. It is estimated that this effort would require approximately 3 months and in excess of \$100,000 to complete."

The reply was signed by D. O. Cooke, the Deputy Assistant Secretary of Defense.

In light of Mr. Cooke's response, I assume that DOD has never in the past compiled the kind of information that the subcommittee was requesting.

Mr. CLEWLOW. I would like to ask Mr. Rosen to respond to that.

Mr. ROSEN. Madam Chair, I would like to respond by saying, yes, I don't think the Department of Defense has compiled data along the lines of your request. I have discussed this with members of the military departments who were specifically asked that question and they indicated that from a management standpoint they never saw the need for developing in their system the kind of detail that was requested in your letter.

Mrs. SPELLMAN. We requested the same information of other Cabinet departments, and almost all complied to the request, some in a matter of days, some in a couple of weeks.

Why is it that DOD, even accounting for its size, would require such a long time to supply this information and that it doesn't have this kind of information as a management tool? For instance, I noticed that you are able to tell us in your statement how much overtime you are paying, but you have no way of identifying who is getting this overtime and therefore no way of checking to determine whether there is a real problem. That figure might apply to 3 people, or might apply to 1,000 people.

As I understand it, you aren't able to pull that information out from your accounting systems.

Mr. ROSEN. No, Madam Chair, the information is available at installation level. The Department of Defense would have to go to every installation on a worldwide basis to generate that information in that detail. I think we could provide some information that would be much more readily available, but to go to steps within grade and to determine numbers of people within each step and within category of overtime work, we would have to go to the individual pay records of about a million civilian personnel.

Mrs. SPELLMAN. We are not interested in grades or steps. We just were interested in the amount. The State Department has a similar situation, but it was able to pull the information together in a very short order.

Mr. CLEWLOW. We understand the original request to ask for information by step rates within each grade, and if we were to provide that for step rate within each grade there is no real logic in any system which would provide that information in the Office of the Secretary of Defense but only at the local level. This was one of the reasons for our saying it would be quite a problem to pull that together.

This would require the examination of approximately 78 million individual time records, with 26 pay periods a year, for 3 years, with over a million employees, that is why we gave you the information we did, that an examination of 78 million individual pay records could be pretty time consuming insofar as we are concerned.

We do have accounting information, as Mr. Rosen has indicated, which would provide data which would be available, but it would not be by step rate, in that sense. If we could work with Mr. McCluskey in reshaping the nature of the request, we have data

which we can provide from our accounting, but not as we originally understood it.

Mrs. SPELLMAN. I noticed some consternation here on my left by Mr. McCluskey and Mr. Gusky.

Mr. McCLUSKEY. Madam Chair, if I may for the record, we have been in touch with Mr. Cooke's office, who responded by letter, stating that the Department of Defense, for whatever reason, unlike the other agencies, couldn't come out with a computer estimate of these employees but had to do it manually. We informed Dr. Cooke's office that the steps were not required, as we did many people, to help alleviate part of the problem.

We were still told by Dr. Cooke's office that they would have to do it manually. Apparently nowhere in DOD do they have the computerized system where the Secretary of Defense has available to him the number of people that are working for him by grade or how much those people are paid.

Dr. Cooke's office did inform the staff—as the gentleman has stated—Mr. Rosen—that this is kept at the supervisory level and destroyed every 2 weeks; therefore, there is no way—if that statement is true—that the Secretary can ever find how many civilians are working within the Defense Department at what grade level, which is amazing to the subcommittee staff; and, further, the lack of complete automation in the Defense Department, why this has to be done worldwide, even at the Pentagon level, we were told, by hand.

Mr. ROSEN. May I respond to that, Madam Chair?

Mrs. SPELLMAN. Indeed.

Mr. ROSEN. I was not aware of the fact that your discussion with a member of Dr. Cooke's office indicated that you had lessened the requirement in terms of step. I might say though that in terms of system development and design, the fact that this type of information is not within our present system either requires us to develop a new program to apply in a series of civilian pay systems—as we indicated. We have 15 civilian pay systems in the Department of Defense. Therefore we would have to develop 15 programs to apply within those systems in order to generate the information in the detail that you requested.

Now, I think that we would be able to generate this kind of information in somewhat more summary form if we did not have to do it by step, and if we could do it in terms of a sampling, in terms of area or in a reduction in the number of categories of overtime work. In other words, the burden is there and there is no way that we would be able to do it in an automatic fashion at this time.

We want to cooperate with the committee and we would like to work with the committee staff to generate the kind of information that you need. But I think we need some relief in this area in terms of the detailed information required.

Mr. McCLUSKEY. If I may respond, Madam Chair, I can only say, Mr. Rosen, that DOD is not unique in having a variety of pay systems. There are other departments that have more than one type of pay system and they are able to come up with these things. I suppose that is what amazed us, and the cost figure of \$100,000 is really justified when all the agencies that have submitted things

show a potential savings running well over that figure and in some cases into the millions.

Mrs. SPELLMAN. Our subcommittee is in possession of numerous DOD—and we have some here—internal audit reports which describe for controls on overtime at defense installations. These reports, almost every one, indicate that for a significant portion of defense civilian personnel overtime is not properly managed.

In light of these reports and in view of the fact that DOD doesn't know how much overtime is compiled by individual employees, how does DOD determine its need for about \$380 million in overtime funds for fiscal year 1979?

How did you reach that figure when you made a request for your funding? Every 2 weeks those records are destroyed so that you don't have anything to look back on?

Mr. ROSEN. I would like to correct a misimpression. I do not think that records are destroyed every 2 weeks. I think that may have come through in a telephone conversation between Mr. McCluskey and Commander Cunningham.

Mrs. SPELLMAN. Somehow it didn't seem to me that it would be top secret information that we had put through a shredder. On the other hand—and we will check further into that—where do you get your figures? How do you determine how much overtime to request, how much money to request for overtime?

Mr. CLEWLOW. If I may address that, at least in part, we have followed the general concept which has been advocated by President Carter, of decentralization, since before he took office, and we thoroughly embrace this concept of decentralization.

One of our practices has been for a continuing period of years, the decentralization of both responsibility and authority to act. If we were dealing with an organization of 10,000 people, as some departments and agencies do, we would have little difficulty in reaching some of these particularly if we were located in just a few spots in the United States or in other parts of the world. With the widespread organization which we have in many States of the United States and over 80 countries in other parts of the world, we have a substantial investment in people. In the process of decentralization of authority to act those people develop data and present it, and on a cumulative basis it is developed through our Comptroller channels for presentation as a budget. We believe that it is pretty reliable.

When we look at the Department of Defense, we are looking at an overtime figure which over a period of time has averaged from 2 or 2¼ percent. This is not an unusually high figure. In fact, we tend to regard it as a rather modest figure in relation to some of the things we see in other places.

Our controls are established at several levels of authority throughout the Department. Therefore, those persons who have the authority to make decisions and the responsibility to act are likewise responsible for making proposals and supporting those proposals for inclusion of their overtime needs in our budget as it is collectively developed up through the system.

I regret that we have had the misunderstanding with reference to the detail because we do have good summary information and

today I am prepared to provide some summary information on overtime costs as well as overtime projections for this next year.

The concern we had was somehow lost in the process of communications and, as I say, I regret the misunderstanding in that regard. I hope we can correct that relatively quickly.

Mrs. SPELLMAN. I am getting the impression that you justify not keeping certain information and not having your computer available to report given information, because the DOD is so widespread.

Yet it seems to me that because of your size and because the operation is one that is so widespread, because you are spread out to so many areas, that would, I think, make it incumbent upon you to require even more information from that computer. The computer is what would keep you in touch with all of those various installations.

Mr. CLEWLOW. I believe we require the information, but require it to be maintained at the level closest to the point of decisionmaking. This runs hand-in-hand with the concept of decentralization and with delegation of authority which we have espoused for some period of time, and in the process of that we attempt to maintain effective records at successively lower levels. Just the sheer process of collection of those becomes a rather formidable one.

Mrs. SPELLMAN. I would understand your wanting those records at the decisionmaking level, but I also feel that in order for you to be able to control those decisionmaking levels you would need to have information available to you quickly, so that you could monitor what is happening all around the country, all around the world.

I find it, frankly, difficult to understand that you don't have the need for this information, that it is just left out there at various areas, decisionmaking areas, but that there is no control, no monitoring, of those decisionmaking areas through your computers.

Mr. ROSEN. Madam Chair, if I can respond to that. Information is channeled up from the installation level through major commands in military departments and to the military department headquarters. Unfortunately, the detail of information is not channeled up. I think that is the problem. The department headquarters do receive monthly information on overtime work. They do not receive the information in the detail that we are talking about in your request.

Mr. McCLUSKEY. So because the information that is sent up is so broad and general and is 2 percent, 4 percent, of the payroll of the Government's largest agency, from what you said, it is very possible—and I underscore the word "possible"—that all the sums of money could be going to 50 people, or 100 people, or 1,000 people, but there is just no way to tell?

Mr. ROSEN. I would have to say there is no way to tell at headquarters level, yes.

Mr. McCLUSKEY. Well, for your information, all other agencies are now well aware of it. Could you state for the record what you think it would cost to computerize this type of information for the record?

Mr. ROSEN. For the record?

Mr. McCLUSKEY. Yes. You stated it would cost \$100,000 if you did it manually.

Mr. ROSEN. I would have to say that Dr. Cooke in his response made an estimate of \$100,000. I can't vouch for that estimate. I'm sorry.

Mr. McCLUSKEY. That was manual. I am asking what would it take to do a computer system, to have a system available to the Pentagon, computerized system of this sort, where they can tell how many people are working, where and in what grade, and with what pay and how much overtime, who is getting it?

Mr. ROSEN. I can't say at this time how much it would cost to develop such a system.

Mr. McCLUSKEY. Thank you.

Mrs. SPELLMAN. I looked at your internal audit reports, and I see here that for Jacksonville—this is on control of overtime—

Control should be strengthened to insure that overtime expenses which amounted to about \$1.6 million during the 27-month period ending December 30 are reduced to the minimum. Even though the district has published guidance for controlling use of overtime, most of the guidance was not followed.

This one is Portland:

Requests for overtime hours were not always prepared and approved in advance of performing the work. The number of hours requested exceeded the work hours.

Southern European Task Force:

Improved procedures and practices are needed to effectively control and monitor overtime work by foreign nationals.

Wilmington:

Overtime which averaged about \$300,000 annually was not controlled adequately.

Fort Dix:

Controls over overtime need strengthening. The use of regularly scheduled overtime tours resulted again in payment of overtime to some employees when work was not required.

Existing controls did not assure overtime requests.

Every one of these before us indicates that there are problems involved with overtime, in the management of the overtime, and there are internal audits given year after year showing the same problem.

What is DOD doing to take care of this problem now?

Mr. CLEWLOW. Let me address that, if I may.

I would like to emphasize one point:

Mrs. SPELLMAN. Incidentally, I ought to point out to you that what I have been reading are from 1975, 1976, 1977, 1978. It isn't today—these are your own internal reports, your own people, not somebody coming in from the outside, but your own people, saying to you, "We've got a problem" and year after year after year they are saying the same words. The problem still exists.

Mr. CLEWLOW. We recognize that they are saying the same words. We have the hope that they don't repeat these words at the same installation with too much frequency, because one of our objectives in having audit activities inside the Department of Defense is to provide a measure of review, followup and feedback on those things which are taking place. Our hope is that the things will be taking place as the procedures have been described and prescribed. This is not always the case, as evidenced by the fact that we continue to have auditors who continue to find problems

that exist, and I believe this is probably in part human nature and in part some other factors contributing to that.

The fact that overtime has been performed and has not been approved in advance frequently does not deny the validity of the overtime. In fact, in most instances it does not deny the validity of the overtime; it just says that in the process of performing the overtime someone along the line failed to take that one administrative step which was necessary toward the achievement of the activity.

I think of an example: You had some Corps of Engineers reports there. You had some other reports. If you have a flash flood in the Ohio River Valley and work needs to be done to complete some activity, for example, in riprapping or in preservation of locks and dams, it is very probable that the person there is going to think first of getting the work done before that flood does major damage, and they are going to think secondly about filing that request for approval of the overtime, and they will say, "Shucks, I should have done that last week, but we had to hurry up and get that job done."

There is no excuse for them having said that in terms of correctness of the procedure. It is understandable. However, sometimes people do establish priorities out of line with those established in the procedures of the Department of Defense. With regard to the actions, it is customary to have an exit interview on the part of the auditors with the base commander, the commander, the major commander, whatever. We find a great deal of positive responsiveness on the part of these people in attempting to correct those situations, and this is the reason for our continuing to devote 10 percent of our audit capability to the field of personnel evaluation and personnel management.

So I would have to say, in a short answer, we keep trying to do better and we intend to continue to keep trying to do better and will place further emphasis upon the results of our audit reports, both in the evaluation of a person's performance as well as in our certainty that those things requested in the way of overtime requests indeed are needed.

Mrs. SPELLMAN. I wish that these reports that I am reading bore out what you are saying, but they don't.

Here: "Improved procedures and practices are needed to effectively control and monitor overtime work."

Then it says, "Overtime was authorized to reduce backlogs and perform nonessential services." "Based on spending in the first quarters of fiscal year 1978, overtime could cost the task force about \$375,000 in fiscal year 1978, which could cause other command programs to be reduced or eliminated." "Employees may have been paid for services they did not provide."

We are going to have to cut out other areas because one area was abused, and as I look through here, that is the pattern. This is costing us efficiency in other areas. We are taking money that might better be used in other places to pay for services that perhaps we didn't have the benefit of.

Mr. CLEWLOW. I agree with what you have said and would like to follow through. On page 34 of that same document in which the commander did agree to the findings and recommendations agreed

that local policies will be revised to provide more definitive guidance on overtime.

The officials also agreed that they would approve overtime only within the limitations prescribed by the Commander of the U.S. Army, Europe, which carries back up to the major command level at Heidelberg, Germany, to monitor all the overtime work for compliance.

So they are having their feet held to the fire. It is kind of a long communications line to attempt to do that from Washington, but we have directed the Commanding General, U.S. Army, Europe, to do that.

They also agreed to tighten up their whole set of practices for approving overtime to insure adequate documentation, supervisory checks, and proper prior validation.

So, again, I would say yes, every one of those things you identified are problems. But, again, the purpose of our audit studies is to find these problems and hope they correct them.

Mrs. SPELLMAN. One of the things we are concerned about is that the budget request comes from the installation levels, but it is there at the installation level that they appear to be having problems. I have a great deal of difficulty when it comes to DOD requests. My husband worked there for many years, so I have conflicts between my heart and my head at times. I would like very much to give the DOD everything it requests. There are times when I vote against you, and I would find it a lot easier to be giving you all your requests if I felt we had plugged up all the various holes.

This is just a little, tiny hole. We want to be sure that we plug up even the little ones, so that we don't have a sieve. DOD has 137 accounting systems, I am told, and you have 11 payroll—is that the figure you gave me, 11 payroll systems?—that are not yet approved by GAO?

Mr. ROSEN. No, Madam Chair. We have 15 civilian payroll systems, of which 10 are approved.

Mrs. SPELLMAN. Ten are approved and one is in the process of being approved?

Mr. ROSEN. One is at GAO and we expected it would be approved in October, but I was told that they are delaying until the end of these hearings. One is a new system that is not in existence. It is a developmental system that the Navy has undertaken to eliminate all its other civilian payroll systems. That will be the single Navy system when it is fully developed; and the other three are newly in the inventory.

Every year, in October, we go through the inventory with GAO and modify it. We agree to the systems that should be in the inventory. Up until this October there were three Navy systems overseas, at overseas activities, that they did not want to include in the inventory; but this year they said we ought to put them in. So they are newly in the inventory; they are existing systems.

Mrs. SPELLMAN. Perhaps you can tell me—because I must admit, I don't understand at all—why has it taken 22 years to implement the law? We still haven't got there; we still don't have full implementation.

Mr. ROSEN. I am not sure Madam Chair, that I can answer the question for you.

Mrs. SPELLMAN. I don't think you have been there that long.

Mr. ROSEN. That's right.

Mrs. SPELLMAN. I am curious. Was it a bad law? Was there something wrong with it? Does it need changing? Was it a good one? Should we be pushing like mad to get everybody in under this law? I don't understand.

Mr. ROSEN. I might say that we are pushing like mad now.

The Assistant Secretary—Comptroller—Mr. Wacker, has made a commitment that he would like to see all DOD accounting systems approved by GAO by fiscal 1980. We don't know that we are going to be able to achieve that goal. I know that the Comptroller General has made the same commitment. He has that goal, and we are working with Mr. Scantlebury—who testified earlier today—and staff, to try to bring this about.

I think that if you look at the record of accounting systems and their approval by GAO, you will find that in the recent years we have made the greatest advances, I would say, in the last 4 or 5 years. For many, many years the project kind of lay dormant. I don't think there was much commitment to approval; but I am glad to say in recent years we have made a considerable amount of progress, and I am hopeful that we are going to be able to make some progress in the future.

Mrs. SPELLMAN. I know, of course, that here I am fussing at the administration that is attempting to get this all straightened out, that you inherited these problems, but hopefully we will be moving on these as quickly as we can.

I understand the services still are fighting the idea. Is it the Army?

All three services are giving us a little trouble on this. I hope you are monitoring it very carefully.

Mr. ROSEN. Yes; in the next month we are going to have a series of meetings with the Comptroller General and with the Assistant Secretaries in the military departments, to try to work out existing DOD-wide problems. There are certain problems that exist DOD-wide in terms of guidance, and we want to get those lined up and have the services coming along with us.

Mrs. SPELLMAN. Very good.

Mr. McCluskey asks me to reiterate that we would like to have the material originally asked for by the committee, excluding steps, now that you understand what it is we can live with, and would you also give us an inventory listing of defense accounting systems and the status of GAO approval for the record?

Mr. CLEWLOW. May I ask you for a clarification on the latter? You are interested in those pertaining to civilian personnel?

Mr. McCLUSKEY. Yes.

Mr. CLEWLOW. Do you want those that have to do with foreign military sales or things having to do with civilian personnel? I was addressing my comments this morning to those 15 which relate to civilian personnel.

Mrs. SPELLMAN. Let's have the total.

Mr. CLEWLOW. The entire 137?

Mrs. SPELLMAN. Yes. Thank you very much.

Mr. CLEWLOW. Thank you.

Mr. ROSEN. Thank you.

[The following information was received for the record.]

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., November 17, 1978.

HON. GLADYS NOON SPELLMAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SPELLMAN: During the oversight hearings held on November 3, 1978, by the Subcommittee on Compensation and Employee Benefits, the Department of Defense was requested to provide an inventory of its accounting systems and data on overtime worked during Calendar Year 1977.

Enclosed is a copy of our letter to the General Accounting Office that provides an inventory of the accounting systems and the status of their review and approval by that Office. For your ready reference, we are also enclosing a separate listing of the civilian payroll systems which are included in the official inventory of accounting systems furnished to the General Accounting Office.

I recently discussed the submission of the overtime information with members of your Subcommittee staff. It was agreed that submission of our information would not show steps within General Schedule grade. Please be assured that the information will be submitted as soon as possible.

Sincerely,

E. ROSEN,
Acting Deputy Assistant
Secretary of Defense.

Enclosures.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., November 8, 1978.

Mr. DONALD SCANTLEBURY,
Director, Financial and General Management Studies Division,
U.S. General Accounting Office, Washington, D.C.

DEAR Mr. SCANTLEBURY: The fiscal year 1979 inventory of DoD accounting systems subject to Comptroller General approval is attached.¹ The status of DoD accounting systems currently is as follows:

	Total	Under development	Subject to approval	Approved
Army.....	22	1	10	11
Navy.....	60	11	22	27
Air Force.....	34	3	8	23
Defense agencies.....	19	3	9	7
Total.....	135	18	49	68

The systems under development have been identified for your information and future planning. The dates projected for all systems have been coordinated informally with your staff.

The total number of systems reported excludes two systems which would otherwise bring the total to 137. The two systems being dropped from the inventory are: (1) Defense Civil Preparedness Agency (DCPA) accounting system, and (2) Defense Logistics Agency, Worldwide Integrated Management, Wholesale Subsistence Stocks. The DCPA is being transferred from the Department of Defense to the Federal Emergency Management Agency. The Defense Logistics Agency plans to adapt its Standard Automated Materiel Management System (SAMMS) to handle functions which would have been covered by the Wholesale Subsistence Stocks accounting system.

E. ROSEN,
Acting Deputy Assistant
Secretary of Defense.

Mrs. SPELLMAN. Mr. Medina?
Mr. Medina is the Assistant Secretary for Administration with HUD.

¹ Retained in subcommittee files.

Mr. Medina, we're very happy to have you here.

STATEMENT OF HON. WILLIAM A. MEDINA, ASSISTANT SECRETARY FOR ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, ACCOMPANIED BY VINCENT J. HEARING, DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION; BASCOMBE G. PADGETT, DIRECTOR, ADP SYSTEMS GROUPS; AND LARRY BYRNE, DIRECTOR, PAYROLL SECTION, PERSONNEL OFFICE

Mr. MEDINA. Thank you.

I would like to introduce my colleagues. On my immediate left is Mr. Hearing, the Deputy Assistant Secretary for Administration; and on his left is Gerry Padgett, head of one of our ADP system groups; and on my right is Larry Byrne, the head of our payroll section, personnel office.

Madam Chair and members of the subcommittee, I am pleased to have the opportunity to be here today to discuss the subject of overtime compensation as it relates to the Department's personnel and staffing requirements.

In conducting our business and in carrying out our responsibilities, the way in which the Department's personnel resources are used is of major concern to the Secretary.

A significant factor in providing adequate staffing for delivering and administering our programs is the use and control of overtime hours to help meet our program goals.

HUD has an extensive work measurement system already in place which we use both for the development of staff resources requirements in budget submissions and for the allocation of approved staffing levels during program execution. We are enthusiastic about how well those management systems work and believe we are among the leaders of the use of such systems in the Federal Government.

We have implemented an operating plan procedure which provides for the allocation of staff resources to our regional offices and includes an authorized level of permanent full time and temporary positions. In addition, the operating plan includes an approved staff-year level for both the authorized staff levels and overtime requirements. The use of these field staff resources against the approved levels is monitored throughout the year through reports produced from the Department's regional employee time reporting system—RETRS.

In headquarters, each major organization receives an employment authorization and is allocated a level of overtime hours as a separate entry in its operating budget. Here, too, the use of the approved staffing resources is monitored through a reporting mechanism.

In addition to the control procedures for normal overtime requirements, provisions are made for unusual or emergency requirements arising principally from the Department's disaster relief responsibilities and delegations under the provisions of the Disaster Relief Act of 1974—Public Law 93-288.

A substantial amount of the Department's overtime is related to providing immediate disaster housing support for federally declared disasters. In fiscal year 1977, \$5,472,000, or 54.9 percent of

the Department's overtime total of \$9,951,000, was obligated for such disaster assistance overtime.

These disaster-related overtime requirements present a formidable management challenge because of the unpredictable levels of need at different times throughout the year, often at isolated geographic locations.

We believe at HUD that we have excellent controls on our overtime. Parenthetically, I would add, Madam Chairman our payroll operation is a human system and is still subject to error, but we are constantly vigilant and always looking for ways to improve our controls. Even though we are pleased with our system, we are trying to improve it.

An example of the results of our efforts is demonstrated within my own Office of Finance and Accounting. In 1974 that office used 168,000 hours of overtime with more staff than we have now. We reduced our overtime by 70 percent to 50,000 hours in 1977, further reduced it to 42,000 hours in 1978 and expect to use slightly less in fiscal year 1979.

Last week, testimony before this subcommittee pointed out that reviews of various agency payroll systems were conducted recently. Four agencies were examined as part of the subcommittee's ongoing efforts concerning overtime compensation. The automated portion of the Department of Housing and Urban Development payroll system was reviewed by the General Accounting Office covering the fiscal year 1974 procedures and controls, with a report issued in June of 1975.

This report was most helpful in identifying needed system control improvements to avoid errors and the possibility of fraud. The report noted in its conclusion that "HUD corrected the major control weaknesses revealed in the existing systems."

In addition, the Department's new terminally operated personnel/payroll system—TOPPS—considered the report findings during system development to insure that maximum safeguards available are included in this new system.

The Department's Office of Inspector General has been reviewing the internal controls designed for this new system and we are working toward implementing their recommendations.

The system design has been submitted to the General Accounting Office. We feel that TOPPS will provide us with a management tool to more closely control and monitor our payroll and provide better overall management of our personnel resources.

Unfortunately, last week's discussions before this committee seemed to give the impression that the system allowed the Department to issue a number of checks to various fictitious individuals. This discussion was misleading, in that it failed to stress that this audit review occurred almost 5 years ago and that major problems with the system were corrected.

No paychecks were actually issued or pay given by the Department to any of the fictitious entries created by the GAO. I would like to make clear that the auditors found no actual fraud in our payroll system. Instead, they perceived a potential for fraud. I do not wish to appear defensive, but this matter has been so distorted and exaggerated in the press, based on the GAO testimony, that I believe clarification is required.

Because the GAO audit review team has unique responsibilities and privileges, the technical staff of the Department provided complete and uncontrolled access to the multiple facets of both the Department's personnel and payroll systems, thus bypassing normal control safeguards. Test data were then developed by the audit team to check the mechanical edit and control systems in the automated payroll equipment and program. Existing human checks and double checks in the total payroll system before and after this mechanical step in the computer were bypassed for computer test purposes.

As noted in the 1975 report, more stringent safeguards were recommended but there was no evidence of fraud and no real checks were issued.

I would encourage your questions on this matter, as I would like to clear up a very damaging and misleading impression left with this committee and the press by the incomplete GAO testimony.

Madam Chair, at that point I would like to digress for a moment and show you a chart we have prepared, and we have small copies of it for you, so you can see it from there [indicating].

What I would like to point out to you is, this is the current system that we have right now in operation in the Department, and what is significant is that all of the items in red represent control points in our current payroll operation. And I would like to point that out so that you understand the significance of the GAO test in terms of what was accomplished there.

They came in to a particular portion of that system, right here. They found inadequacies in our edits in the computer system. We think GAO was very helpful to us because it showed us where we had deficiencies. However, they did override existing precontrol checks at that time, which we admit were inadequate, but there were checks afterward which they did not use, so that they never tried to get the check out of the Department.

It is our contention that check would have never left the Department, or it never would have been issued to such a fictitious individual even with the 1975 procedures in place. But we would like to point out to you these are the procedures that we have right now, even in advance of our new TOPPS system. I would like to show you how many people it would take to go into collusion in order to produce such a fictitious check. It is easily a dozen people; it would involve the Civil Service Commission and our Inspector General operation, which is not shown on this chart.

I think these are very highly unlikely events. So we feel very, very confident that we have a system that has a very high degree of controls against fraud in the Department.

Clearly, it could be better, and our new TOPPS personnel system will improve it even substantially more, particularly the area down here in the computer processes where the GAO found weaknesses.

Regrettably, the real and potential impact of not telling the whole story in proper context adversely impacts the morale of HUD employees and managers who have worked hard under Secretary Harris' leadership to improve the administrative and management processes and fraud prevention capabilities of the Department.

Madam Chair, I think that it is important for the committee to know that the major thrust of this new administration at HUD has been to develop better management and administrative capabilities. In that regard, we have a number of steps that now effectively block such potential for fraud. The effect of the recent testimony and the subsequent media coverage have been to undermine what we believe are significant improvements in our payroll systems. Incomplete testimony of this kind weakens the Department's credibility and thereby impairs our ability to provide housing and community services to those most in need. We would like to continue to make improvements in an atmosphere of mutual cooperation.

We have already done much. We have, for example, an independent Office of Inspector General—which has been in the Department since 1972—structured in the same manner just recently mandated by the Congress for a number of Cabinet-level departments.

This office recently completed a review of overtime use in four area offices, three headquarters organizations and one disaster field office. The report of findings and recommendations was issued in February 1978. As a result of the recommendations, the Department is taking steps to: (1) Revise the appropriate HUD handbook to strengthen supervisors' responsibilities under the Fair Labor Standards Act requirements concerning the control of overtime hours worked by nonexempt employees; (2) better assure approval of overtime in advance, rather than after the fact; and (3) require better justification for overtime with an explanation why work cannot be performed during regular working hours.

In closing, I would like to describe one of the Department's ongoing management improvement efforts which closely parallels your concerns and why we are here today.

The Under Secretary has directed the installation of a new internal control effort specifically aimed at fraud control. This system has two phases: First, find current weaknesses and, second, fix them and continue spot audits, to assure that there is no lessening of controls.

Operating surveys, first created in 1972, are continuing as a forerunner in dealing with potential areas of fraud. The fiscal year 1979 audit plan has been built upon fraud potential as a major criterion in selecting the audits scheduled.

In short, this Department has one of the most vigorous programs in Government to act on GAO and Inspector General audits.

All of what I have been talking about is part of our general objective of achieving better management. Better overtime controls are one feature of our continuing efforts to improve all aspects of HUD's management systems.

This concludes my statement. I will be pleased to answer any questions.

Mrs. SPELLMAN. Thank you very much. We appreciate your statement. We appreciate your concern that you are being misunderstood. We are delighted, also, to know that so many changes have taken place since the time that this test was run.

I notice on page 2 of your statement that the Office of Finance and Accounting used 168,000 hours of overtime in 1974, that it has reduced that figure by 70 percent in 1977, and even further in

1978. That is a rather startling accomplishment. Can you tell us what it is that you have been doing?

Mr. MEDINA. I would be happy to.

In general, the simple answer to it is, significantly better management. But let me be more specific about that.

I mentioned earlier in my statement that we have an extensive work measurement system in the Department, almost 80 percent of our work in HUD is covered under work measurement standards. Preceding the development of these standards, we reviewed the operations of the Office of Finance and Accounting with a system we call process analysis. We go in and record how the work is currently being done, and then we look for ways that the work can be done better, and then we establish that as the standard.

By having those kinds of standards in our operation, we have a much better management control on how long it should take to do the work. These standards and better management by the managers of that operation have significantly lowered the amount of overtime.

For instance, we do not allow employees in some units who are under-standard to work overtime hours, as a simple example of that; if they are fairly new and they are having a learning curve problem, we do not allow those employees to work overtime. So they have to at least meet our work standards. The standards are guides for us, and just better supervision and better vigilance by our managers helps us keep overtime down.

Mrs. SPELLMAN. So you are getting employees to perform during their normal hours what otherwise might have been done through overtime hours?

Mr. MEDINA. That is correct, Madam Chair.

Mrs. SPELLMAN. Very good.

We notice that 87 HUD employees accumulated over 1,000 overtime hours in 1977. Can you explain that?

Mr. MEDINA. I would be happy to.

There were 87 employees who accumulated over 1,000 hours in 1977; 84 of those employees were in direct support of disaster activities. That happened to be a particularly disastrous year for natural disasters. Johnstown flood, for example, floods in West Virginia, Kentucky, and other places; so 84 of those 87 were in support of those operations. The other three, we have information about each of those three. I would be happy to tell you about it now or provide it for the record.

Mrs. SPELLMAN. If you can just provide that for the record.

Mr. MEDINA. I would be happy to do that.

[The information follows:]

EXPLANATION OF THREE NON-DISASTER EMPLOYEES WORKING OVER 1,000 HOURS OVERTIME DURING CALENDAR YEAR 1977

(1) A secretary to an Assistant Regional Administrator for Administration worked a great deal of overtime in her regular capacity and also worked overtime for the Financial Review and Accounting Division, which is under Administration. The Financial Review and Accounting Division did 75 percent of the overtime in the Regional Office and had many crash projects during that year.

(2) A Valuation Assistant in the Sacramento Insuring Office (which is one of the highest volume offices in the country) reviewed and assigned cases for all of the appraisers in that office and was the only person in the office trained to do so. In addition, she answered all procedural and technical questions from realtors and

mortgagors. That year she had leave that was denied because they could not spare her.

(3) A Supervisory Appraiser in the Detroit Area Office reviewed the cases of 5 staff appraisers and 40 fee appraisers. During 1977 the Detroit Area Office did 14,640 appraisals. Normal review rate is 3 per day and this employee did 400 in a two month period, which is more than twice the normal rate.

Mrs. SPELLMAN. I fully understand, working on disaster projects, having done so myself many, many, many years ago, I recall I used to work until 2, 3, 4 in the morning; we did not get overtime then. We not only did not get overtime, but as soon as all the disaster loans had been made, we would be out of jobs. Yet we knew that the people desperately needed that money so we worked all hours.

How many audits has HUD performed on overtime use in the Department during the last 5 fiscal years?

Mr. MEDINA. How many audits of the overtime?

Mrs. SPELLMAN. Of overtime use?

Mr. MEDINA. I am not really sure. We would have to supply it for the record for the last 5 years.

Mrs. SPELLMAN. The really important part of it is that you are onto it today, you are watching it, working with it?

Mr. MEDINA. Yes. We have an extraordinarily good inspector general operation and they have been providing audits. We have a unique situation, I might add, of competing for our inspector general's time. So we actually go and ask for more of his time because we value the audit program. They have been auditing overtime as well as helping us in our systems development work. So we value their assistance. But we would be happy to provide that for the record if you like.

Mrs. SPELLMAN. Very good.

[The information follows:]

Ten audit reports on the use of overtime were issued in the last 5 years.

Mrs. SPELLMAN. Obviously you have corrected the problems that GAO found when it went through the system at that time. What steps have been taken to insure that these corrections will be monitored and maintained?

Mr. MEDINA. Well, the steps themselves are audited, as I mentioned in my testimony. You have a report issued in February of this year in which the Inspector General monitored the overtime usage. In the process of doing that they looked at our internal controls, that very chart that I was talking to you about, and found that there were no significant weaknesses in our processes. So that the recommendations that they made were to strengthen our overtime approval procedures, not those control procedures that I showed you on that chart. So we feel fairly comfortable that those procedures are adequate.

I might add parenthetically that tomorrow morning we begin the systems test in parallel. We will be running our normal payroll operations and tomorrow morning we will be running our new TOPPS system test for the next 4 weeks or so. Then in January, on the 14th of January, after exhaustive systems tests, the new system will go into operation. That system has significantly better mechanical audits than we are capable of in our current system.

So we will make a quantum leap in January of 1979, and we are very happy that our system is a total integrated payroll personnel

system. There are very few such models in the Federal Government. We are very happy that other agencies are coming over now and looking at our system. It has been technically a very difficult system to put together.

Mrs. SPELLMAN. You had, as I look at that diagram that you gave us here, you had a good system or one that should have been working, and working very well.

Mr. MEDINA. This is the current one.

Mrs. SPELLMAN. This one is the current one?

Mr. MEDINA. This is the current one.

Mrs. SPELLMAN. I see.

Mr. MEDINA. We admit there were mistakes, there were weaknesses in our system in 1975, and the reason that we are concerned about the impressions in the press is because it gave the idea that we had not made any changes as a result of that. And this is an example of all of the changes that we made manually.

Now in lieu of a completely modern automated system, we have put in many manual checks in there to catch anything in that period of time. That is why we feel confident about our current system.

Mrs. SPELLMAN. The edits were worn down at that point, I understand, and that is why Donald Duck might have been paid at that point?

Mr. MEDINA. The internal ADP control did not pick up that unusual amount of money within the ADP system. Once it would have left the ADP area, however, which the GAO did not do, it would have been picked up by a manual control system that we had in operation even in 1975. So that it would not have occurred.

The unfortunate part about this, Madam Chair, is that we are in the funny papers all over the United States, and I am sure that our dialog today, if it is in the press, will make page 87 and the impressions will not have been corrected.

Mrs. SPELLMAN. And if the request had been for John Jones, for a check for John Jones, it would not have been as exciting, I am sure.

Mr. MEDINA. I might add there is an employee in the Federal Government with the name Donald Duck.

Mrs. SPELLMAN. I would like to meet his parents.

Mr. MEDINA. He happens not to work in our department, but the computer has no way of distinguishing among names.

Mrs. SPELLMAN. That is right.

Mr. MCCLUSKEY. Does Donald Duck work for HUD?

Mr. MEDINA. No, he does not.

Mrs. SPELLMAN. Now we know, or at least we are advised by the GAO, that the system, at one time at least, permitted houses to be lost, buildings to be lost. Is that all corrected today?

Mr. MEDINA. I think you are referring to the systems that pick up management information about housing reservations and housing starts. I think that is probably what you are referring to, and these have been significantly improved.

Mrs. SPELLMAN. We will in another committee talk with you about that. But it is our understanding there may have been some problems in the accounting system which allowed HUD to lose

track of buildings and this probably was long before your time, hopefully.

Mr. MEDINA. Yes.

Mrs. SPELLMAN. And the taxes were not paid on some of those homes.

Mr. MEDINA. I am familiar with that problem.

Mrs. SPELLMAN. They were resold as a consequence of that?

Mr. MEDINA. Yes.

Let me speak specifically to the tax problem, though, because I think you are referring to the fact that the Department had acquired properties and then was having to pay taxes to the local jurisdictions. It was paying them late and the Department was delinquent in its tax payments.

Mrs. SPELLMAN. We were advised that they lost track of them in the accounting system and therefore did not pay and that the houses were sold out from under HUD.

Mr. MEDINA. I am not familiar with that then, but I can assure you that is not happening now.

Mrs. SPELLMAN. That could not happen today; that is what we are concerned about.

Mr. MEDINA. That is correct. And we have significantly reduced the delinquency payments for taxes. We were doing this in Washington. By decentralizing this process to our regional offices, we have significantly reduced the amount of delinquent payments from a very high number to a negligible number today. So that it is—the problem is almost completely wiped out.

Mrs. SPELLMAN. Fine. I do want to congratulate the Secretary on what I perceive—because from my other committee, I am on the Housing Subcommittee, as a member of the Banking and Finance Committee—and I perceive that she is doing a magnificent job in that area and I am glad to see that she indeed has moved in to take care of the problems in this one too.

Mr. MEDINA. She has been very vigorous in this effort.

Mrs. SPELLMAN. Thank you very much for your help.

Mr. McCluskey?

Mr. McCLUSKEY. Yes.

Is it possible, concerning these 87 employees who worked over 6 months of normal 8-hour days' work, is it possible that these employees could be eligible for 25 percent of their base pay as premium pay instead of time and a half for 1,000 hours of overtime?

Mr. MEDINA. Those employees are temporary employees that are hired and do not come under title V. The Department sets the rates for those employees. Since they are working side by side with other disaster employees who are full-time employees, who are eligible for overtime and they are working with their counterparts, we felt as a matter of equity that we would treat them the same as other employees rather than giving them a lesser rate.

Mr. McCLUSKEY. Did you happen to take a look at the number of employees in HUD that were working anywhere between 3 and 6 months of overtime, that is between 500 and 1,000 hours?

Mr. MEDINA. Yes, we did.

Mr. McCLUSKEY. And they numbered approximately 480?

Mr. MEDINA. Those are not my numbers.

Mr. McCLUSKEY. I believe that is what was submitted to the subcommittee.

Mr. MEDINA. Yes. I am sorry, that is correct.

Then we did an analysis of the individuals who were at the grades 12 and 13 level and we found that almost all of those employees were—we were trying to track back why those employees above that level were working those kinds of hours. We found that all of those employees were also involved in disaster activities.

Mr. McCLUSKEY. I see.

Mr. MEDINA. We can name the disasters and which employees.

Mr. McCLUSKEY. I think, too, that HUD has come a long way, certainly a 70-percent reduction of overtime since 1974-75 is phenomenal. I think you could almost assume that everybody must have been getting overtime back then with 70-percent reduction. I am glad to see you have a new system.

May I say that although HUD may feel it has been picked on by the Walt Disney affair, I think it has served a very good point, that all agencies, including HEW when they were here, said that they were going back to try to rerun that test. Have you tried to rerun such a test in your new system?

Mr. MEDINA. Our new system is under operational test now.

As I say, the full operational test begins tomorrow and it runs for a period of time. We have run tests like that previously and we will continue to run that over this operational testing period. I will not use a name like that, but we will try to run fictitious names through that to see if it will work.

Mr. McCLUSKEY. You have checked out the new system?

Mr. MEDINA. Yes. We feel confident because the number of edits in the new system is significantly better than the edits under the existing system we are operating right now. So that the range goes down to the actual pay line. So it would kick out any unusual amount like that, with a much smaller range.

Mr. McCLUSKEY. Again congratulations, but on behalf of GAO may I simply state they generally do not go into the agencies to find fraud per se, but simply to do as they did with HUD at that particular time, test the system and see if the potential—and I underline the word “potential”—for fraud is there.

Mr. MEDINA. We value GAO very much.

As I said, as I tried to point out in my testimony, I want to be evenhanded about this. They did show us where we had weaknesses in our front end of that personnel process. They showed us that we did have an adequate separation of our payroll, and personnel functions. These have now been completely separated. Those kinds of controls are absolutely mandatory to have that kind of security in the system, and we have done that as a result of that GAO audit.

Mr. McCLUSKEY. I think we are going to see because of the Walt Disney affair that a number of agencies are going to become more aware of the possibilities of potential frauds that can exist in a computerized system, and because of the experience of HUD being shown, shall we say to the public and all agencies, it has had I think a beneficial aspect to the whole Government?

Mr. MEDINA. We are happy to share our new system experience with other agencies. We are being asked by many agencies to share

information about our new TOPPS system with them. So we would be happy to share our experience with you as well.

Mr. McCLUSKEY. Thank you.

Mrs. SPELLMAN. Thank you for your testimony and for the progress that you are making. We are quite pleased and very happy about it, very proud. Our last witness is Mr. Kevin D. Rooney, Assistant Attorney General for Administration, Department of Justice.

STATEMENT OF KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY WILLIAM VAN STAVOREN, DEPUTY ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, OFFICE OF MANAGEMENT AND FINANCE, AND BEN W. WISEMAN, CHIEF OF POSITION AND PAY MANAGEMENT GROUP

Mr. ROONEY. Madam Chair.

Mrs. SPELLMAN. If it would make it easier for you, since it is quite late, if you would rather submit your statement for the record and just make a shorter statement at this time, we would be delighted.

Mr. ROONEY. I appreciate that, Madam Chair, and I will summarize my statement and submit the entire statement for the record.

Mrs. SPELLMAN. Fine.

Mr. ROONEY. I would like to introduce my colleagues with me this morning. On my right is the Deputy Assistant Attorney General for Administration, Mr. William Van Stavoren, and to my left is the Chief of our Position and Pay Management Group at the Department, Ben Wiseman.

I believe the principal thrust of our testimony this morning is in response to your initial letter to the Department. The first issue concerned whether the Department is paying too much for overtime on a cost-benefit ratio.

Since overtime is a percentage of the Department's payroll cost, we decided to take a look at it from that perspective and we have noticed that over the past few years it has been a fairly steady percentage and has increased just a fraction of a percentage point over the years. However, since overtime pay is based upon the basic salary rate for employees and we have within the Department during 1977, which is the year that we are concentrating on, experienced a reduction of 1,000 employees overall, it is difficult at this time for us to assess—however, we do intend to—whether there was indeed a cost benefit, whether it was just the same workload with a slight reduction in people, or whether indeed we were not getting the appropriate amount of work for the dollar.

One of the things about the Department's overtime situation that has to be made clear is that we not only have what is generally known as the straight time and a half overtime and the Fair Labor Standards Act overtime, but we have two unusual categories, the administratively uncontrollable overtime for our law enforcement employees, which accounts for about 68 percent of overtime within the Department, and a particularly unusual overtime situation which is provided under 8 U.S.C. 1353, for port of entry inspectors in the Immigration and Naturalization Service.

I think it is significant to note here that this is the area which has gotten a lot of publicity since these hearings began.

As I noted to you, Madam Chair, in my most recent correspondence, we have within the Department—and this we did not know—we have 791 employees who worked or were paid for over 1,000 hours of overtime in calendar 1977. Of these, and this is why I say it is significant to note the immigration inspectors in particular, 723 of those earned overtime within the Immigration and Naturalization Service for, I believe, the immigration inspection function.

The act which allows for the special premium pay for immigration inspectors was enacted in 1931. It allows for 2½ times ordinary pay between the hours of 5 p.m. and 8 a.m., and 2 additional days' pay for work on Sunday. What this means is that whenever an employee is called in to work during those times, and this is done on the border or at international airports where people are coming in from overseas, the immigration inspectors must work these hours and they are called in to do so. And there is no specific time when airlines and other carriers do not arrive; they come in at all hours of the day or night and on weekends.

The particular act, 1931 Overtime Act that allows for this special premium pay, has been questioned several times over the years. The critics of the act basically say that it provides for inequitable pay for—inequitable treatment for people who are doing the same job, that there is no incentive for these people who are immigration inspectors to go on to supervisory responsibilities because then they lose the opportunity to earn this extra pay.

The defenders obviously say that there is particular burden upon these people to be called in at all hours of the day or night, that these people have come to some extent, certainly not justifiable if there is an excess of overtime, to expect this remuneration for their services.

We at the Department in this administration have been aware of these acts. We were not aware of the significant numbers that are working or being paid for over 1,000 hours of overtime. We are looking into it now. We had reviewed the 1975 GAO study which specifically looked at port of entry inspections and noted there were four different agencies in the Government, INS one of them, involved in inspections at ports of entry.

This particular GAO study had a couple of recommendations, one of which was that there should be a single premium pay for inspections at portsofentry and, second, that the premium pay should be a bit more liberal than the ordinary premium pay to Federal employees, but that it should be probably less liberal than the current law provides.

Over the years, I believe, in particular response to that study, the Department was somewhat defensive over the acts, and I do not want to be in the position of saying we think they are inappropriate. However, we are concerned with the number of people that are working or paid for in excess of 1,000 hours and we at the Department have discussed this with the Office of Management and Budget. Since it does not only affect the Department of Justice, we do not want to take any unilateral action.

We have discussed potential changes with them. As recently as yesterday OBM has agreed that they will institute an overall study of the matter with Justice and the other affected agencies, which we hope to commence immediately.

The remaining category of pay within the Department, which is more common throughout the Government, is the straight overtime. I believe in response to your question particularly in the letter, Madam Chair, as to where we can substitute intermittent and part-time employees, it would be in this area because there is less reliance upon law enforcement officers' specific skills or those of an immigration inspector.

Our current overtime payments for this category account for $1\frac{1}{3}$ percent of our total payroll. This is probably a reasonable figure. Our very quick assessment in the last few days across Government and across private industry seems to indicate that it is. Nevertheless, we do view this category as the one which most lends itself to the substitution of part time or intermittent employees to reduce overtime. We are asking all organizations within the Department to review the use of this overtime as a special study so that we can determine whether or not it would be more beneficial for greater use of the intermittent employees.

Just briefly talking in summary about our accounting controls, we require the authorizing officials throughout the Department to approve requests for scheduled overtime in advance and for supervisors to certify the performance of overtime work on time and attendance records for their employees.

We also publish a biweekly report entitled "The Accounting Station Posting Media," which contains overtime hours and dollar amounts along with base pay data for each employee. These reports are furnished each administrative officer in the Department. The Department's financial management staff, which reports directly to me, monitors overtime expenditures on a monthly basis against funds budgeted for overtime.

One thing that I might note is that we have been talking about accounting and payroll systems this morning. We have within the Department two payroll systems. This is amazing advancement over the last 6 or 7 years because I understand in 1970 there were about 100 payroll systems within the Department. We now have two, one which services all of the Department except FBI, which is our largest employer, and the FBI. Both of these systems have been approved by GAO.

We also have nine other accounting systems within the Department and all but two of these have been approved by GAO, and one of them is solely a grant accounting program, for a very small portion of the Law Enforcement Assistance Administration.

In addition to these controls that I have mentioned, some of the Department's offices and bureaus have instituted internal procedures to further insure the accuracy of overtime payments. These include designating certain high level officials to approve all overtime in advance, monitoring expenditures on a quarterly basis against funds allocated for overtime, and requesting supervisors to report on the quantity of work performed during overtime periods.

In response to your fourth issue, as to suggestions other than the ones I have made, I suggest strengthening the existing system, to better assure the need for overtime and the accuracy of overtime payments, by the following means:

First, maintaining records of work performed during overtime to match against dollars spent to insure cost-effectiveness. This really gets to the issue on the cost-benefit ratio. We are asking the sampling people to do this initially.

Second, requiring supervisors to review a biweekly listing of their employees who received premium pay, including hours worked and amounts paid.

We have been quite aware of the summary data that we have, we were simply not aware of the numbers that were in excess of specific amounts of overtime.

I appreciate, Madam Chair, the opportunity to provide you with this information and I hope that my colleagues and I can answer questions that you may have.

Mrs. SPELLMAN. Thank you very much. We appreciate your testimony.

Can you tell me at this time in how many agencies is the Department of Justice considering investigating the fraudulent use of overtime?

Mr. ROONEY. I am not prepared to do that, Madam Chair.

Mrs. SPELLMAN. Would you get that for us?

Mr. ROONEY. We certainly will.

Mrs. SPELLMAN. We appreciate that.

Would you know in the past 5 years how many audit reports have been completed in the Department of Justice?

Mr. ROONEY. Internally?

Mrs. SPELLMAN. Right. On the question of overtime compensation.

Mr. ROONEY. I am not sure there have been more than one. I am aware of one done about 1974 on the administratively uncontrollable overtime in the Department and it called for, as its principal recommendation, a more articulate department policy on AUO. That was issued in 1975.

Mrs. SPELLMAN. 1975?

Mr. ROONEY. Right.

Mrs. SPELLMAN. Would you submit that for the record?

Mr. ROONEY. We certainly will.

Mrs. SPELLMAN. And also any other information that you get as to the number of cases?

Mr. ROONEY. Be happy to.

Mrs. SPELLMAN. On what basis did the Department of Justice estimate its overtime budget request? How do you figure how much you are going to need in the way of overtime?

Mr. ROONEY. I may ask Mr. Van Stavoren to comment on that, but I would say we base it on the prior year estimates as well as whatever change has been made during the course of the year that we are working on presenting the budget.

Mr. VAN STAVOREN. Basically so.

There is one other aspect. As the organizations develop their budget based on central guidelines they in their initial presentation have to make trade-offs themselves as to where they request

money, because they never get all they ask for. They have to make decisions on priorities such as do they put more emphasis on overtime and less on equipment as an example, or do they want to put more emphasis on intermittent employment, less on overtime?

So the basic trade-offs are made at the operating level, as opposed to the central level.

Mrs. SPELLMAN. We have information that the Department of Justice has a ceiling, 56,310, as of September 30, 1978, and the Department has filled 54,760 positions. That means you still have leeway for 1,550 positions, as we see that. With that kind of authorization for additional staff, does it work out to greater advantage to be using personnel in overtime situations, rather than bringing more people on board?

Mr. ROONEY. I would think not. Within the ceiling that we have—and those figures are approximately correct; I don't have the exact ones in front of me—we will, of course, be confronted now with the freeze on hiring, obviously, and where we can within the freeze as well as the part-time and intermittent employee ceiling, or whatever controls are established in conjunction with the freeze on part-time employment, we will make every attempt; and, specifically—I was attempting to address that point in my summary—that where we can indeed find that we do not need employees who have specific skills, like law enforcement officers or the immigration inspectors, we would be inclined within our ceilings to use the part-time employees.

Mr. VAN STAVOREN. If I may, one other comment: This is the month of the year where we generally would have the highest vacancy rate because it is the beginning of the fiscal year. At the end of the last fiscal year we were within, I think, about 300 of our ceiling, but with the beginning of the fiscal year our ceiling goes up with the advent of congressionally approved programs which we normally propose to fill on a graduated scale throughout the year, not on October 1, so we would have looked much more favorable using September data than October data.

Mrs. SPELLMAN. Let me go back to the fraud cases.

Do you know what the status of the Department's investigation of the three possible overtime fraud cases that were referred to you by GAO might be?

Mr. ROONEY. I do not have that information, Madam Chair. I think generally it would be inappropriate for me to comment on the specific status of it; however, we will certainly ask the Criminal Division, the U.S. attorneys, the particular ones involved, to provide what they can for the committee.

Mrs. SPELLMAN. By status we mean where are they in the timetable of things.

Does the Department monitor the incidence of overtime abuse in the Government generally?

Mr. ROONEY. No, we do not. We have no such charter.

Mrs. SPELLMAN. Is it necessary for Federal agencies to make an effort to identify the extent of such abuse in order to adequately combat this type of fraud?

Mr. ROONEY. As far as referring the matters to us?

Mrs. SPELLMAN. Yes.

Mr. ROONEY. To some extent, yes, because, obviously, we have a resource problem in the investigative and prosecutive functions of the Department too, and we would have to see some magnitude of the problem prior to getting particularly involved.

It might not be able to be handled administratively within the referring agency or department; however, we are, as part of the Attorney General's program, highlighting four particular areas or priority of crimes: One would be white-collar crime, which translates into fraud in the Government, so we are taking much more of an aggressive posture as far as training staffs throughout the Government by having our criminal prosecutors train them in what to look for, as well as our investigators.

Mrs. SPELLMAN. As to the Immigration and Naturalization Service, I was interested in some of the information that you were giving us there.

How many hours of compensation would an employee receive for overtime from, in the evening to 7:15, 2¼ hours, in the same day?

Mr. ROONEY. So that I am sure to give you a precise figure, I will ask Mr. Wiseman to attempt to answer that question for you. If not, if we can't, the law is extremely complex, I beg your pardon, and we will provide it.

Mr. WISEMAN. The question was how much pay would personnel—

Mrs. SPELLMAN. Someone working from 5 in the evening to 7:15 in the evening—those are the overtime hours—what would the compensation be for that? How many hours of compensation would he get?

Mr. ROONEY. We will provide that specifically for the record, Madam Chair. We have received some summary-type information and I have been reading the act for the last 3 days, and I have difficulty finding the general rule.

Mr. McCLUSKEY. Madam Chair, I believe that it is possible for that amount of overtime—since you have got only a 2-hour limit—for an employee to be compensated for a full 8 hours.

Mr. ROONEY. On Sundays, what we generally do within the Immigration Service is to have the employee work the entire 8-hour period generally. This was in the 1975 GAO report that I referred to, that highlighted the port-of-entry inspections. It was pointed out there, and I have been in touch with the Acting Commissioner of the Immigration Service, trying to find out if this is still the rule, basically they assign other administrative tasks to these employees so that on Sundays they put in the general 8-hour day.

They would not require them to work 8 hours in the period after 5 o'clock; but if it were on a holiday or Sunday where they were called in, they would.

Mrs. SPELLMAN. What are the types of positions held by the 723 Immigration and Naturalization employees who performed over 1,000 hours of overtime?

Mr. ROONEY. They are primarily the immigration inspectors and those other—principally Border Patrol agents—who have been called in to conduct immigration inspections.

We can provide in detail the breakout by position within the agency.

Mrs. SPELLMAN. Is it true that the factual situations supporting the enactment of 8 U.S.C. 1353(a)(b) involve the processing of the papers of the ship's passengers on board ships waiting for landing here in daylight hours?

Mr. ROONEY. That essentially is correct, yes. They perform the immigration inspection responsibilities, which would be to determine citizenship or, if not American citizenship, the admissibility into the country.

Mrs. SPELLMAN. Is it not a fact that most major airports function on a 24-hour-a-day basis, and as a result is the reference to 5 p.m. in the statute as the beginning of the overtime period now archaic?

Mr. ROONEY. I do not have the facts, Madam Chair, but I would suspect so, just from my own personal experience, yes.

Mrs. SPELLMAN. Would you take a look at those? There is this September incident which appears on page 4 of the Department of Justice letter to the subcommittee dated October 3, 1978, and I quote:

In addition, while 8 U.S.C. 1353(b) provides for reimbursement by carriers for certain inspection activities, this review showed that only about 50 percent of the overtime moneys paid were billable to the carrier.

Would you state for the record the kinds of activities that Immigration and Naturalization personnel perform which is part of the nonbillable activities performed?

Mr. ROONEY. We will provide that, Madam Chair.

I will comment though that the immigration inspectors do work at the Mexican-American borders, for example, where there are not carriers arriving, but just citizens arriving, citizens or aliens arriving, so all of their work is not reimbursable by carrier.

Mr. VAN STAVOREN. One other point, if I may. At major airports where there are substantial scheduled flights coming in during these evening hours, the Immigration Service does not seek reimbursement if flights arrive within 1 hour of the time they have been scheduled. If it is an unplanned flight arriving or one where the airplane simply arrives late, then Immigration Service normally does seek reimbursement.

Mrs. SPELLMAN. I see. It sounds reasonable. The airlines have stated to the subcommittee that they reimbursed the Federal Government some \$18 million in 1977, which, naturally, consumers had to pick up, and so we are interested in just how that is working.

Mr. McCluskey?

Mr. McCLUSKEY. Concerning the original 1931 act, wasn't it the intent of Congress and the administration at that time that the act wasn't to cost the Government anything, but has evolved to the point where it is costing the Government some \$5 or \$6 million?

Mr. ROONEY. It is definitely costing the Government, as the Chair pointed out, about 50 percent of the cost.

Mr. McCLUSKEY. Thank you, Madam Chair.

Mrs. SPELLMAN. Thank you very much for your testimony. We look forward to getting the information that you will submit for the record.

Mr. ROONEY. We will be happy to supply it.

[The information follows:]

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., November 30, 1978.

Hon. GLADYS NOON SPELLMAN,
Chairwoman, Subcommittee on Compensation and Employee Benefits, Committee on
Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRWOMAN: When I appeared before your subcommittee on November 3, 1978, I promised to provide several items of information for the record at a later date. That information is enclosed.

Enclosure No. 1 provides information about investigation and prosecution of overtime pay fraud cases by the Department of Justice.

Enclosure No. 2 answers your inquiry about the number of internal audits of overtime pay conducted in the past 5 years and provides copies of the reports.

Enclosure No. 3 explains the pay entitlement of an immigration inspector who works overtime from 5:00 p.m. to 7:15 p.m.

Enclosure No. 4 breaks down by occupation the Immigration and Naturalization Service employees who worked or were credited with over 1,000 hours of overtime in 1977.

Enclosure No. 5 sets out the conditions under which the overtime pay costs of immigration inspectors are not billable to the carriers.

I trust this provides the information you requested. If not, please let me know.

Sincerely,

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

[Enclosure No. 1]

INVESTIGATION AND PROSECUTION OF OVERTIME PAY FRAUD CASES

While it is not a normal practice of the Department to inquire into the status of potential criminal referrals from Federal agencies we have—in light of the Subcommittee's clear intention that such matters receive careful scrutiny—contacted a number of agencies with regard to this matter. The results of the inquiry are set out below.

The Department of Agriculture, the Department of Transportation and the Internal Revenue Service had referred overtime fraud cases to the Department of Justice for prosecution. Seven indictments have been returned and five convictions secured involving employees of the U.S. Forest Service. Additionally, a series of investigative and audit activities may involve similar abuses in the Department of Agriculture. The Internal Revenue Service referred seventeen overtime fraud cases to the U.S. Attorney for the District of Columbia. Five employees pled guilty, four cases were dismissed by the court, and prosecution was declined in eight cases. Three cases involving overtime fraud by Department of Transportation employees have been pending in the Office of the U.S. Attorney for the District of Columbia since November 2, 1978. These are the three cases referred to the Department of Justice by the General Accounting Office.

The following agencies are reviewing or auditing overtime payments in their organizations to determine if potential problems exist:

Department of Commerce;
Department of Health, Education, and Welfare;
Interstate Commerce Commission; and
General Services Administration.

The following agencies indicated that they are not aware of any allegations of widespread overtime fraud or abuse and they are not conducting any full-scale inquiries:

1. Department of Housing and Urban Development.
2. Department of Defense (Army, Navy and Air Force).
3. Nuclear Regulatory Commission.
4. Small Business Administration.
5. Environmental Protection Agency.
6. Postal Inspection Service.
7. Government Printing Office.
8. Department of Energy.
9. Department of the Interior.
10. Department of State (Agency for International Development).
11. NASA.
12. Department of Labor.
13. Veterans Administration.

[Enclosure No. 2]

INTERNAL AUDITS OF OVERTIME PAY

One internal audit of overtime pay was conducted in the Department of Justice during the past five years. It concerned policies and practices relating to the use of administratively uncontrollable overtime in the Department. A copy of the report of that study, dated June 1974, is attached.¹ Also attached is a copy of the report of an audit of the Department's central payroll system.¹ This report is dated September 1974.

[Enclosure No. 3]

COMPENSATION OF IMMIGRATION INSPECTOR FOR OVERTIME DUTY FROM 5 p.m. to 7:15 p.m.

Having completed his basic 8-hour tour of duty at 5 p.m. on Wednesday, an immigration inspector performs inspection duty from 5 p.m. until 7:15 p.m. For this duty, he receives one-half a day's pay under 8 U.S.C. section 1353, which provides one-half day's pay for each two hours or fraction thereof of at least one hour that the overtime extends beyond 5 p.m.

[ENCLOSURE NO. 4]

IMMIGRATION AND NATURALIZATION SERVICE EMPLOYEES WHO WORKED OR WERE PAID FOR OVER 1,000 HR OF OVERTIME IN 1977¹

Type of position	Hours			
	Employees	Regular overtime ²	AUO ³	1931 act ⁴
Immigration inspector.....	595	40,335.75	192.00	871,155.25
Detention and deportation officer.....	102	45,323.25	1,374.50	98,422.25
Criminal investigator.....	15	656.50	6,637.50	11,500.00
Border patrol agent.....	11	107.00	5,215.50	10,220.00
Total.....	723	86,422.50	14,419.50	991,297.50

¹ Under 8 U.S.C. 1353, employees are entitled to pay for a greater number of hours than they actually work, e.g., $\frac{1}{2}$ day's additional pay (4 hr) for each 2 hr or fraction thereof of at least 1 hr that the overtime extends beyond 5 p.m. Conversely, under 5 U.S.C. 5545(c)(2), employees receive no pay for irregular or occasional overtime hours in excess of approximately 468 hr a year—the number required for entitlement to the maximum rate of premium pay for administratively uncontrollable overtime.

² 5 U.S.C. 5542 and 29 U.S.C. 201, et sec.

³ 5 U.S.C. 5545(c)(2).

⁴ 8 U.S.C. 1353.

NONBILLABLE IMMIGRATION INSPECTION ACTIVITIES

The Act of March 2, 1931 (8 U.S.C. section 1353), provides that the extra compensation of immigration officers for the inspection of conveyances arriving in the United States on Sundays or holidays, or on weekdays between 5 p.m. and 8 a.m., shall be paid by the masters, owners, agents, or consignees of such conveyances. However, under the Act, no charge is made at designated ports of entry for the examination or inspection of passengers arriving by international ferries, bridges, or tunnels, or by aircraft, railroad trains, or vessels on the Great Lakes and connecting waterways when operating on regular schedules. In addition, section 15 of the Airport and Airway Development Act Amendments of 1976 (Public Law 94-353) provides that no charge will be made for the inspection of aircraft during regularly established hours of service on Sundays or holidays. This provision became effective January 1, 1977.

Mrs. SPELLMAN. Before we close the hearings, we would like to state that the purpose of the proceeding has not been to hold out for public ridicule any single agency or department but, rather, to review a total system and the policy behind it. This is the very first indepth review of our overtime pay system in over 20 years.

¹ Retained in subcommittee files.

I want to congratulate the various Federal employees who contacted the subcommittee to inform us of what they saw as problems, and as a consequence all agency and department heads, of the potential areas for abuse, and also how easy it can be for some people to maneuver the system if it lacks a proper review mechanism.

I do want to thank all of the agencies and departments who for the most part have given the committee absolutely splendid cooperation in our endeavor to ascertain the facts. They themselves tell us that they have been going through a learning process in many cases and that many of them are really astonished at what they are finding.

So we fully realize that the Secretary of each department of Government has not created the problem but, rather, has inherited it, and we do want to, through this means, help speed up the process. We are seeking compliance with a law that was written back in the past, back in 1956, and one which requires the GAO approval of the various accounts, and all of this time has elapsed and we still don't have full compliance with that law.

We want all departments and agencies to be on notice that the Director of OMB, Mr. McIntyre, has advised the committee that he intends to give his fullest cooperation, his fullest support, to the enforcement of this law. I even gave him the alternative of saying,

Well, if it is a bad law, let's change it and we will work together on doing that, and he said,

You can even take that part out and indicate to all of the agencies and departments that I am going to be working with you to require enforcement and implementation of this law.

I just want to assure everyone that the committee intends to do everything possible in working with GAO and in working with appropriate congressional committees, because a good bit of the information that we received is out of the jurisdiction of this particular committee. We will refer those items to the committees involved.

We will be working together to see that all the accounting systems are GAO approved and working properly during the duration of the 96th Congress. We appreciate your support.

The hearing is adjourned.

[Whereupon, at 12:15 p.m., the hearing was concluded.]

[The statements for the record follow:]

PREPARED STATEMENT OF KEVIN D. ROONEY, ASSISTANT ATTORNEY GENERAL FOR
ADMINISTRATION, DEPARTMENT OF JUSTICE

Madam Chairwoman and members of the subcommittee; I appreciate very much this opportunity to provide you with information on the administration of overtime pay in the Department of Justice. My remarks address the four issues identified in the Chair's September 26, 1978, letter to the Attorney General.

The first issue concerns whether the Department is paying too much for overtime on a cost-benefit ratio. Since 1974, the amount of money paid each year by the Department for overtime has increased over the preceding year \$6 to \$8 million. Despite the rise in actual cost for overtime, overtime as a percentage of the Department's total payroll cost has remained fairly constant of the last four years. For example, figures from the Report on Manyears and Personnel Costs for Federal Civilian Personnel (A-93 report) submitted annually to the Office of Management

and Budget, show that overtime pay for fiscal year 1974 represented 8.8 percent of the Department's total payroll cost. For fiscal years 1975, 1976 and 1977 overtime constituted 8.1, 8.2 and 8.0 percent of total payroll costs, respectively. For fiscal year 1978, we estimate overtime costs will not exceed 8.1 percent of total payroll costs. In addition to growth in workload, increases in overtime pay can be attributed to both higher rates of overtime pay based on higher base salary rates as well as the need for additional overtime hours based on the number of employees available to perform the work years required to accomplish a given task. Cost of living adjustments to base salary, for example, have a direct impact on overtime costs since the rate for overtime pay is computed on an employee's base rate of pay. The number of employees available to perform the work of the Department also has a significant impact upon the amount of overtime worked. At the end of 1977, for example, the Department had approximately 1,000 fewer employees on its rolls than at the end of 1976. Accordingly, to devise a system which will lend itself to cost-benefit analysis of overtime payments many variables must be considered, some of which are beyond the control of the Department.

In reviewing the amounts of money spent by the Department each year on overtime pay, it is apparent that our largest overtime costs are incurred for administratively uncontrollable overtime (AUO). This is overtime paid on a percentage basis to employees engages in work which requires them to independently recognize situations in which they must continue to work or return to duty beyond normal duty hours. These employees are not paid for their overtime on an hour-for-hour basis; rather, they are paid at the rate of 10, 15, 20, or 25 percent of base pay depending on the average number of hours of overtime worked during a prior "computation" period. This pay is always less than that which would accrue if the employee were paid at the hourly overtime rate which applies to most Federal employees. The Department has authorized AUO pay for six of its occupations which are primarily involved in law enforcement investigative activities.

Approximately 13,000 employees, primarily criminal investigators in the Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), and Immigration and Naturalization Service (INS), are eligible to receive AUO pay. AUO paid in fiscal year 1977, which also included AUO paid to approximately 1600 deputy marshals, was \$53,735,000 of a total overtime cost of \$80,053,000.

Since AUO pay represents such a large percentage of the total overtime amounts expended by the Department, I think it important to distinguish between the situations warranting AUO pay and those requiring regular overtime pay when addressing the second issue in your letter. This issue asks whether we should be hiring more part-time and intermittent employees.

The premise upon which AUO pay is authorized is that the employee is engaged in an activity which requires him or her to recognize the necessity to work past normal duty hours to complete an assignment. For example, an investigator shadowing a suspect is not permitted to discontinue surveillance of the suspect simply because 5:30 p.m. has arrived. The very nature of this work makes it impossible to schedule and precludes the substitution of another employee to perform the work in lieu of paying overtime.

Premium pay authorized by special statute (8 U.S.C. section 1353) for port-of-entry inspectors of INS has nearly equaled that paid for regular overtime in the Department over the past four years. Accordingly, it represents a significant portion of the Department's overtime payments, although approximately 50 percent of the cost incurred is recoverable by the Department from carriers. Substitution of additional employees to perform this function would not reduce the costs involved since the statute provides that premium pay will be paid for work occurring between the hours of 5:00 p.m. and 8:00 a.m. or on Sundays or holidays.

The Department of Justice has discussed with the Office of Management and Budget potential changes in section 1353 of title 8 of the U.S. Code. We are advised that OMB will institute a study of the matter in cooperation with the Department of Justice and other concerned agencies.

The remaining category under which the Department incurs overtime expenses is for overtime authorized by section 5542 of title 5 United States Code and the Fair Labor Standards Act (FLSA) which is payable at time and one-half of the employee's rate of basic pay. In fiscal year 1977, the Department expended approximately \$13.5 million in overtime pay prescribed by 5 U.S.C. section 5542 or FLSA. These overtime payments account for only 1.34 percent of our total payroll and probably compare favorably with expenditures in industry and elsewhere in Government. Nevertheless, we view this as the category which most lends itself to the substitution of part-

time or intermittent employees to reduce the amount of overtime required, and we are asking the Department's sub-elements to review anew the use of such overtime to see if greater use can be made of part-time and intermittent employees.

Even today intermittent employees, that is employees who are called to work on an occasional or irregular basis and paid when actually employed, are relied upon by the INS to perform interpreting duties and to serve during seasonal tourist peaks as immigration inspectors. Intermittent employees are also used, to a far lesser extent, by other organizations of the Department, most notably by the U.S. Marshals Service (USMS) as matrons to escort female prisoners and as guards.

Factors which entered into the use of part-time and intermittent employees were the types of work to be performed and the availability of the requisite skills in the labor market. INS, for example, has developed a sizable corps of individuals, mostly school teachers, who return each year to serve as immigration inspectors during the peak tourist season. Even when the needed skills are available in the labor market, positions which require technical expertise or in-depth knowledge of specialized functions or techniques present training problems. Several weeks of inservice training are need to prepare the worker to be proficient in the job. This, of course, adds considerably to the expense of using such employees on a less than full-time basis. In addition, increasing the workforce with employees scheduled to work less than full-time, assuming the same overall number of work years of work are to be performed, requires supervisors to control additional employees, which makes their jobs more difficult. Accordingly, part-time and intermittent employment has normally been limited to positions requiring basic clerical or technical skills, or, to employing or short periods of time, individuals possessing a high degree of technical or professional skill to provide specialized advice and assistance within a specific area or field, usually on a project basis.

Accounting controls maintained over the payment of overtime consist of requiring an authorizing official to approve requests for scheduled overtime in advance and for supervisors to certify the performance of overtime work on time and attendance records for their employees. The rate of overtime for employees eligible for administratively uncontrollable overtime under 5 U.S.C. section 5545(c)(2) is certified by the employee's supervisor at the end of each AUO computation period. Payments of overtime to an individual employee entitled to overtime under 5 U.S.C. section 5542 are limited during each biweekly pay period to the maximum rate of GS-15, the salary limitation imposed by 5 U.S.C. section 5547. An edit feature of the automated payroll system assures overtime payment does not exceed this amount.

The Department also publishes a biweekly report entitled the "Accounting Station Posting Media," which contains overtime hours and dollar amounts along with base pay data for each employee. These reports are furnished to each administrative officer in the Department. The Department's Financial Management Staff monitors overtime expenditures on a monthly basis against funds budgeted for overtime.

In addition to these controls, some of the Department's offices and bureaus have instituted internal procedures to further assure the accuracy of overtime payments. These include designating certain high level officials to approve all overtime in advance, monitoring overtime expenditures on a quarterly basis against funds allocated for overtime and requesting supervisors to report on the quantity of work performed during overtime periods.

In response to the fourth issue, I suggest strengthening the existing system, to better assure the need for overtime and the accuracy of overtime payments, by the following means:

- (1) Maintaining records of work performed during overtime to match against dollars spent to insure cost effectiveness;
- (2) Requiring supervisors to review a biweekly listing of their employees who received premium pay, including hours worked and amounts paid.

Thank you for affording me the opportunity to provide you with this information. I trust it is helpful to the committee.

PREPARED STATEMENT OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The American Federation of Government Employees, which represents over 600,000 Federal employees for purposes of collective bargaining under Executive order 11491, is pleased to submit its views on the use of overtime within the Federal government.

We are particularly gratified to have the opportunity to comment in light of the recent series of "horror stories" on this issue featured in the Washington Post. We recall seeing, as part of this series, a cartoon portraying Donald Duck as an idle Federal employee sitting with his feet upon the desk, a cartoon which was juxtaposed next to a sensational headline concerning the amount of overtime fraud in the Federal government. Although the accompanying story concerned the inadequacy of the payroll accounting system within the Department of Housing and Urban Development, millions of readers may well assume that here is but another example of how the faceless bureaucracy, staffed with overpaid and underworked personnel, is wasting the taxpayer's dollar.

Our membership also shares the tax burden. Our membership is also vitally concerned about the achievement of effective and economical government. Our membership is also angered by abuses of premium pay benefits by a tiny minority of Federal employees, abuses which jeopardize the rights of all personnel. Our membership is disturbed that long-standing management deficiencies—such as inadequate control and review of this program—remain uncorrected and in turn encourage such abuses. Hopefully these hearings will provide a balanced look at the entire problem and help dispel the negative image of all public employees built by some sections of the media.

We need to first address the issue of why various Federal agencies tend to rely so heavily on the use of overtime. The investigation initiated by this Subcommittee indicates there is no single explanation; rather a variety of causes is operating. Whereas in some agencies the existence of obsolete accounting systems has allowed instances of fraud to occur, and this is a point we shall shortly address, in other agencies the improper use of overtime results from conditions far beyond the reach of the individual employee or manager.

Nowhere is this more apparent than in the troubled history of the Social Security Administration within the Department of Health, Education and Welfare. Serious problems first began to surface back in 1973 for two principal reasons. First, during the Nixon-Ford years, shockingly inadequate and rigid annual personnel ceilings were established for the agency. Second, major new program responsibilities were added on by Congress, sometimes in a chaotic fashion. For example, early in 1974 Congress enacted major changes in the administration of the new Supplemental Security Income program, due to be implemented rapidly in May, 1974, and the agency was faced with the monumental task of adapting to these mandated and sometimes conflicting requirements.

The result was predictable. Existing personnel were called upon to make considerable personal sacrifices to implement the new SSI program. Thousands of employees were required to spend Saturdays and Sundays undergoing extensive retraining. Aside from the damage done to employee health and family relationships, the cost of overtime within the agency mushroomed. As a result of SSI and other various program add-ons, over the past four years the average SSA employee has had to work as much as 160 hours of overtime per year to carry the increased workload. We estimate that the cost of forced overtime in this period cost the taxpayer at least \$200 million more than the cost of using full-time personnel during regular working hours.

Criticism of the cost of this inordinate amount of overtime emerged following 1974 and the agency began to discourage its use. No new personnel were hired, however, to take up the work being set aside. As a result; the error rate on retirement and survivor's claims began to climb dramatically, a fact the Congress is not unfamiliar with. Such problems have not disappeared, and the crisis facing the SSA is unfair to both career personnel and program beneficiaries alike. This year AFGE testified on these problems before the House Labor-HEW Appropriations Subcommittee, and we are gratified to note that at least 1,000 new permanent positions have been added to the SSA this fiscal year.

We would like to point out that the primary mission of the SSA is the prompt payment of correct benefits. In the past we have been extremely critical of the bureaucratic strategies and policies of the White House, the Office of Management and Budget, and the Department of Health, Education and Welfare which imposed inertia on the management of the SSA and prevented the successful performance of its mission. For too long that agency has been called upon to do far too much with far too few personnel and other resources.

Career employees take pride in their work, and pride in the fact that, as Alan Campbell pointed out in a recent speech before the International Personnel Management Association, despite these problems productivity within the SSA increased 32 percent from 1968 to 1976, a far more dramatic increase than found in other agencies.

Unfortunately, the SSA is not the only Federal agency to be faced with chronic staffing shortages that lead to overtime abuse. The Grain Inspection service within the Department of Agriculture has been plagued with serious problems since 1976 legislation transferred this function to the Federal level. United States Grain Inspectors are faced with a variety of hazards; a hostile industry management which never supported the concept of federalization of grain inspection services; dangerous working conditions, as evidenced by the fact that in the past two years there have been 23 serious grain elevator explosions, resulting in the deaths of 14 Federal grain inspectors.

Despite these conditions, Federal grain inspectors still do not qualify for hazardous duty premium pay, a fact we are attempting to rectify in working with the Administration. Most inspectors are paid GS-3 through GS-7 rates, from \$8,366 to \$13,014 per year at the entry level, and the Grain Inspection Service has had difficulty in attracting sufficient numbers of qualified recruits from private industry.

As a consequence, inspectors reported to us that most of them had been working 84-hour weeks from last Thanksgiving to early January of this year. The combination of agency staffing shortages and the requirements of the grain industry itself placed extreme demands upon the dedication of these Federal personnel, who work in constant fear of explosions or fires in the grain elevators. Certainly this is one aspect of overtime abuse which deserves the most careful Congressional scrutiny.

At this point we cannot stress too strongly that the continuing imposition of rigid year-end personnel ceilings, as well as Congressional insensitivity concerning Executive Branch program implementation, indicate that serious new productivity and overtime problems throughout the government may be facing us in the near future.

President Carter has announced his intention to cut some \$20 billion in non-defense spending during the next fiscal year, which will undoubtedly result in some personnel cuts, and he has recently imposed a government-wide hiring freeze. An amendment to the Civil Service Reform Act of 1978 requires the government to reduce Federal employment to the level of January 1, 1977, but recommends no corresponding program reductions. We implore Congress to weigh carefully the implications of such short-sighted economy measures, and what their true cost may be in the long run. If the concern of this Subcommittee is to reduce the amount of overtime in the Federal government, then it is obvious we are not moving in the right direction.

We would now like to briefly turn our attention to the second major area of concern, the elimination of overtime fraud. In its testimony before this Subcommittee, the GAO noted that serious deficiencies exist in numerous agency accounting systems. Such a situation creates ideal conditions for those personnel who are dishonest enough to attempt to cheat the taxpayers.

For our part, we cannot understand why, despite strong pressure from the GAO over a number of years, nothing has yet been done to improve these systems. The GAO testified that the major obstacle has been, in the opinion of the agencies, the lack of adequate staff to implement the proper changes. The number of personnel required should not be extensive, and the potential savings should far outweigh any accrued costs. We are gratified that several agencies which testified in these hearings are in the process of making efforts to upgrade their accounting systems, and we are confident that once this is done, the amount of overtime fraud in the Federal government can be reduced to negligible proportions.

We would also like to draw your attention to one aspect of overtime abuse which is frequently overlooked, and this concerns complaints from numerous Federal personnel that they frequently work overtime for which they are not compensated. We note that the GAO, in conducting a recent survey of overtime abuse, found that nearly one-third of the 2,351 employees responding to the survey indicated they work one extra hour each week in uncompensated overtime. We do not know how serious a problem this is throughout the Federal government, but we hope it can be addressed in any study to be developed by this Subcommittee.

In my statement today, I have referred to several specific instances of management deficiencies, especially in the implementation of certain new legislated programs and in the effectiveness of certain of the management control systems now in use. I have previously testified in detail on some of these matters before both legislative and appropriations committees of the Congress.

In summation, I want to emphasize that excess overtime in government is primarily due to one of three major causes:

1. New or expanded programs are initiated by the Administration and the Congress with little or no realistic consideration being given to the workload and staffing implications and needs of such programs.

2. Arbitrary and rigid manpower controls, completely unrelated to actual workload, are imposed by the Congress or the Office of Management and Budget, on existing as well as on new and expanded programs.

3. Too many managers in government do not have the competence or ability to organize both their workload and their work force so as to accomplish their missions efficiently and in accord with good management practices. As I pointed out frequently during the long debate on Civil Service reform: "Government is not inefficient because rank and file employees are incompetent; it is because government has too many incompetent policy makers and managers."

In my view, unless these three basic causes of poor program management are attacked directly and effectively, the problem of excessive overtime will not be resolved. It certainly cannot be resolved if we focus primarily on the symptoms of such mismanagement.

STATEMENT OF MICHAEL G. HARPOLD, DIRECTOR, LEGISLATIVE AFFAIRS, NATIONAL IMMIGRATION AND NATURALIZATION SERVICE COUNCIL, OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

We are pleased to be given the opportunity by the Subcommittee on Compensation and Employee Benefits of the House of Representatives to submit this statement for consideration as the Subcommittee continues its investigation concerning overtime pay abuses. As the Subcommittee may know from our numerous previous appearances, the American Federation of Government Employees is the exclusive representative of the Immigration and Naturalization Service employees and we in our dual role of union representative and I&NS employee are anxious to be able to present our side of this controversy.

Much publicity has been accorded the Subcommittee's investigation and unfortunately, the overtime earnings of I&NS employees have in the press been lumped into the same pot with many of the valid violations the Subcommittee has uncovered. As federal employees, citizens and taxpayers we are as concerned as any others over abuse of overtime. The issue of overtime payments to I&NS employees does not fall under the category of overtime abuse, however, and it is our purpose in this presentation to make the record clear.

This is not the first inquiry into the use of overtime by the I&NS. The former Chairman of the House Government Operations Committee, the Honorable Chet Hollifield, remarked during one of his inquiries, "I have no quarrel with the employees who earned these amounts as long as it is actual overtime worked. But there is something wrong with the system that supports such a thing." We are not aware that the Subcommittee has uncovered any instances in the I&NS where the overtime paid has not been earned. Certainly none has been reported in the press. Rather, the charge seems to be that the amounts paid are simply excessive.

Madam Chairman, the employees of the I&NS worked for the money that they have received. If the amount of those earnings are considered excessive, then also do we as employees consider the hours we worked for that money excessive. Let us follow Mr. Hollifield's cue and examine the system that causes these earnings so that the Subcommittee may make its own judgment. To do so, we will examine three salient factors; the incredible growth of the I&NS workload against lagging resource gains; the peculiar nature of many I&NS tasks which necessitate the payment of overtime and the appropriateness of the various laws pursuant to which overtime payments are made.

THE I&NS WORKLOAD NECESSITATES HEAVY RELIANCE ON OVERTIME

The dominant theme during the past fifteen years has been the phenomenal increase in the I&NS workload. The origins of the present day difficulties encountered by the I&NS as an agency of government are directly traceable to the termination by the Congress of the Bracero Program in 1964. That program permitted the importation into the United States of agricultural workers from Mexico. At its zenith, the program permitted the entry of some 400,000 workers annually. Besides eliminating some of the pull factors here in the United States, the temporary need for harvest hands, the program permitted the employment and lawful entry of thousands of Mexicans who would have otherwise been unemployed or under employed and consequently were potential illegal entrants. While we make no comment on the Bracero Program itself, we do note that the termination of it marked a dramatic change in our enforcement program, our working conditions and the very hours we worked. In 1964, the last year of the Bracero Program, approximately 86,000 aliens were apprehended or located illegally residing in the United States. The Congress provided nothing to replace the Bracero Program and those

who had heretofore come to the United States legally then continued to come, now illegally. By 1967, a force of 1,756 Border Patrol Agents apprehended or located 94,778 illegal entrants while a force of 1,193 Investigators apprehended or located 48,053 aliens illegally residing in our major cities. This was essentially the same force on duty in 1964.

Let's move now to 1977, a full decade later and the last full year for which we have statistics. The Border Patrol had increased in strength to 2,434 positions, an increase of 38 percent over 1967. That force apprehended or located a total of 812,541 persons unlawfully here, an increase of 740 percent. Our Investigator force increased to 1,545 positions in 1977, an increase of 17 percent over 1967. Only in 1977, that force apprehended or located 204,193 persons unlawfully here, an increase of 323 percent. At the same time, that force of investigators who had worked 84,146 cases in 1967, worked a total of 288,804 in 1977, an increase of 245 percent.

	Investigator positions	Aliens app'd	Cases worked
1967	1, 193	48, 053	84, 146
1977	1, 304	204, 193	288, 804
Percent change	+17	+323	+245

	Border patrol positions	Aliens app'd or located
1967	1, 756	94, 778
1977	2, 434	812, 541
Percent change	+38	+740

White there are several factors which contribute to the reason for the phenomenal increase in productivity by our Investigators and our Border Patrol Agents, we submit that the outstanding reason is just plain hard work and long hours. Border Patrol Agents and Investigators are compensated for their extra hours by Administratively Uncontrollable Overtime which will be discussed further on in this statement. Coupled with that is a great deal of voluntary effort and time that goes unrecorded and uncompensated. I don't feel that any reasonable person would or could conclude that these employees are over compensated. What is apparent is that they are seriously overworked and if the Congress or the Administration feels that AVO payments are excessive, then let the Administration sponsor a sixfold increase in our Criminal Investigator staff and an eightfold increase in the size of the Border Patrol.

Similarly, the workload confronting other elements of the I&NS have dramatically increased. In 1967, a force of 1,400 Immigration Inspectors admitted 306,837,400 returning citizens and aliens while denying entry to 213,335 others. In the decade that followed, the inspector force increased by only 6.5 percent to 1,491. In 1977, while the number of persons crossing our land borders remained essentially the same, the number of aliens admitted at air and seaports increased 167 percent, the number of returning citizens by 100 percent, the number of alien crewmen by 30 percent and the number of those denied entry increased to 8,764,213 or 309 percent.

1967:		
Inspector positions		1,400
Citizens and aliens admitted air and seaports		8,589,877
Alien crewmen		2,036,877
Denied entry		213,335
1977:		
Inspector positions		1,491
Citizens and aliens admitted air and seaports		19,590,076
Alien crewmen		2,650,995
Denied entry		874,123
Percent change:		
Inspector positions		+6.5
Citizens and aliens admitted air and seaports		+128
Alien crewmen		+30
Denied entry		+309

Here again, the massive increase in the task confronting us could not have been handled absent long and arduous hours and consequent massive payments of overtime. In this case, overtime is paid pursuant to a special overtime statute which will be discussed further on.

There is no indication that the situation confronting our Inspectors is going to lessen. While figures are not available yet to quantify the increase in air travel experienced this summer we nevertheless know that it has occurred. The rise of foreign currencies against the dollar, and trans-oceanic air fares as low as \$120 have combined to give us the busiest summer we have had. Whereas five years ago international arrivals at San Francisco rarely exceeded 500 passengers a day, they now frequently exceed 3,000 a day, most non-immigrant visitors. Because of this increase, many of our inspection personnel went the entire summer without a day off and frequently were required to work double shifts. Because the quality of inspections suffers as a consequence of such a push, it may well be that the Summer of 1978 will mark the end of the popular conception of our immigration problem as being primarily a Mexican problem. The Atlantic and the Pacific are now no more of a barrier to the visa abuser than the Rio Grande ever was to the "Wetback" of old.

Another area requiring massive uses of overtime simply to keep abreast of the problem is adjudications of applications for benefits. In the decade 1967 to 1977 we experienced a 34 percent increase in the receipts of applications. In 1977, 717 Immigration Examiners with the assistance of inspectors who do adjudications at airports between flights, completed 1,399,300 applications for benefits.

But that's only half the story. In migration and Nationality Act Amendments of 1976 which became law on January 1, 1977 extended the preference system to Western Hemisphere natives and accorded them the right to apply to adjust their status to immigrant while in the United States. This caused an immediate upsurge in application receipts with which we simply could not cope. When Mr. Castillo became Commissioner in April 1977, he found our adjudications backlogs in the hundreds of thousands and growing daily. People were waiting six months and longer for service. We were in imminent danger of being inundated by paper. We didn't have the resources to cope with the problem and the Administration had not requested nor had the Congress given us the resources to cope with the results of these legislative changes. It was only through the medium of "Taskforces" and the working of large periods of overtime by both officers and clerks that we were able to keep even slightly ahead of the problem.

Belatedly, in a fiscal year 1977 Supplemental, we received 22 additional Examiner positions. But in the meantime, the Congress enacted a bill permitting some 150,000 Indochinese refugees to apply to become permanent residents of the United States. No resources accompanied this legislation. The fiscal year 1978 budget authorized 100 additional Examiners. But still, when the program ended on September 30, 1978, it had only been because of the long extra hours put in by our personnel in Community Centers and church basements, on Saturdays, days off and spare evenings that the program could be completed. I&NS employees were compensated for these hours under FEPA overtime provisions.

Nor were adjudications the only program necessitating massive infusions of overtime in the past year. Another of Commissioner Castillo's early actions was to shore up our Border enforcement efforts along the Mexican border between Tijuana and San Diego. The detailing of 100 additional Border Patrol Agents to that sector produced some dramatic results. But again those results were only achieved by the long extra hours worked by those agents.

THE NATURE OF MOST I&NS TASKS NECESSITATES THE USE OF OVERTIME

Administratively Uncontrollable Overtime (AUO)

The I&NS has approximately 2,500 Border Patrol Agents and 1,500 Criminal Investigators who are eligible for and receive Administratively Uncontrollable Overtime (AUO). As the Subcommittee knows, AUO is paid in increments of 10 percent to 25 percent of the employee's base salary dependent upon the average of such hours worked in preceding pay periods. The rate for computing such overtime is not to exceed the base of a GS-10.

The journeyman grade for Border Patrol Agent is GS-9. Supervisory and Anti-Smuggling Agents range from GS-10 to GS-15. Journeymen grades for Criminal Investigators are GS-11 while those investigators assigned to anti-smuggling duties are frequently GS-12. This means that all Border Patrol Agents past the fourth step of a GS-9 and all of our investigative personnel who have achieved journeyman grade are compensated for the extra hours they work at a rate less than their base pay.

For those of our officers who are engaged in patrolling the border and apprehending illegal entrants the justification for receiving AUO is almost self-evident. The I&NS bears the unfortunate reputation of taking more persons into custody than any other agency in the world. In fiscal year 1978 1,096,000 were apprehended or located, an average of 400 arrests for each officer assigned such activity. A Border Patrol Agent or an Investigator is customarily assigned a basic eight hour shift. However, the more he works, the more work he makes for himself. If it takes one hour to process each alien he apprehends and he apprehends one each hour, an Agent may stop searching at the end of four hours, enjoy a short lunch and then spend the remaining four hours of his shift processing. Such is rarely the case.

An Agent may apprehend forty aliens in the first hour of his shift. He may patrol six hours and suddenly come upon a group of ten. He may be working investigative leads and not apprehend his quarry until hours after the end of his shift. Or, he may cut the alien's sign or respond to a sensor alert and wind up tracking an alien or a group of aliens not only through the duration of his shift, but through the ensuing shift and into a third before he finally takes the aliens into custody. And always after the illegal entrant is caught, there is the processing and the jailing. No other facet of the Service's mission is more unpredictable concerning the end of a day's duties. The overtime earned, I am sure the committee will agree, is truly administratively uncontrollable.

Equal to the justification for AUO for patrol of the border and apprehension of illegal entrants is that authorized our officers engaged in anti-smuggling work. Commissioner Castillo has placed a very high emphasis on the apprehension and conviction of smugglers of aliens. Three-hundred and thirty Border Patrol Agents and Criminal Investigators are assigned to this task. Here again it would be ridiculous to suggest that such work is amenable to a scheduled eight hour day. Successful cases are often made only after periods of continuous duty stretching into several days, the officers catching food and sleep as they may. Smuggling cases frequently begin with information picked up on the other side of the border followed by lengthy surveillance of a border crossing point and drop houses on this side of the border and the tailing of smuggling loads as far as from San Diego, Calif., to Chicago, Ill., before sufficient evidence is gathered to prosecute the principals in a smuggling ring.

Another important aspect of our investigative work are "dual action" cases. These are cases which require either by statute or because of suspected fraud, a field investigation before an application may be granted. A common type of dual action case is a visa petition based upon a suspected fraudulent marriage.

A frequent and highly successful investigative technique in phony marriage cases is to first find out when the petitioner and/or beneficiary leave their alleged home for work. The investigator then goes to the residence a couple hours in advance of customary departure, waits outside so that the petitioner can't claim that the alleged spouse left at an earlier hour. When the petitioner leave the residence, the investigator approaches him and enquires as to the whereabouts of his or her spouse. This technique solves cases rapidly, but it can't be scheduled in an eight hour day. Nor can a schedule cover the need to interview witnesses in the evening after work. An investigator's work day is something that only he can plan and it is based upon variables over which he has no control.

Not the least of these factors is his case load. Without massive usage of overtime by investigators assigned to complete dual action cases, the Service could not have made the progress it did against the adjudication backlog. While this push factor on overtime usage could be reduced by increasing the investigative staff, the number of investigators assigned this function has been reduced by 167 positions which have been re-programmed into other areas such as anti-smuggling having an even greater priority.

Another activity necessitating the usage of AUO are call outs. These may be from local police or other federal agencies having aliens in custody who want a determination of their immigration status. We must comply even though it means getting up and frequently driving many miles in the middle of the night or on days off. Investigators are also called out in order to provide support for cases developed by Inspectors at ports of entry.

Inspectional overtime (1931 Act)

The 1,500 Inspectors at the land and sea and airports of the United States receive what is commonly called 1931 Act overtime. This act covers overtime payments for Inspectors of the I&NS for those hours worked beyond their normal work day between 5 p.m. and 8 a.m. It also calls for two days pay for eight hours worked on Sundays and Holidays. All other overtime is pursuant to the 1945 Act (FEPA). Immigration Examiners, Deportation Officers and some Investigators and Border

Patrol Agents who are assigned to inspections on overtime also receive compensation under this provision. Pursuant to Agency policy, no employee above GS-12 is assigned to overtime inspection activity.

The 1931 Act was patterned after the 1911 Act which governs overtime payments for Customs Inspectors. The 1911 Act is the far more lucrative of the two, but the 1931 Act when enacted was considered to be a "reform" act, making the compensation of an Immigration Inspector more nearly comparable to that of a Custom Inspector. A discussion of the merits of each act is the subject of a Comptroller General's Report entitled, "Premium Pay for Federal Inspectors at U. S. Ports-of-Entry", dated February 14, 1975. We will not comment on that report here, but ask that if the committee expects to recommend changes in the 1931 Act that we be allowed to comment separately and in detail.

There are three facets of the 1931 Act which are worthy of comment at this time, however. First, compensation is based upon the employee's actual rate of pay. It is essentially straight time with double time on Sundays and Holidays. Double time on Sunday, we can't resist adding, is not considered a terribly radical idea in the private sector.

The 1931 Act also provides for a two hour rollback. In other words, an inspector normally working days who is called out to inspect a ship arriving at midnight is entitled to claim the two hours preceding his assignment as get-ready and travel time. The Comptroller General in his report recommended that if the 1931 Act is abolished, Inspectors be compensated under FEPA for travel and get-ready time both to and from an overtime assignment.

The third factor which should be considered is the manner in which the I&NS utilizes the time compensated by the 1931 Act. In order to manage our adjudication workload referred to earlier, the I&NS "remotes" those applications which do not require interviews to Ports-of-Entry. While Inspectors are waiting for flights to arrive or in order to complete their eight hour tour of duty on a Sunday or Holiday, the Inspectors will adjudicate these applications. Thus, the I&NS accomplishes double usage of inspectional overtime. As much as 40 percent of our adjudication caseload is handled in this manner.

Approximately fifty percent of the inspectional overtime worked is reimbursed to the government by the carrier or party of interest. This is true in the case of charter or non-scheduled arrivals or if a scheduled carrier arrives more than one hour off it's scheduled arrival time. The reason for this is obvious. It would be prohibitively expensive for the government to staff all Ports-of-Entry on a twenty-four hour basis, particularly in that the number of inspectors required varies so widely. For instance, an arriving cargo vessel commonly requires the services of only one inspector while a wide-body charter aircraft arriving at midnight can require the presence of as many as nine inspectors.

Inspectional Overtime has frequently been the victim of sensationalism in the press. Stories are told of Inspectors sometimes doubling or tripling their salaries on overtime. This occurs, but when it does, that individual has been required to work 80 and 120 hour weeks also. Summers worked without days off are commonplace. So are sleepless nights spent at airports and seaports when an Examiner or Deportation officer is also required to put in an eight hour day at his normal duties.

The only difference between 1931 Act overtime earnings and AUO earnings is that AUO is restricted to 25 percent of the employee's base salary. If most of our Investigators and Border Patrol Agents were compensated for all the hours they worked, the figures would be equally spectacular. But what would the Subcommittee do to rectify the situation? Cut off compensation after an Inspector works ten hours overtime each week? We think you'd agree that that is not the solution and that hours worked should be properly compensated.

1945 Act overtime (FEPA)

This is the basic overtime statute covering white collar employees and the third overtime act applicable to I&NS employees. It is differentiated from AUO in that it is used in instances where the need for overtime work can be foreseen and scheduled. The 1931 Act while amenable to scheduling or at least advance notices is applicable only to immigration inspections during certain hours.

During those overtime hours not covered by the 1931 Act, mainly work performed between 8 a.m. and 5 p.m. on weekdays, an Inspector is compensated under FEPA. For example, if an inspector is assigned duty from midnight to 8 a.m. on a Tuesday and is required to remain after until 10 a.m., he is compensated for two hours at time and half of his base rate. However, he can not be compensated at a rate higher than the first step of a GS-10.

Call outs on Saturdays or days off, not Sundays or Holidays, are compensated only for time actually worked. No travel or rollback time is compensated, but the Service does pay a basic two hour minimum for an inspectional call out.

FEPA is also the basic method of compensation for overtime worked on adjudications. Because the adjudication workload was too great to be able to absorb the increased task of adjudicating the applications of 150,000 Indochinese refugees, the Service was required to implement a great many innovations. For example, the Service trained hundreds of community volunteers who then went back to various community centers, church basements etc. and assisted each applicant in filling out the required forms. Then, after their normal work days or work weeks, I&NS officers would go to these centers and examine each of the applicants. Of course, this required the payment of much overtime, both for the officers who went out into the community and the clerks who were required to put in many overtime hours finishing up the processing. But it was only through these means, and they were extreme, that the I&NS was able to accomplish this task.

The Indochinese program is but one example of many areas where the I&NS has used just about every possible innovation to accomplish its mission. There are many others such as combining applications, upfront processing, reducing the amount of processing for apprehended aliens and computerizing I&NS records. Commissioner Castillo has been described as a "compulsive tinkerer." Without his innovations we would be buried in a sea of paper and the overtime he has saved while un-measured, is massive. None-the-less, in the end, over extension of existing resources has been necessary. The task has been accomplished by long arduous hours put in by virtually all I&NS employees. It would seem ungrateful to now begrudge them the compensation they earned.

APPROPRIATENESS OF THE THREE OVERTIME STATUTES UTILIZED BY THE I&NS

Are there alternatives to the use of overtime by the I&NS? The most obvious answer is better staffing. We as employees are of course, very much in favor of such a solution and as a Union, we have lobbied hard over the years for increased I&NS manpower. A notable success came in 1976 when we were able to convince the Congress that the Administration's proposed reduction in I&NS strength was unwise. Never-the-less, the I&NS has had very spotty success with manpower requests. A chart showing the I&NS budget history for fiscal year 1976, fiscal year 1977 and fiscal year 1978 is attached and the committee will note that our very first obstacle is the Department of Justice. Inadequate staffing directly results in increased overtime and we can't help but note the sanctimony with which the Assistant Attorney General for Administration cloaked himself in his appearance before you on this issue.

Another possible solution is the use of part time or intermittent employees to take care of peak seasonal manpower needs. The I&NS does rely on this source to some extent, hiring intermittent employees at northern border ports during the summer and at major airports. This is not a good solution because the Inspector job is becoming increasingly complex. Inspectors now are required the completion of 16 weeks formal training at the Federal Law Enforcement Training Center in Glynco, Ga., plus the completion of in-service training during the remainder of the first year.

Training requirements in our other occupation are at least as great. As for the use of part time or intermittent employees in primarily law enforcement occupations, I think the difficulties of that are obvious.

The only immediate answers to the problem appear to be proper staffing and proper use of overtime. And, regarding the proper use of overtime, we would make the following comments:

(1) Administratively Uncontrollable Overtime should be compensated at time and one half of the employee's actual base salary. Further, the 25% limitation should be removed. If the I&NS desires to control the amount of this overtime worked it should seek to control the situation that causes it to be worked. To compensate only part of the time actually worked and at a reduced rate is simply not fair.

(2) FEPA, or 1945 Act overtime should be compensated at full time and one half of the employee's actual base salary. When the work requiring that overtime requires travel away from home then that travel time should also be compensated at the same rate.

(3) There is nothing wrong or radical about 1931 Act Inspectional overtime. Some of the principles in it are noteworthy and should be emulated in other overtime legislation. Double time on Sundays and Holidays has been commonplace in private industry for decades. The two hour "call-out" or get ready time

is at least a minimally acceptable principle. Besides double time on Sundays and Holidays, adequate compensation would include full time and a half on other days to include travel and preparation time.

CONCLUSION

No group of employees in the Federal Government deserve less to have their compensation questioned than the employees of the Immigration and Naturalization Service. Our immigration policy has been a subject of national debate for a full decade. Neither the Congress nor the President are providing any real leadership in solving the difficult policy questions that must be answered. The American public is not only divided on the issue, but frequently exhibits outright schizophrenia. Yet we have a law on the books. We have trained and deployed 10,000 Federal Employees to enforce and administer that law. And with little more incentive than simple dedication to the integrity of the law and the dignity of this country, those employees are out there doing a hopeless, thankless, frustrating task that few of their countrymen understand or appreciate. Does someone now propose to say that we are overpaid for doing it?

Madam Chairman, we have asked little for the tasks that we perform. We work every one of those overtime hours and a lot more that are never recorded. We work them because this Nation expects us to, and we have never conditioned our efforts on the amount of compensation to be earned. Nevertheless, we in turn are entitled to just compensation. We would appreciate this committee's support in insuring that we get it.

Thank you.

IMMIGRATION AND NATURALIZATION SERVICE BUDGET HISTORY

	Inspection positions	Adjudicator positions	Border patrol positions	Investigator positions
Fiscal year 1976 base.....	1,367	556	2,236	1,329
I & NS request to Justice.....	388	337	1,203	422
Justice request to OMB.....	99	337	413	134
OMB request to Congress.....	0	240	213	0
Congress enacted.....	124	129	198	-25
Fiscal year 1977 base.....	1,491	658	2,434	1,304
I & NS request to Justice.....	388	107	1,013	422
Justice request to OMB.....	100	1	7	2
OMB request to Congress.....	-133	-25	5	-127
Congress enacted.....	56	32	-7	241
Fiscal year 1977 supplemental base.....	1,547	717	2,427	1,545
Justice request to OMB.....	0	122	0	0
OMB request to Congress.....	0	22	0	0
Congress enacted.....	0	22	0	0
Fiscal year 1978 base.....	1,547	739	2,427	1,545
I & NS request to Justice.....	816	169	1,033	786
Justice request to OMB.....	71	2	28	2
OMB request to Congress.....	70	0	3	0
Congress enacted.....	170	100	153	36
Fiscal year 1979 base ¹	1,717	839	2,580	1,581
Congress enacted.....	200	0	293	155
Fiscal year 1980 ²				

¹ We don't have the budget history or fiscal year 1979 but the Congress enacted the following increases. We do not know what effect the President's proposed hiring freeze will have on these increases.

² We understand that the Justice Department has granted an increase of only 62 positions in the fiscal year 1980 budget request.

STATEMENT OF JOHN S. MCNERNEY, NATIONAL PRESIDENT, FEDERAL CRIMINAL INVESTIGATORS ASSOCIATION

Madam Chair and members of the subcommittee, the members of the Federal Criminal Investigators Association are vitally interested in the hearings recently held by your subcommittee on compensation and employee benefits on the subject of administratively uncontrollable overtime also known as premium pay. We thank you for the opportunity to express our views and respectfully request that this statement be made a part of the record and considered by you and your subcommittee members in arriving at a conclusion.

There is little doubt that current laws and regulations governing the administration of this subject (premium pay) are being interpreted in as many different ways as there was agencies. There has never been a uniform interpretation and application of this subject by the numerous agencies that make up the Treasury Depart-

ment and the Department of Justice and the many other agencies that are not a part of these two departments. As a matter of fact, post office inspectors, who are members of the law enforcement community, are exempted from the provisions of the Federal Personnel Manual governing premium pay and are covered by regulations issued by the Postmaster General under the authority of title 39, United States Code, Part II. Even within the same agency, the allowable percentage of premium pay for the same type of activity differs from office to office.

The enforcement of the Federal criminal laws of the United States requires the same investigative techniques, involves the same hazards, and demands the same high caliber of investigation regardless of the agency conducting the investigation. The same standards of performance and the same precautions are required in the protection of dignitaries no matter what agency has the assignment. Since crime is not an 8-to-5 occupation and all dignitaries do not arrive and conduct their business between 8 and 5, then it necessarily follows that criminal investigations and dignitary protection cannot be conducted solely between the hours of 8 and 5.

During the recent election campaigns, the public asked for and even demanded more law and order, more convictions of criminals, and longer sentences for those convicted. The death penalty was also a great issue in numerous States and this item appeared on many voting machines as a referendum item. How can the United States Government or the head of any agency tell the American public that criminals work 24 hours a day, but their investigators can only work from 8 to 5? We keep hearing cries from the public about the drug problem, about organized crime, about the large number of illegal aliens in this country, about smuggling and last but not least, about the large number of criminals and others that pay little or no income tax. Do we in law enforcement tell these people that we work from 8 to 5 and are unable to apprehend them and that they should take their complaints elsewhere?

The usual arguments voiced against premium pay by some agencies are: (1) It is not necessary; (2) it is too costly; and (3) it is too difficult to manage. These are fallacious arguments at best, because other agencies do not have the same problems with premium pay.

Premium pay is a necessity since it is one of the most important tools at the disposal of the criminal investigator. It is invaluable to the United States Government, who is seeking to convict the subject and must be concerned with a speedy trial; it is important to the subject of an investigation to have a determination made one way or the other as soon as possible; it is also important to the witness or prospective witness. Let us look at a few examples:

1. An investigator is 40 miles from his post of duty and at 4:45 p.m. locates a witness who is likely to be important to his case. Does he proceed to his post of duty and return the next day and hope that the witness will be available that day, or does he stay in the area and interview the witness after 4:45 p.m.? His return to his post of duty would not be a negligent action, but would be costly to the government.

2. Using the above example, when the investigator arrives home, does he write-up the memorandum of interview while the facts are fresh in his mind, or does he wait until he gets to the office the following day?

3. A witness or prospective witness is usually reluctant to be interviewed at their place of employment and would prefer to be interviewed after normal working hours. Does the investigator insist on conducting the interview during normal working hours and run the risk of having a hostile witness, or does he conduct the interview after regular working hours and have a cooperative witness to interview?

4. Should we assist the alleged subject and make an early determination of his guilt or innocence by working after regular duty hours to complete the investigation, or should we "keep him on the hook"?

5. An agent of the Criminal Investigation Division of the Internal Revenue Service could be accused of violating the disclosure laws by going to the subject's place of employment, which could subject him to severe disciplinary action. Should the agent be forced to place himself in such a compromising position, or should he interview the subject at his home after normal business hours?

6. Supervisor "A" has under his jurisdiction agents "X", "Y" and "Z" from 8:00 to 5:00. At 5:00 p.m. supervisor "A", who is not on premium pay, goes home. His agents are on premium pay and continue to work after 5:00 p.m. without supervision. The agents run into a problem and call supervisor "A". Should he do what has to be done, or does he tell them to see him in the morning?

These are but a few of the situations that call for premium pay and yet are not considered for premium pay purposes by some agencies. They would insist that the investigator take compensatory time. Premium pay is in the best interests of the government in these and other situations where it is good investigative practice to stay on the job long after regular duty hours.

Premium pay is the greatest bargain the United States Government or any other employer has ever had. The investigator works his regular duty hours at one rate of pay and if he works overtime on premium pay is paid at a lower rate. The government gets the expertise and maturity of a higher grade investigator for undesirable tours of duty at a rate of pay that is far less than commensurate with the service being rendered. I am sure the Department of Labor would not permit this type payment in private industry. Additionally, clerks, file clerks, typists, etc. are compensated at a higher rate of pay than investigators are paid on premium pay. It should also be noted that investigators on premium pay are required to work a certain number of hours while their agencies require them to work more than the required number.

Premium pay would not be difficult to manage if the proper controls were built-in and a sensible system of accounting installed. Present controls by some agencies are too detailed to be of any value and result in a "mish-mash" of bookkeeping that can be best described as an accountants nightmare.

Congress must subscribe to one of three alternatives in reaching a conclusion on this very important subject. First, all criminal investigators should be on premium pay at their grade and step and not at the base rate of a GS-10. Two, all criminal investigators should be paid time and a half for all overtime they perform and be paid at their grade and step and not at the base rate of a GS-10. Three, have a policy of less than effective law enforcement within the Federal Government.

On behalf of all the members of the Federal Criminal Investigators Association, I thank you for the opportunity to express our views on this most important subject.



