

96471

**BENEFITS TO FEDERAL LAW ENFORCEMENT
OFFICERS AND FIREFIGHTERS**

HEARING
BEFORE THE
SUBCOMMITTEE ON LABOR STANDARDS
OF THE
COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES
NINETY-EIGHTH CONGRESS
FIRST SESSION

ON
H.R. 26 and H.R. 622
TO AMEND TITLE 5 OF THE UNITED STATES CODE TO PROVIDE DEATH
BENEFITS TO SURVIVORS OF FEDERAL LAW ENFORCEMENT OFFICERS
AND FIREFIGHTERS, AND FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, D.C., ON JUNE 16, 1983

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(II)

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(III)

BENEFITS TO FEDERAL LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

THURSDAY, JUNE 16, 1983

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LABOR STANDARDS,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to call, in room 2257, Rayburn House Office Building, at 10 a.m., Hon. Dale E. Kildee (acting chairman) presiding.

Members Present: Representatives Kildee, Clay, Erlenborn, and Petri.

Staff present: Bruce Wood, minority labor counsel; Bob Beck, clerk; and Gary Timmons, aide to Mr. Kildee.

Mr. KILDEE. The subcommittee will come to order. We are meeting today to consider H.R. 622, a bill to establish a \$50,000 Federal death benefit for the survivors of Federal firefighters and law enforcement officers who are killed in the line of duty. A similar benefit was authorized for State and local firefighting and police personnel by the Public Safety Officers Benefits Act of 1976. Earlier versions of H.R. 622 were passed in both Houses during the 96th and 97th Congresses but failed to become law either time.

What is at issue with this bill is a simple question of equity, whether the families of our Federal firefighters and police officers deserve the same level of benefits Congress has already granted to their State and local counterparts. Because I believe that they do, I introduced H.R. 622.

[Texts of H.R. 26 and H.R. 622 follow:]

(1)

98TH CONGRESS
1ST SESSION

H. R. 26

To amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 1983

Mr. ANNUNZIO introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a)(1) subchapter I of chapter 81 of title 5, United
4 States Code, is amended by inserting after section 8147 the
5 following new section:

6 "§ 8148. Death benefits for law enforcement officers and
7 firefighters

8 "(a) For the purpose of this section—

9 "(1) 'law enforcement officer' means an em-
10 ployee—

3

2

1 "(A) the duties of whose position include
2 performing work directly connected with—

3 "(i) the control of crime or juvenile de-
4 linquency;

5 "(ii) the enforcement of the criminal
6 laws; or

7 "(iii) the protection of Federal officials,
8 public buildings or property, or foreign diplo-
9 matic missions; and

10 "(B) who, at the time the personal injury re-
11 ferred to in subsection (b) of this section is sus-
12 tained, is—

13 "(i) engaged in the detection of crime;

14 "(ii) engaged in the apprehension of an
15 alleged criminal offender;

16 "(iii) engaged in the keeping in physical
17 custody of an alleged or convicted criminal
18 offender; or

19 "(iv) assaulted or subjected to the con-
20 duct of criminal activity in the line of duty;

21 "(2) 'firefighter' means an employee the duties of
22 whose position include performing work directly con-
23 nected with the control and extinguishment of fires and
24 who, at the time the personal injury referred to in sub-
25 section (b) of this section is sustained, is engaged in

1 such work in the control or extinguishment of a fire or
2 other emergency operation;

3 “(3) ‘child’ means any natural, illegitimate, adopt-
4 ed, or posthumous child or stepchild of a deceased law
5 enforcement officer or firefighter (as defined in para-
6 graphs (1) and (2)) who, at the time of such law en-
7 forcement officer or firefighter’s death, is—

8 “(A) 18 years of age or under;

9 “(B) over 18 years of age and a student; or

10 “(C) over 18 years of age and incapable of
11 self-support because of physical or mental disabil-
12 ity;

13 “(4) ‘dependent’ means substantially reliant for
14 support upon the income of the deceased law enforce-
15 ment officer or firefighter;

16 “(5) ‘intoxication’ means a disturbance of mental
17 or physical faculties resulting from the introduction of
18 alcohol, drugs, or other substances into the body; and

19 “(6) ‘detection of crime’ means the physical pur-
20 suit, investigation, or interviewing of any individual at
21 a crime scene, but shall not include laboratory investi-
22 gation, studies, or other similar acts of a nondangerous
23 nature.

24 “(b)(1) In any case in which the Secretary of Labor de-
25 termines, under regulations prescribed pursuant to this sec-

1 tion, that a law enforcement officer or firefighter has died as
2 the direct and proximate result of a personal injury inflicted
3 by an outside force and in the line of duty, the Secretary shall
4 pay a benefit of \$50,000 as follows:

5 “(A) if there is no surviving child of such law en-
6 forcement officer or firefighter, to the surviving spouse
7 of such law enforcement officer or firefighter;

8 “(B) if there are one or more surviving children
9 and a surviving spouse, one-half to the surviving chil-
10 dren in equal shares and one-half to the surviving
11 spouse;

12 “(C) if there is no surviving spouse, to the surviv-
13 ing children of such law enforcement officer or fire-
14 fighter in equal shares; or

15 “(D) if none of the above, to the dependent parent
16 or parents of such law enforcement officer or firefighter
17 in equal shares.

18 “(2) In any case in which the Secretary determines,
19 upon a showing of need and prior to taking final action, that
20 the death of a law enforcement officer or firefighter is one
21 with respect to which a benefit will probably be paid, the
22 Secretary may make an interim benefit payment not exceed-
23 ing \$3,000 to the individual entitled to receive a benefit
24 under paragraph (1) of this subsection.

1 “(3) The amount of an interim payment to any individu-
2 al under paragraph (2) of this subsection shall be deducted
3 from the amount of any final benefit paid to such individual.

4 “(4) In any case in which there is no final benefit paid,
5 the recipient of any interim payment under paragraph (2) of
6 this subsection shall be liable for repayment of such amount.
7 The Secretary may waive all or part of such repayment, con-
8 sidering for this purpose the hardship which would result
9 from such repayment.

10 “(5) The benefit payable under this section shall be in
11 addition to any compensation or other benefit that may be
12 due under this subchapter or from any other source, but shall
13 be reduced by payments authorized by section 12(k) of the
14 Act of September 1, 1916, as amended (D.C. Code, sec. 4-
15 531(1)).

16 “(6) No benefit paid under this section shall be subject
17 to execution or attachment.

18 “(7) No benefit shall be paid under this section—

19 “(A) if the law enforcement officer or firefighter’s
20 death was caused by the intentional misconduct of the
21 law enforcement officer or firefighter or by such law
22 enforcement officer or firefighter’s intention to bring
23 about such death;

1 “(B) if voluntary intoxication of the law enforce-
2 ment officer or firefighter was the proximate cause of
3 death; or

4 “(C) to any individual who would otherwise be
5 entitled to a benefit under this section if such individ-
6 ual’s actions were a substantial contributing factor to
7 the law enforcement officer or firefighter’s death.

8 “(c) The Secretary may prescribe rules, regulations, and
9 procedures to carry out the purpose of this section. Such
10 rules, regulations, and procedures will be determinative of
11 conflict of laws and issues arising under this section. Rules,
12 regulations, and procedures prescribed under this section may
13 include regulations governing the recognition of agents or
14 other persons representing claimants under this section
15 before the Secretary. The Secretary may prescribe the maxi-
16 mum fees which may be charged for services performed in
17 connection with any claim under this section before the Sec-
18 retary, and any agreement in violation of such rules and reg-
19 ulations shall be void.”.

20 (2) The table of sections for chapter 81 of title 5, United
21 States Code, is amended by inserting after the item relating
22 to section 8147 the following new item:

“8148. Death benefits for law enforcement officers and firefighters.”.

23 (b)(1) Section 8101(9) of title 5, United States Code,
24 relating to definition of “child”, is amended by inserting after

1 "means" the following: ", except as provided in section
2 8148(a)(3) of this title,".

3 (2) Section 8101(12) of such title, relating to definition
4 of "compensation", is amended by striking out "Fund, but
5 this does not in any way reduce the amount of the monthly
6 compensation payable for disability or death;" and inserting
7 in lieu thereof the following: "Fund, except that—

8 "(A) this paragraph does not in any way reduce
9 the amount of the monthly compensation payable for
10 disability or death; and

11 "(B) such term does not include benefits paid
12 under section 8148 of this title;".

13 SEC. 2. The authority to make payments under section
14 8148 of title 5, United States Code (as added by the first
15 section of this Act), shall be effective only to the extent pro-
16 vided for in advance by appropriation Acts.

17 SEC. 3. The amendments made by this Act shall take
18 effect September 29, 1976, and shall apply with respect to
19 injuries sustained on or after such date.

98TH CONGRESS
1ST SESSION

H. R. 622

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 1983

Received; read twice and referred to the Committee on Labor and Human
Resources

AN ACT

To amend title 5 of the United States Code to provide death
benefits to survivors of Federal law enforcement officers and
firefighters, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a)(1) subchapter I of chapter 81 of title 5, United
4 States Code, is amended by inserting after section 8147 the
5 following new section:

6 "§ 8148. Death benefits for law enforcement officers and
7 firefighters

8 "(a) For the purpose of this section—

9 "(1) 'law enforcement officer' means an em-
10 ployee—

11 "(A) the duties of whose position include
12 performing work directly connected with—

1 “(i) the control of crime or juvenile de-
2 linquency;

3 “(ii) the enforcement of the criminal
4 laws; or

5 “(iii) the protection of Federal officials,
6 public buildings or property, or foreign diplo-
7 matic missions; and

8 “(B) who, at the time the personal injury re-
9 ferred to in subsection (b) of this section is sus-
10 tained, is—

11 “(i) engaged in the detection of crime;

12 “(ii) engaged in the apprehension of an
13 alleged criminal offender;

14 “(iii) engaged in the keeping in physical
15 custody of an alleged or convicted criminal
16 offender; or

17 “(iv) assaulted or subjected to the con-
18 duct of criminal activity in the line of duty;

19 “(2) ‘firefighter’ means an employee the duties of
20 whose position include performing work directly con-
21 nected with the control and extinguishment of fires and
22 who, at the time the personal injury referred to in sub-
23 section (b) of this section is sustained, is engaged in
24 such work in the control or extinguishment of a fire or
25 other emergency operation;

1 “(3) ‘child’ means any natural, illegitimate, adopt-
2 ed, or posthumous child or stepchild of a deceased law
3 enforcement officer or firefighter (as defined in para-
4 graphs (1) and (2)) who, at the time of such law en-
5 forcement officer or firefighter’s death, is—

6 “(A) 18 years of age or under;

7 “(B) over 18 years of age and a student; or

8 “(C) over 18 years of age and incapable of
9 self-support because of physical or mental disabil-
10 ity;

11 “(4) ‘dependent’ means substantially reliant for
12 support upon the income of the deceased law enforce-
13 ment officer or firefighter;

14 “(5) ‘intoxication’ means a disturbance of mental
15 or physical faculties resulting from the introduction of
16 alcohol, drugs, or other substances into the body; and

17 “(6) ‘detection of crime’ means the physical pur-
18 suit, investigation, or interviewing of any individual at
19 a crime scene, but shall not include laboratory investi-
20 gation, studies, or other similar acts of a nondangerous
21 nature.

22 “(b)(1) In any case in which the Secretary of Labor de-
23 termines, under regulations prescribed pursuant to this sec-
24 tion, that a law enforcement officer or firefighter has died as
25 the direct and proximate result of a personal injury inflicted

1 by an outside force and in the line of duty, the Secretary shall
2 pay a benefit of \$50,000 as follows:

3 “(A) if there is no surviving child of such law en-
4 forcement officer or firefighter, to the surviving spouse
5 of such law enforcement officer or firefighter;

6 “(B) if there are one or more surviving children
7 and a surviving spouse, one-half to the surviving chil-
8 dren in equal shares and one-half to the surviving
9 spouse;

10 “(C) if there is no surviving spouse, to the surviv-
11 ing children of such law enforcement officer or fire-
12 fighter in equal shares; or

13 “(D) if none of the above, to the dependent parent
14 or parents of such law enforcement officer or firefighter
15 in equal shares.

16 “(2) In any case in which the Secretary determines,
17 upon a showing of need and prior to taking final action, that
18 the death of a law enforcement officer or firefighter is one
19 with respect to which a benefit will probably be paid, the
20 Secretary may make an interim benefit payment not exceed-
21 ing \$3,000 to the individual entitled to receive a benefit
22 under paragraph (1) of this subsection.

23 “(3) The amount of an interim payment to any individu-
24 al under paragraph (2) of this subsection shall be deducted
25 from the amount of any final benefit paid to such individual.

1 “(4) In any case in which there is no final benefit paid,
2 the recipient of any interim payment under paragraph (2) of
3 this subsection shall be liable for repayment of such amount.
4 The Secretary may waive all or part of such repayment, con-
5 sidering for this purpose the hardship which would result
6 from such repayment.

7 “(5) The benefit payable under this section shall be in
8 addition to any compensation or other benefit that may be
9 due under this subchapter or from any other source, but shall
10 be reduced by payments authorized by section 12(k) of the
11 Act of September 1, 1916, as amended (D.C. Code, sec. 4-
12 531(1)).

13 “(6) No benefit paid under this section shall be subject
14 to execution or attachment.

15 “(7) No benefit shall be paid under this section—

16 “(A) if the law enforcement officer or firefighter's
17 death was caused by the intentional misconduct of the
18 law enforcement officer or firefighter or by such law
19 enforcement officer or firefighter's intention to bring
20 about such death;

21 “(B) if voluntary intoxication of the law enforce-
22 ment officer or firefighter was the proximate cause of
23 death; or

24 “(C) to any individual who would otherwise be
25 entitled to a benefit under this section if such individ-

1 ual's actions were a substantial contributing factor to
2 the law enforcement officer or firefighter's death.

3 "(c) The Secretary may prescribe rules, regulations, and
4 procedures to carry out the purpose of this section. Such
5 rules, regulations, and procedures will be determinative of
6 conflict of laws and issues arising under this section. Rules,
7 regulations, and procedures prescribed under this section may
8 include regulations governing the recognition of agents or
9 other persons representing claimants under this section
10 before the Secretary. The Secretary may prescribe the maxi-
11 mum fees which may be charged for services performed in
12 connection with any claim under this section before the Sec-
13 retary, and any agreement in violation of such rules and reg-
14 ulations shall be void."

15 (2) The table of sections for chapter 81 of title 5, United
16 States Code, is amended by inserting after the item relating
17 to section 8147 the following new item:

"8148. Death benefits for law enforcement officers and firefighters."

18 (b)(1) Section 8101(9) of title 5, United States Code,
19 relating to definition of "child", is amended by inserting after
20 "means" the following: ", except as provided in section
21 8148(a)(3) of this title,".

22 (2) Section 8101(12) of such title, relating to definition
23 of "compensation", is amended by striking out "Fund, but
24 this does not in any way reduce the amount of the monthly

1 compensation payable for disability or death;" and inserting
2 in lieu thereof the following: "Fund, except that—

3 "(A) this paragraph does not in any way reduce
4 the amount of the monthly compensation payable for
5 disability or death; and

6 "(B) such term does not include benefits paid
7 under section 8148 of this title;".

8 SEC. 2. The authority to make payments under section
9 8148 of title 5, United States Code (as added by the first
10 section of this Act), shall be effective only to the extent pro-
11 vided for in advance by appropriation Acts.

12 SEC. 3. The amendments made by this Act shall take
13 effect October 1, 1983, and shall apply with respect to inju-
14 ries sustained on or after such date.

Passed the House of Representatives July 26, 1983.

Attest: BENJAMIN J. GUTHRIE,
Clerk.

Mr. KILDEE. The subcommittee will hear this morning from a series of witnesses representing various groups of workers to be covered by the new benefit. I see a number of people among the witnesses I have worked with very closely on this legislation over the last several years. I welcome all of our witnesses here today. We look forward to hearing your testimony.

I admit this hearing has a certain *deja vu* quality. We've been through this several previous times. But we have to update our testimony at all times and it's my wish, of course, as chief sponsor of this bill, to move to the floor of the House, to hopefully have it pass on the suspension calendar, and to get it over to the Senate in a timely fashion so we can present the President with a bill.

Our first witness this morning will be Mr. Edward J. Kiernan, president of the International Union of Police Associations. If Mr. Kiernan will come forward. We will let him begin whenever he wishes, and Mr. Kiernan, please bring up with you anyone you would like.

Your entire written testimony will be made part of this record. If you wish to summarize in any fashion, you may do so.

[Prepared statement of Edward J. Kiernan follows:]

PREPARED STATEMENT OF EDWARD J. KIERNAN, PRESIDENT, INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

Mr. Chairman and members of the committee: My name is Edward J. Kiernan and I am the president of the International Union of Police Associations, AFL-CIO. With me is David Baker, the secretary-treasurer of the IUPA. Thank you for the opportunity to testify on behalf of our Federal Police members who wholeheartedly support this worthwhile legislation. H.R. 622 and H.R. 26 will give to our fellow officers in the Federal sector the same benefits that we in state and local law enforcement have enjoyed since the passage of Public Law 94-430 in the 94th Congress (H.R. 366, September 29, 1976).

Unfortunately, at that time it was believed that Federal law enforcement officers were provided for under separate legislation and since then we have been trying to rectify the omission of these officers from the bill.

I am sure we all recognize the increasing potential for sudden death in our Federal law enforcement agencies. The dangers faced by these officers in the constant battle with drug smugglers, assassins, radicals, and other unstable members of our society constantly increase.

Attempts on the lives of our elected public officials from the President on down; as well as our Federal judges and prosecutors constantly bring our law officers into the line of fire of all these criminals. Are they any less deserving of the same protection that Congress gave to their brothers and sisters in other areas of law enforcement officer in the Federal Government is called upon to do his duty in the same manner as our local law enforcement officers and should receive no less than they do. The number of Federal officers killed in the line of duty since 1976 to the present amounts to a total of 13, so the cost factor is not excessive and should not be a factor in the passage of these bills.

I would urge you to report favorably on these bills so that action can be taken before the closing days of the Congress. We have seen a similar bill pass both Houses only to be vetoed or be lost in the closing days of the session in conference or some other manner. Please, let's get things moving early so that these deserving law enforcement officers can finally get the protection they deserve. This committee has supported us in the past, please continue that support now.

Thank you.

STATEMENT OF EDWARD J. KIERNAN, PRESIDENT, INTERNATIONAL UNION OF POLICE ASSOCIATIONS, ACCOMPANIED BY JAMES E. COURTNEY, PRESIDENT, U.S. SECRET SERVICE UNIFORMED DIVISION OFFICERS' ASSOCIATION, AND DAVID E. BAKER, SECRETARY-TREASURER, INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

Mr. KIERNAN. Mr. Chairman and members of the committee, my name is Edward J. Kiernan. I'm the president of the International Union of Police Associations, AFL-CIO. With me today is Dave Baker. That's the gentleman there with the camera, putting this down in posterity because we feel very confident that this will be the year of history, so we'll have it on film; and Jim Courtney from the uniformed division of the Secret Service Division.

As you say, Mr. Chairman, and before I even get into my remarks I think I would be out of order if I didn't compliment you and thank you for your efforts on our behalf in the past. You've been a worthy sponsor of this bill. You've fought a good fight. And, unfortunately, we've lost a couple of times. And I think if we go back in the history of the \$50,000 death benefit for the police officers and firefighters, we've had many setbacks.

In the original bill that was eventually signed into law in 1976, we've taken some 6 years, 5 or 6 years, to pass, losing it out one night in a closing night of the session by failing to get an unanimous vote on that ill and losing it out on Christmas Eve for these gentlemen when the President vetoed it. Last year losing it out in the lameduck session. I think we have proved that we intend to keep this fight going until such time as we're successful, and only through the efforts of people like yourself will we be successful.

So, on behalf of all of our people, thank you very much for your help and efforts on our behalf.

Mr. KILDEE. Thank you, Mr. Kiernan.

The bells have rung indicating that they're trying to take attendance over in the House. If you could just stand at ease for a moment. I'll be right back after that.

Mr. KIERNAN. We look at that as another temporary setback. [Laughter.]

That's right, very temporary. Thank you.

[Brief recess.]

Mr. KILDEE. Mr. Kiernan, you may proceed.

Mr. KIERNAN. Thank you very much, Mr. Chairman.

As you know so well, when the original law was passed and signed into law in the 94th Congress in 1976, it was believed at that time that Federal officers, law enforcement officers, and firefighters, would be included in that. Unfortunately, we were wrong, and we've paid for being wrong with quite a few years of trying to rectify the wrong that was created by that omission.

And I'm sure we all can recognize the increasing potential for sudden death in the Federal law enforcement agencies, the same as we have it in the State and local law enforcement agencies. The dangers faced by these officers in the constant battle with drug smugglers, assassins, radicals, and other unstable members of our society increases constantly.

You need only have to live here in the District of Columbia. Look at the things that have happened while Congress was in session: the assassination attempts on the President, the madman laying hostage to the Washington Monument, and the constant attentions of our law enforcement officers at the airports, screening people back and forth into the airports when they can anticipate an influx of these radicals and unstable people.

Go up to the largest cities where we have the Federal courts and the Federal buildings, situated in New York or San Francisco and other cities. They're all protected by Federal protective officers who are members of the Federal Law Enforcement Officers Association.

It just was unfortunate, and I guess we were victims of bad advice at the time, by not including them in the original bill. But the fact still remains that these officers are no less deserving of the benefit than are State and local police officers' beneficiaries are entitled to right now, and in some cases we run into situations such as what happened out in the State of California several years ago, where three agents were killed in the line of duty.

One of those agents happened to belong to the metropolitan D.C. police system, pension system. So, he was entitled, his widow was entitled, to that benefit. The other two who were killed at the same instance weren't members of the D.C. association; they were Federal officers. And they weren't entitled to it. The inequity of a situation such as that coming up, where partners, one together with the other, fighting to protect each other and the lives of our people, are treated unequally. And that's what we're trying to correct here, and we believe very strongly that this bill has the equity and the merit of the original bill.

I think the total number of law enforcement officers killed in Federal service since the establishment of the original law comes to about 13. The highest amount in any 1 year was five. Now, are we to withhold from these 13 people, 13 widows, which we have, this benefit?

Now, you know, you create a wrong and you suffer by it and we acknowledge it. But are we going to continue to acknowledge it year after year, that this inequity is going to be carried on and perpetuated? I think the Members of Congress have indicated, and you and your members, the people on your committee, and the people that you're associated with, have indicated overwhelmingly their support of this program.

My people have been stymied by timing, as you say, by mistakes, by a Presidential action that, had we had time to speak with him, probably would never have happened. All those things happened to this bill. And God willing, and I mean God willing, we're hopeful that this year this law will be enacted into effect and that law enforcement throughout the rest of the country, whether they be State, local, Federal, sheriffs, or whatever, will be entitled to the same equal treatment under the law as we currently have now for state and local people.

And I'm not going to belabor the issue, Mr. Chairman. You know how I feel and I am fully aware of how you feel, and all we can do is call upon you to continue your fight on our behalf, and you can rest assured that when you call upon us, we'll be there to help you

in whatever issue you have that comes up relative to this measure, whether it be further testimony, meeting with conferees of the House or the Senate, or whatever, to seek passage of this bill.

And all I can say to you again is thanks for all your efforts and my testimony is in. You can include it into the record, but there's no sense in belaboring the issue. Thank you very much, sir.

Mr. KILDEE. Thank you very much. I think you are in a very active organization. The law enforcement and firefighter groups have been working with the House to advance this measure. I think we're finding a positive attitude toward the bill in the White House now as well.

It would be helpful to let those at OMB know the philosophy of the White House on this, so that the left hand of the executive branch of Government can inform the right hand what it wants to do. And one of the problems we had last year, of course, with this bill is that Mr. Stockman's shop sent over a negative appraisal of the bill, even though we had indications that within the oval office itself there was a more positive feeling.

I think that if the administration can be consistent in its positive attitude that would be very helpful.

One of the arguments brought through the years against this bill is that Federal personnel are already covered by FICA and therefore this additional benefit is not needed. Could you respond to that?

Mr. KIERNAN. FICA doesn't really give to them the provisions of this bill. This bill is basically like the original Public Safety Officers' Act, to protect and take care of the widows of police officers who give their lives defending the people, the country, the Congressmen, the Senators, the average John Doe citizen on the street, whatever it may be.

And it was never meant to be a substitute for anything, or an alternative to anything. As a matter of fact, in the original bill it specifically stated that this is not to be construed as a replacement for existing benefits that are granted State and locally by municipalities already in existence.

I think to get away from that kind of concept and to try and inject that concept into this legislation is wrong, especially is it wrong at this time after we have successfully fought that argument off in the past and we are now just trying to rectify a mistake that was made originally and bring everybody up to the same par.

Mr. KILDEE. Is it not true also that the State and local brothers and sisters of the Federal firefighters and law enforcement officers receive State compensation in addition to the \$50,000 death benefit?

Mr. KIERNAN. Well, not all, but some. In most cases, there is and that is what I was referring to when I said that the specific intent of this bill—and I sat down on the committee that was established and drew up the guidelines for the handling of these cases as they came up and that was taken into consideration, it was discussed time and time again and it was agreed upon that that was not the intent of the legislation originally nor is it the intent of the legislation today.

Mr. KILDEE. In my State they receive in addition to the \$50,000 Federal death benefit all the benefits provided by the local and

State government. There is nothing extra being added here for Federal employees; they are being treated, generally, as their brothers and sisters are being treated at the State and local level.

Mr. KIERNAN. I might add, sir, that the reverse of what you are saying is that in many States throughout this country, police officers don't have those kinds of benefits, they have no tenure as far as their job is concerned, they have no collective bargaining, and they have no protections under the law to even obtain the benefits similar to what this would be.

So, on one hand, you have got the States that are progressive, as you say. On the other hand, you have States that are retrogressive and have nothing. Our job is not to try to balance one against the other, our job is to treat all equally.

Mr. KILDEE. You are correct. The record is very clear. I have poured over the record from 1976 and years prior to that during which Congress considered enactment of the original death benefit for local and State officers and firefighters. I have always rejected that FECA argument as having no validity. It has been discussed for many years and rejected where we do have a comparable benefit in those progressive States.

Mr. KIERNAN. Yes.

Mr. KILDEE. Does anyone else at the table wish to add to the testimony?

I deeply appreciate your testimony. I don't think we have to reinvent the wheel so there's no need for me to go through any further interrogation. But we do have another member of the committee here, Mr. Clay from Missouri.

Mr. CLAY. Thank you, Mr. Chairman. I have no questions. I am sorry I missed your testimony, but I do support the bill.

Mr. KIERNAN. Thank you very much.

Mr. KILDEE. Does counsel have any questions?

Mr. WOOD. Not at this point.

Mr. KILDEE. Thank you very much.

Mr. KIERNAN. Thank you.

Mr. KILDEE. Our next panel will consist of representatives of the National Federation of Federal Employees, Patricia Thomas, legislative liaison, and Charles Bernhardt, labor relations specialist, along with the executive vice president of the American Federation of Government Employees, John Sturdivant. If they would come forward.

Your entire written testimony will be included in the record and you may summarize, if you wish, and proceed in any fashion that you have arranged among yourselves.

[Prepared statement of Patricia Thomas follows:]

PREPARED STATEMENT OF PATRICIA THOMAS, LEGISLATIVE LIAISON, THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. Chairman and members of the subcommittee: I appreciate the opportunity to testify on behalf of the National Federation of Federal Employees on H.R. 622, Representative Dale Kildee's bill to provide increased death benefits for Federal law enforcement officers and firefighters. NFFE represents both law enforcement officers and firefighters in several Federal agencies, and we are therefore very interested in this legislation. In fact, we testified before the subcommittee in 1980 and in 1981 in strong support of the same bill. We are encouraged that Congressman Kildee has

persisted in his efforts to assist these employees. NFFE is also pleased that identical legislation, H.R. 26, has been introduced by Representative Frank Annunzio.

H.R. 622 would provide Federal law enforcement officers and firefighters who are killed in the line of duty after October 1983 the same \$50,000 lump-sum death benefit that Congress provided state and local public safety officers in 1976. Regardless of Government affiliation, public servants in these dangerous professions face the same risk of death in protecting our society. Most officers have families to support. They are concerned about the financial as well as the emotional burden that would be placed on their survivors if they should lose their lives on the job.

In 1976, Congress held that providing a Federal lump-sum death benefit to State and local public safety officers, in addition to the benefits they would receive under workers' compensation, underscores the value our Government places on their performance. However, when Congress acted 5 years ago to amend the Omnibus Crime Control and Safe Streets Act and provide a \$50,000 lump-sum benefit for State and local employees, Federal law enforcement officers and firefighters were denied coverage. The House Judiciary Committee tried to defend the exclusion by maintaining that "the benefits provided under the Federal Employees Compensation Act [FECA] are generally adequate and in many instances exceed the \$50,000 payment authorized." But a comparison of the death benefits provided to Federal public safety officers with the benefits of State and local officers proves otherwise.

When the committee decided in 1976 that Federal officers were already receiving adequate benefits, a Federal employee's spouse was entitled to death benefits amounting to 45 percent of the deceased's monthly pay. At the same time, 39 of the State workers' compensation laws provided 66 2/3 percent of the worker's gross wages to the surviving spouse. In contrast to the provisions in FECA terminating benefits upon remarriage, more than half of the States provided 2 years' worth of benefits payable in lump sum in the event of remarriage.

Because of the many changes in compensation death benefits since 1976, an updated comparison is necessary for Congress to consider the merits of Representative Kildee's legislation. Federal law enforcement officers and firefighters are most likely to compare their pay and benefits with what they could be earning if they worked as public safety officers in their home states. Therefore, NFFE compared the survivor death benefits available to Federal law enforcement officers and firefighters in 1983 with the death benefits under workers' compensation in the 10 States with the largest number of Federal employees (Table 1).

Each State was found to have a program equal to or better than that provided to Federal employees. Widows of state workers received from 50 to 66 2/3 percent of the deceased's wages and often obtain additional benefits for children. Federal employees' spouses with no children acquire 50 percent of the deceased's pay. When there are children, the spouse gets only 45 percent of pay, plus 15 percent for each child—up to a maximum of 75 percent of salary. While there are differences in benefits depending on the specific family size, the State provisions are at least comparable to those provided to Federal employees.

Perhaps, the Judiciary Committee made its recommendation based on the maximum payouts under FECA and State workers' compensation. The Federal Government provides death benefits to spouses under FECA at a maximum rate of 75 percent of the deceased employee's monthly pay, not to exceed a grade GS-15. But most Federal law enforcement officers or firefighters would never approach the GS-15 maximum benefit.

It is also important to remember that since 1976, several hearings have been held to establish Federal standards for State workers' compensation programs. While minimum standards have not been passed by Congress, many of the States have followed the recommendations suggested during hearings and have improved their workers' compensation benefits, including the survivor death benefits.

Aside from restoring benefit equity, H.R. 622 would also have an important impact on recruiting. Public safety officers working for State and local government receive the \$50,000 lump sum death benefit. To recruit and retain qualified Federal law enforcement officers and firefighters, it is essential that there be comparable pay and benefits among the Federal, State, and local officers performing similar jobs.

H.R. 622, would have a far-reaching impact on every public safety officer currently working for the Federal Government or contemplating a Federal career, yet it would generate only a minimal increase in expenditures. Federal law enforcement officers and firefighters make up only a small percentage of the total number of public safety officers. If Federal public safety officers were provided the lump-sum death benefit as granted to State and local officers, an additional \$250,000 in 1977 and \$200,000 in 1978 would have been spent. The Law Enforcement Assistance Ad-

TABLE 1 - COMPARISON OF SURVIVOR BENEFITS
UNDER FECA* AND STATE WORKERS' COMPENSATION PROGRAMS

FECA	Spouse Only	One Child Only	Spouse Plus Children
	50% of deceased's monthly pay (maximum, GS-15)	40% of pay for one child	45% of pay for spouse plus 15% per child (not to exceed a total of 75%).
California	66 2/3% of deceased's wages (maximum, \$196/week) not to exceed a \$60,000 total.	66 2/3% of pay	66 2/3% of pay (not to exceed \$85,000).
District of Columbia	50% of deceased's average weekly wage (maximum, \$397/week).	50% of average weekly wage	66 2/3% of average weekly wage.
Florida	50% of deceased's average weekly wage (maximum \$271/week) not to exceed \$100,000.	33 1/3% of wages	66 2/3% of wages (maximum \$271/week) not to exceed \$100,000.
Illinois	66 2/3% of deceased's wages (maximum \$446/week) not to exceed \$250,000.	66 2/3% of wages	66 2/3% of wages (maximum \$446/week) not to exceed \$250,000.
Maryland	66 2/3% of deceased's average weekly wages (maximum \$292/week)	66 2/3% of wages	66 2/3% of wages (maximum \$292/week)
New York	66 2/3% of deceased's average wages (maximum \$215/week)	66 2/3% of wages	66 2/3% of wages (maximum of \$215/week)
Ohio	66 2/3% of deceased's average weekly wages (maximum \$321/week)	66 2/3% of wages	66 2/3% of wages (maximum of \$321/week)
Pennsylvania	51% of deceased's average weekly wages (maximum \$306/week)	32% of wages	66 2/3% of wages (maximum of \$306/week)
Texas	66 2/3% of deceased's average wages (maximum \$182/week)	66 2/3% of wages	66 2/3% of wages (maximum of \$182/week)
Virginia	66 2/3% of deceased's average weekly wages (maximum \$253/week) not to exceed \$125,500.	66 2/3% of wages	66 2/3% of wages (maximum of \$253/week) not to exceed \$125,500

*FECA - Federal Employees' Compensation Act

Source: Division of State Workers' Compensation Standards; Department of Labor

ministration has already paid over \$66 million to State and local public safety officers. Since Congress has provided additional death benefits for State and local public safety officers working in dangerous positions, it is only fair that Congress provide similar benefits to the much smaller group of Federal public safety officers who perform equally dangerous jobs. For this reason, as well as the common goal of an improved Federal work force, NFFE strongly supports the enactment of H.R. 622. That concludes my statement. I will be happy to answer any questions.

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That concludes my statement. I will be happy to answer any questions.

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Texas	66 2/3% of deceased's average wages (maximum \$182/week)	66 2/3% of wages	66 2/3% of wages (maximum of \$182/week)
Virginia	66 2/3% of deceased's average weekly wages (maximum \$253/week) not to exceed \$126,500.	66 2/3% of wages	66 2/3% of wages (maximum of \$253/week) not to exceed \$126,500

*FECA - Federal Employees' Compensation Act

Source: Division of State Workers' Compensation Standards, Department of Labor

TABLE 2

LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY			
	Total Officers Killed	Federal Officers Killed	Percent of Total
1972	116	4	3.4%
1973	134	4	3.0%
1974	132	3	2.3%
1975	129	5	3.9%
1976	111	2	1.8%
1977	93	0	-
1978	93	1	1.1%
1979	136	5	4.7%
1980	104	2	1.9%
1981	91	1	1.1%
1982	92	2	2.2%
(preliminary)			
TOTAL	1201	29	2.4%

Source: FBI Uniform Crime Reports

FIREFIGHTERS KILLED IN THE LINE OF DUTY			
	Total Killed	Federal Firefighters	Percent of Total
1976	108	5	4.6%
1977	134	5	3.7%
1978	162	3	1.9%
1979	113	*	
1980	134	*	
1981	123	*	
1982	117	*	

Source: National Fire Protection Association

*Information unavailable

CLAIMS BY SURVIVORS OF PUBLIC SAFETY OFFICERS								
Fiscal Year	Total Claims	Claims Approved	Police	Firefighters	Correctional Officers	Courts	Other	\$
1977	349	106	76	25	5	-	-	\$ 5.3M
1978	379	242	149	80	8	1	4	\$11.95
1979	322	258	157	79	19	-	6	\$12.9M
1980	291	234	153	70	6	1	4	\$11.7M
1981	282	269	188	64	9	-	8	\$13.4M
1982	302	217	151	56	7	-	2	\$10.8M

As of 6-14-83

Source: Law Enforcement Assistance Administration

[Prepared statement of John Sturdivant follows:]

PREPARED STATEMENT OF JOHN N. STURDIVANT, EXECUTIVE VICE PRESIDENT,
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES (AFL-CIO)

Mr. Chairman, I appreciate this opportunity to appear before your subcommittee to testify in favor of H.R. 622, introduced by Congressman Dale E. Kildee. H.R. 622 provides a \$50,000 lump-sum death benefit to the survivors of Federal law enforcement officers and Federal firefighters, who are killed in the line of duty.

AFGE represents over 700,000 Federal workers in exclusive recognition units. Collectively our Federal Protective Officer Locals represent some 2,000 of the 3,000 Federal Protective Officers who work throughout our country to protect Federal property and persons under the jurisdiction of the General Services Administration. We also represent many other law enforcement and public safety employees, including the Border Patrol employees, U.S. Marshals, Veterans' Administration Security employees, etc., who are affected by this legislation.

This is not the first time AFGE has appeared before this committee on this or similar matters of concern to our law enforcement and public safety members. On March 13, 1980 we appeared before this subcommittee to testify in favor of H.R. 2543, H.R. 5888, and H.R. 5834 all of which sought to provide \$50,000 in Federal death benefits to the survivor or survivors of Federal law enforcement officers killed in the line of duty. We testified on October 11, 1979 before the Subcommittee on Public Buildings and Grounds of the House Committee on Public Works and Transportation on the Federal Protective Service Act of 1979 which concerned death benefits and other matters. Despite a near miss in the 97th Congress, none of this legislation has been enacted into law. I hope H.R. 622 with the continued support of this subcommittee will be passed by this Congress thus redressing the current inequities.

Effective enforcement of our nation's laws and protection of our country's property can only be assured by professional law enforcement officers who are fully guaranteed that their families will be compensated in a manner commensurate with the dangers inherent in their occupations.

In regard to the Federal Protective Officers we represent, they are called upon on a regular and recurring basis to apprehend individuals suspected or convicted of offenses against the criminal laws of the United States. Within their specific jurisdiction they maintain public order and security, and investigate, apprehend or detain suspects when necessary. Their arrests involve assault, larcenies, hostage seizures, and other dangerous situations.

Fighting fires, as is well recognized, is also dangerous and it does not become less so when the fire occurs in a federal building.

It is essential to our country's security that law enforcement careers, whether they be as Federal Protective Officers, uniformed police, nonuniformed special police, or Federal firefighters, be made more acceptable to our qualified citizens. We simply cannot ask decent, patriotic, dedicated and hardworking men and women to face the ever-present perils of death in the line of duty and then disregard the need to protect their families from financial disaster.

The consequences of neglect have been seen before. All too often it is the young widow and her children who are shattered by the sudden loss of a husband and father. Indeed, the initial shock of the law officer's death veils the realization of what will be its lasting repercussions.

The widow soon discovers after the funeral that her ability to maintain the family's financial security and well-being has disintegrated beyond her ability to cope with the tragedy.

Current death benefit coverage under FECA is insufficient. Since it is based on salary, it is especially hard on the younger, lower paid employee families when a spouse is killed in the line of duty.

H.R. 622 eases this situation in a straightforward fashion. The \$50,000 death benefit will be granted to the survivors of a law enforcement officer or firefighter provided the "enforcement officer or firefighter has died as the direct and proximate result of a personal injury inflicted by an outside force and in the line of duty". Safeguards are established to forbid such payment in cases of individual misdeed (including intoxication or intentional death). It defines law enforcement officer to include those responsible for "the protection of Federal officials, public buildings or property, or foreign diplomatic missions". We also applaud the inclusion of the provision allowing the Secretary to make an interim benefit payment of up to \$3,000 in cases of need prior to a final determination of a case.

It must be stressed that this lump sum death benefit does not place Federal law enforcement officers and Federal firefighters in a privileged position. On the con-

trary, it merely places these Federal law enforcement officers and Federal firefighters on equal footing with other law enforcement officers whose survivors are currently eligible for the lump sum death benefit of \$50,000 as provided in the Public Safety Officers Act of 1976.

Some may argue that certain positions are not as life-threatening as, say, FBI agents and should be excluded from this bill. However, a line of duty casualty is equally devastating to the surviving family and it is only just that these deaths be treated equally.

This measure will have minimal budgetary impact and serves to redress an obviously inequitable situation.

In conclusion, AFGE urges the passage of H.R. 622. We hope Congress will move expeditiously to provide Federal law enforcement officers and Federal firefighters with the death benefit comparable to those enjoyed by others in the law enforcement and public safety community.

Thank you.

STATEMENT OF PATRICIA THOMAS, LEGISLATIVE LIAISON, ACCOMPANIED BY CHARLES BERNHARDT, LABOR RELATIONS SPECIALIST, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. KILDEE. Patricia?

Ms. THOMAS. Good morning. To my right is Charles Bernhardt, our labor relations specialist. If I may, I would like to summarize our statement.

I appreciate the opportunity to testify on behalf of the National Federation of Federal Employees on H.R. 622, your bill to provide increased death benefits for Federal law enforcement officers and firefighters. NFFE represents both law enforcement officers and firefighters in several Federal agencies and we are, therefore, very interested in this legislation.

H.R. 622 would provide Federal law enforcement officers and firefighters who are killed in the line of duty after October 1983, with the same \$50,000 lump-sum death benefit that Congress provided State and local public safety officers in 1976. Regardless of government affiliation, public service in these dangerous professions face the same risk of death in protecting our society. Most officers have families to support. They are concerned about the financial as well as the emotional burden that would be placed on their survivors if they should lose their lives on the job.

In 1976, Congress held that providing a Federal lump-sum death benefit to State and local public safety officers, in addition to the benefits they would receive under workers' compensation, underscores the value our Government places on their performance.

However, when Congress acted 5 years ago to amend the Omnibus Crime Control and Safe Streets Act and provide the benefit for State and local employees, Federal law enforcement officers and firefighters were denied coverage.

The House Judiciary Committee tried to defend the exclusion by maintaining that the benefits provided under the Federal Employees Compensation Act are general adequate and in many instances exceed the \$50,000 payment authorized. However, comparison of the death benefits provided to Federal public safety officers with the benefits of State and local officers proves otherwise.

NFFE has compared the survivor death benefits available to Federal law enforcement officers and firefighters in 1983 from the death benefits and workers' compensation with the 10 States with

the largest number of Federal employees. Each State was found to have a program equal to or better than that provided Federal employees. While there are differences in benefits depending upon the specific family size, State provisions are at least comparable to those provided to Federal employees.

Perhaps the House Judiciary Committee made its recommendations based on the maximum payouts under FECA and State workers' compensation. The Federal Government provides death benefits to spouses under FECA at a maximum rate of 75 percent of the deceased employee's monthly pay, not to exceed a grade GS-15. But most Federal law enforcement officers or firefighters would never approach the GS-15 maximum benefit.

Aside from restoring benefit equity, H.R. 622 would also have an important impact on recruiting. To recruit and retain qualified Federal law enforcement officers and firefighters, it is essential that there be comparable pay and benefits among the Federal, State, and local officers performing similar jobs.

Your bill would have a far-reaching impact on every public safety officer currently working for the Federal Government or contemplating a Federal career, yet it would generate only a minimal increase in expenditures. Federal law enforcement officers and firefighters make up only a small percentage of the total number of public safety officers.

Since Congress has provided additional death benefits for State and local public safety officers working in dangerous positions, it is only fair that Congress provide benefits to the much smaller group of Federal fire and safety officers who perform equally dangerous jobs.

For this reason, NFFE strongly support the enactment of H.R. 622.

That concludes my statement.

Mr. KILDEE. Thank you very much.

Before we begin questioning we will hear from the next witness in the order that you arranged among yourselves.

STATEMENT OF JOHN STURDIVANT, EXECUTIVE VICE PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY JAMES HOOKS, PRESIDENT, AFGE, LOCAL 1733

Mr. STURDIVANT. Thank you, Mr Chairman. I am John Sturdivant, executive vice president of the American Federation of Government Employees, AFL-CIO. I am accompanied by Mr. James Hooks, the president of AFGE, local 1733, which is comprised of Federal protective officers.

At the outset I would like to thank you for your continued interest in this problem and we will continue to work with you. Our members thank you and you can be well assured that we will be there when you need us.

I appreciate this opportunity to appear before your subcommittee to testify in favor of H.R. 622. H.R. 622 provides a \$50,000 lump-sum death benefit to the survivors of Federal law enforcement officers and Federal firefighters who are killed in the line of duty.

AFGE represents over 700,000 Federal workers in exclusive recognition units. Collectively, our Federal protective officer locals represent some 2,000 of the 3,000 Federal protective officers who work throughout our country to protect Federal property and persons under the jurisdiction of the General Services Administration.

We also represent many other law enforcement and public safety employees, including the border patrol employees, U.S. Marshals, Veterans' Administration security employees, who are affected by this legislation.

I just might point out that I am sure that the current events involving deaths of U.S. Marshals and the increasingly—situation involving the border patrol are evident to the subcommittee.

This is not the first time that AFGE has appeared before this committee on this or similar matters of concern to our law enforcement and public safety members.

On March 13, 1980, we appeared before this subcommittee to testify in favor of H.R. 2543, H.R. 5888, and H.R. 5834, all of which sought to provide \$50,000 in Federal death benefits to the survivor or survivors of Federal law enforcement officers killed in the line of duty. We testified on October 11, 1979, before the Subcommittee on Public Buildings and Grounds of the House Committee on Public Works and Transportation on the Federal Protective Service Act of 1979, which concerned death benefits and other matters.

Despite a near miss in the 97th Congress, none of this legislation has been enacted into law. I hope that H.R. 622, with the continued support of this subcommittee will be passed by the Congress, thus redressing the current inequities.

Effective enforcement of our Nation's law and protection of our country's property can only be assured by professional law enforcement officers who are fully guaranteed that their families will be compensated in a manner commensurate with the dangers inherent in their occupations.

In regard to the Federal protective officers we represent, they are called upon on a regular and reoccurring basis to apprehend individuals suspected or convicted of offenses against the criminal laws of the United States. Within their specific jurisdiction, they maintain public order and security and investigate, apprehend, or detain suspects when necessary. Their arrests involve assaults, larceny, hostage seizures and other dangerous situations and I might add that hardly a week goes by in this town that we don't have some situation which calls upon the ability and integrity of our Federal protective officers to do their jobs, at great risk to themselves.

Fighting fires, as is well recognized, is also dangerous and it does not become less so when the fire occurs in a Federal building.

It is essential to our country's security that law enforcement careers, whether they be as Federal protective officers, uniformed police, nonuniformed special police or Federal firefighters be made more acceptable to our qualified citizens.

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The consequences of neglect have been seen before. All too often, it is the young widow and her children who are shattered by the sudden loss of a husband and father. Indeed, the initial shock of the law officer's death veils the realization of what will be its lasting repercussions. The widow soon discovers after the funeral that her ability to maintain the families financial security and well-being has disintegrated beyond her ability to cope with the tragedy.

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Safeguards are established to forbid such payment in cases of individual misdeed, including intoxication or intentional death.

It defines a law enforcement officer to include "those responsible for the protection of Federal officials, public buildings or property, or foreign diplomatic missions." We also applaud the inclusion of the provision allowing the Secretary to make an interim benefit payment of up to \$3,000 in cases of need prior to a final determination of a case.

It must be stressed that this lump-sum death benefit does not place Federal law enforcement officers and Federal firefighters in a privileged position and I believe my former colleagues have pointed that out. On the contrary it merely places these Federal law enforcement officers and Federal firefighters on equal footing with other law enforcement officers whose survivors are currently eligible for the lump-sum death benefit of \$50,000, as provided in the Public Safety Officers Act of 1976.

Some may argue that certain positions are not as life-threatening as, say, FBI agents and should be excluded from this bill. I would once again direct the committee's attention to the situation with the U.S. marshals, I believe, somewhere out West.

However, a line of duty casualty is equally devastating to the surviving family and it is only just that these deaths be treated equally. This measure will have minimal budgetary impact. Obviously, we don't want a lot of these benefits paid and serves to redress an obviously inequitable situation.

In conclusion, AFGE urges the passage of H.R. 622. We hope the Congress will move expeditiously to provide Federal law enforcement officers and Federal firefighters with the death benefit comparable to those enjoyed by others in the law enforcement and public safety community.

We thank you for this opportunity to testify and we will be glad to attempt to answer any questions you may have.

Mr. KILDEE. Thank you. Mr. Bernhardt, do you have a prepared statement?

Mr. BERNHARDT. No, thank you.

Mr. KILDEE. The Congressional Budget Office estimates the cost of this additional benefit to be \$500,000 a year. That would be assuming that 10 Federal officers are killed a year. The record shows that number now averages less than 10. So at the most liberal

figure placed upon this by CBO would be \$500,000 and the appendix attached to your testimony, Ms. Thomas, indicates that it would be significantly less than that, and we appreciate that information. It's very helpful to this committee.

I think that an additional Federal expenditure of less than \$500,000 annually is in no way going to bust the budget. It's such a small amount when you compare it to the total budget of the United States, but such very significant and important when it comes to a family's budget after the loss of its principle wage earner.

I think that this Government, which spends far greater amounts on so many programs certainly could find within itself the ability to come up with the one-half million dollar figure which CBO says is the largest amount that would have to be spent to take care of this.

I don't think there is any real fiscal argument against this bill.

People have very often said we are singling out a special group of employees with this benefit, but we have done that for the local and State people with good reason. From the beginning of society, those who have been given the responsibility for public safety have been given some special consideration because of the nature and the importance of their work.

In other professions very often we can minimize the hazards by changing the workplace, by putting up guardrails, and instituting other safety measures that allow better control of the workplace. But, by the very nature of their work, public safety officers are frequently working in an uncontrolled situation.

Even yesterday, while there was no real violence, an event took place in the gallery of the House that illustrated what can happen in an uncontrolled situation. So you cannot, by having OSHA come in, control the workplace for police and firefighters because, by its very nature, there are unpredictable factors. But I think by recognizing that, which society has recognized from the very beginning, and recognized again for the local and State officers in 1976, that we are really trying to extend a measure of equity to our Federal brothers and sisters.

I would now like to recognize our distinguished ranking minority member, Mr. John Erlenborn from Illinois.

Mr. ERLNBORN. Thank you, Mr. Chairman. It occurs to me that you and I have tread this ground before. It's kind of a *deja vu*. Even some of the witnesses look familiar. [Laughter.]

I think the chairman is aware and probably most of the witnesses are aware of my opposition to this bill. It's a bill that is supported in the name of equity and yet I think it creates inequity.

Could I ask any one of the witnesses who would like to respond why do you believe that under the Federal Employees Compensation Act there should be greater compensation for death for some Federal employees over the vast majority of Federal employees?

Mr. BERNHARDT. Simply because of the task that we ask these individuals to perform. We are asking them to perform tasks of protecting lives and risking their own lives in that process.

Mr. ERLNBORN. It would seem to me a dead person is dead regardless of whether he has been killed as a result of law enforce-

ment activities or firefighting activities or killed by some other means or method in the course of the person's duties.

Now the risk that the one puts himself at might argue for more compensation for doing the job. Certainly, the person, while alive, is aware of that risk. Probably it exacts a toll on that person physically and mentally and I think that might argue for some additional compensation for hazardous duty as we do in some circumstances.

But how is one dead man more of a loss to the grieving widow and children than another dead man?

Mr. BERNHARDT. But there is more than one form of compensation. There is compensation that you get in your salary check and there's compensation that you get in the form of benefits. A death benefit, like a benefit that is provided in the FECA or a benefit that would be provided by this bill is an additional form of compensation.

It's compensating that employee for assuming the risk that we are asking that person to assume. We would all agree that there are very substantial risks.

Mr. CLAY. Will the gentleman yield on that point?

Mr. ERLNBORN. Yes, sir, I would be happy to yield to my colleague.

Mr. CLAY, I would like to point out to the gentleman that the Federal Employee Compensation Act already provides for greater compensation for some who were killed than for others by the mere fact of the way it is doled out percentagewise. Those who make \$40,000 and die in the line of duty or die will get much more than those who make \$15,000. So it already provides for a different form of compensation and a greater form.

Mr. ERLNBORN. Well, that is true, because it is meant to be a replacement for lost earnings and one person's earnings are not equal to another person's earnings. I don't see any great inequity in taking into account earnings when you are trying to replace them. The only way you can replace them is to look at what they were.

So that really is rather a specious argument, I would say.

Mr. CLAY. If the gentleman would yield further.

Mr. ERLNBORN. I would be happy to yield to my distinguished colleague.

Mr. CLAY. I would think that all lives ought to be equally compensated for and I think that this bill would take care of that in terms of removing that inequity.

Mr. ERLNBORN. Well, then we get to the other question of equity. When the death benefit for State and local fire and police officers was enacted, it was enacted in the name of equity. The argument then—and I am going to ask the witnesses if the facts have changed since then—was most firemen and policemen, because of their hazardous occupations were not able to get life insurance. They were bad risks. Or if they could get it, the cost was probably prohibitively high because they were rated up because of the risky occupations that they had chosen.

So it was argued to provide equity for State and local officers this Federal benefit was necessary. The Judiciary Committee handling the bill at that time specifically looked at the question of

whether we should have the same death benefit for the Federal officers. Their conclusion was that since Federal officers had no trouble getting life insurance they had access to group policies where the nature of their occupation did not change the premium, plus the fact that they could get double indemnity insurance so that accidental death, which is what we are talking about here, being killed on the job or in the line of duty, would provide double benefits, double indemnity—and the existence of the Federal Employees Compensation Act—all of these argued that the Federal employees were already way ahead of State and local employees and that's why a \$50,000 death benefit for State and local employees was enacted to bring them up to create an equitable situation.

Now, the suggestion is we haven't achieved equity, that State and local officers enjoy something that the Federal officers don't and so we are going to jump that up. The next thing we will have is a bill to increase the State and local to \$100,000 so they can get back in parity with the Federal. It seems to me that this is a game of leap frog, as I have called it before, and it really is not creating equity, it is creating inequity.

Well, I guess that's not really a question unless some of you want to comment on that statement.

Mr. KILDEE. Would the gentleman yield?

Mr. ERLBORN. I would be happy to yield.

Mr. KILDEE. Thank you.

I think one thing that one should think about is that because of the hazardous nature of these two professions there is and has been some difficulty in attracting and keeping quality people. I know that to be the case because I have many friends who are firefighters and policemen in my district. Very often, such a person's family is concerned about his safety and will urge him to seek other employment. Very often, people will leave the profession for family reasons.

I think there is a problem of attracting, and indeed very often keeping, quality people in these professions because of an understandable concern of the families. I have sat at many a policeman's home at social functions while the wife indicates her worry about the hazards of her husband's work. She was proud of her husband, but was concerned that should something happen to him, she would have a difficult time raising those children.

When specific and unique hazards are attached to a profession, it becomes necessary in some way to try to compensate for that and to try to make it a little more attractive. One way of doing this is to insure that, if a tragedy does take place, the employee's family has some measure of financial security. I think that was a primary consideration when local and State policemen and firefighters were accorded this death benefit in 1976. I really think Federal workers should have been included at that time.

There are special hazards in these occupations. When there are special hazards we should try in some way to compensate for those hazards.

Mr. Hooks. To answer your question, there is a study and I will try to get that study to you that shows that certain States pay insurance for the State-employed law enforcement officers and it's a comprehensive study done, I think, by the Fraternal Order of

Police and I will try to get that study to you as soon as I possibly can. It will show you different States from a million or more in population all the way down to ones with 25,000 of population.

Mr. ERLBORN. Well, last, Mr. Chairman, let me say that, if such a benefit were to be enacted, I would hope that it wouldn't be enacted in the form of this legislation, which is amendment to FECA. I think our hearings last year pointed out the hazards of amending the Federal Employees Compensation Act in this regard.

There are those who, reading this language, believe that this legislation, under precedents of the Federal Employees Compensation Act, would extend these benefits not just to those who were killed in an accident or by hostile action on the job, but to those who may have committed suicide because of mental strain, those who may have had a stroke or a heart attack, that might be assessed to strain at the job, because of the hazardous nature of the job. Because of these Federal Employees Compensation Act precedents that you cannot escape when you are engrafting this onto that existing law with all of its precedents, I fear that the expressed intent of the supporters of this legislation may be only a part of what we do. We may go way beyond where we think we are leading ourselves.

Now it would seem to me that you have the other route to go and that would be to amend the act which gives the death benefit to State and local employees. Then you would know Federal employees and State and local employees would be treated equally because they would be compensated under the same act with all of the same interpretations.

So this is additional deep concern of mine, Mr. Chairman, that this legislation, unbeknownst to me or you or anyone else in the future, expands well beyond what we are contemplating here just because of the fact that it's an amendment to the Federal Employees Compensation Act.

Thank you, Mr. Chairman.

Mr. KILDEE. Mr. Erlborn, I would like to point out that the language in my bill could not be more specific about the prohibition you refer to. In both the bill as written and in the committee report that accompanied this bill in the 96th Congress, we specifically exclude the payment of benefits for an individual who has committed suicide. We have taken care of that consideration for you in the bill.

Mr. ERLBORN. How about the heart attack, stroke, and other costs?

Mr. KILDEE. We have specific language on that also which you might want to look at to see whether it meets your concerns.

Mr. ERLBORN. Different from last year?

Mr. KILDEE. It's as sufficient as it was last year.

Mr. ERLBORN. I see. [Laughter.]

Same reservations, Mr. Chairman.

Mr. KILDEE. Except on suicide. We got very specific there, John. But I think the language is specific enough, it's a matter of legal opinion, of course, on the heart attacks. There is certainly very specific language in both the bill and the report on suicide.

Mr. ERLBORN. And that legal opinion, even in the Supreme Court, sometimes is 5 to 4.

Mr. KILDEE. I cannot interpret what they are going to do across the street. [Laughter.]

We must try to write the best legislation we can.

Mr. STURDIVANT. Mr. Chairman, I would just like to underscore a footnote to the previous question from Mr. Erlenborn relative to one life and another. Certainly, we don't want anyone to lose their lives in the line of duty but we are asking these Federal officers to risk their lives and certainly it is becoming more and more dangerous. Some of the work that they do—we represent the Border Patrol officers—I am sure you are aware of the situation at the border and the people coming across the border now are meaner, there are more drugs coming across the border and they are running into situations that they have never run into before.

Quite frankly, we believe that it's a question of whether or not the U.S. Government is going to say to the families of these dedicated employees who risk their lives and sometimes lose them, that "we care not only about the employees, but we care about those families," and, quite frankly, I am sure that you realize that in today's economy, if you have a young wife with two children, \$50,000 is really not a lot of money.

Mr. KILDEE. Mr. Clay.

Mr. CLAY. Thank you, Mr. Chairman. I would just like to point out some comparisons between State survivor benefits and the Federal survivor benefits, and in many instances, the State benefits far exceed those of the Federal workers' benefits.

For instance, in California, the District of Columbia, Florida, Illinois, Maryland, New York, Ohio, Pennsylvania, Texas, and Virginia, and it raises a very basic serious question about fairness and equity. You take, for example, the situation of a couple of years ago when the attempt was made on the President's life. A District of Columbia police officer was wounded and a Federal Secret Service man was also wounded. If those people had died, their families would have been the recipients of an inequitable amount of money, because in the District of Columbia, where we pay Federal employees, the spouses 45 percent of the pay, in the District of Columbia, the police officer's wife would have received 66⅔ percent of his pay.

So now here you have two individuals acting in the same kind of dangerous situation and in addition to that, the District of Columbia officer's wife would have received the \$50,000 lump sum. Now you can't tell me that that's equity, that that's fairness, and we have many situations like this where Federal officers cooperate with local officers and narcotic raids. When the man took over the Washington Monument just recently, there were Federal and local officers there.

Mr. ERLBORN. Would the gentleman yield?

Mr. CLAY. Yes, I would.

Mr. ERLBORN. I am given to understand that the \$50,000 death benefit that would go to the local police officer in the situation that you mentioned and the workers' compensation payments would be offset. One would offset against the other.

Mr. CLAY. In the District of Columbia?

Mr. ERLBORN. I believe so.

Mr. CLAY. But what about these other 12 States that I mentioned.

Mr. ERLBORN. And the one we are talking about here, for the Federal officers, there is no offset provided for.

Mr. CLAY. They don't get the \$50,000 either.

Mr. ERLBORN. I am saying, if we enact this legislation and they do get the \$50,000 there would be no offset provided.

Mr. CLAY. Well, I would say then that the solution would be not to object to this bill, but to try and include the rest of them in so that there would be no offset for anybody.

Mr. ERLBORN. If the gentleman would yield further, I don't know about the District, but I know in many States benefits are not indexed either. Of course, the benefits under the Federal Employees Compensation Act are fully indexed, more than fully indexed in the past.

Mr. CLAY. But you are talking about 45 percent of pay, which may, in some instances, be less than \$10,000 per year.

Mr. ERLBORN. Well, I don't want to take the gentleman's time, but let me just comment that over the past 10 years the indexation of retirement and workers' comp benefits at the Federal level have caused, as the gentleman is probably aware, even some of our retired colleagues to make more money than you or I.

So indexation does make a big difference.

Mr. CLAY. Well, I would certainly agree with it, but I would say to the gentleman that the States I mentioned, even with indexing, I don't think that the benefits of Federal employees would come close to matching those States that I mentioned.

Mr. ERLBORN. I think a study would show differently.

Mr. CLAY. Well, studies have been made and I think if you have any to contradict the ones that we are going to put in the record, you ought to make them available.

Mr. ERLBORN. I'll do that.

Mr. CLAY. Thank you, Mr. Chairman.

Mr. KILDEE. I thank the witnesses for their testimony.

I call forward the next panel consisting of Harold H. Shaitberger, legislative director, International Association of Firefighters; Sterling Epps, Federal employees coordinator, National Association of Police Organizations; Thomas P. Doyle, national vice president, Federal Law Enforcement Officers Association; and Albert W. Ferguson, legislative chairman, Fraternal Order of Police.

I am particularly happy that Mr. Shaitberger is here because it was he who first brought this problem to my attention when I was still a neophyte and has borne the heat of the day in trying to secure passage of this bill. I thank him for having brought this to my attention.

Your written testimony will be included in toto in the record and you may summarize in any fashion you want.

[The prepared statement of Harold Schaitberger follows:]

PREPARED STATEMENT OF HAROLD A. SCHAITBERGER, LEGISLATIVE DIRECTOR,
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO-CLC

Mr. Chairman, members of the subcommittee, my name is Harold A. Schaitberger, and I am Legislative Director for the International Association of Fire Fighters AFL-CIO-CLC, representing approximately 170,000 professional fire fighters

throughout the country. I am pleased to appear before the subcommittee today to express our views on H.R. 622, providing a \$50,000 death benefit to the survivors of Federal fire fighters and law enforcement officers who die in the line-of-duty. The IAFF is in strong support of this measure and its passage has long been a major legislative priority for our organization and its members.

I would like to point out that this subcommittee and the Congress have accepted the merit and need for this legislation by lending overwhelming and bipartisan support for and passing identical measures.

In the 96th Congress, H.R. 5888 passed the House by a margin of 313 to 56, and the Senate passed the measure without objection under the unanimous consent calendar. Unfortunately, in spite of this strong congressional support and the relatively modest cost estimates provided by the Congressional Budget Office—\$500,000 to \$650,000 annually—the measure was vetoed. In the 97th Congress, another identical bill, H.R. 756, was overwhelmingly passed in the House by a vote of 327 to 82, and the Senate included it as an amendment to its continuing budget resolution. However, many unauthorized amendments to the budget resolution, including the death benefit provision, were dropped in conference.

We have received assurances from the administration that is passed, the President will approve the measure. With this subcommittee's continued support and the support of the Congress, H.R. 622 will be passed and enacted into law, and the current inequity in the treatment of Federal fire fighters and law enforcement officers will finally be rectified.

Under current Federal law—the Public Safety Officers Benefits Act—State and local fire fighters and law enforcement officers, including volunteers, receive a \$50,000 benefit for death in the line-of-duty. Congress passage of that act in 1976 demonstrated its support for the work of these public servants and recognized the debt owed to those who give their lives, guaranteeing that their widows and children would not be forced into poverty. However, the act suffers from a serious shortcoming, in that Federal fire fighters and law enforcement officers were excluded from its provisions.

We do not see the logic in this distinction between Federal and state and local public safety officers. Federal fire fighters, like their state and local counterparts, are engaged in the most hazardous of all occupations, suffering one of the highest death and injury rates in this country. Provision of an equal death benefit to Federal fire fighters is a simple matter of equity. After all, fire does not distinguish between Federal, State, and local fire fighters, neither should the law.

The tragic inequity of this exclusion becomes particularly poignant when one considers that Federal, State, and local public safety officers often work side-by-side. For example, most if not all, Federal installations participate in mutual-aid agreements with their surrounding localities. If death occurs during such cooperative fire fighting efforts, the State and local fire fighter's family receives a \$50,000 death benefit, while a Federal fire fighter's family does not.

A further example of the inequity of the current situation is the federal fire fighter who takes part in his community's voluntary fire service. If he dies while on volunteer status, he is eligible for the death benefit, since the Public Safety Officers Benefits Act does include volunteers in its provisions. Even more ironic, the off-duty Federal fire fighter on volunteer status, may well be called through local mutual-aid agreement to assist in a fire on a Federal installation, perhaps the very same installation where he is employed. If he dies as a volunteer, his family is eligible for the death benefit, but if he dies while on his regular Federal duty, his family does not receive the benefit.

Federal fire fighters and law enforcement officers were excluded from coverage under the Public Safety Officers Benefits Act on the basis of arguments that they receive comparable and adequate death benefits under FECA. In fact, a comparison of FECA benefits to what State and local fire fighters receive from their own death and pension plans, shows Federal fire fighters receiving benefits at or below the level of their State and local counterparts. The IAFF represents both Federal and State and local fire fighters, and survey of our State and local membership shows the approximately 50 percent of them receive comparable or better death coverage, as compared to FECA. Furthermore, they are entitled to Workmen's Compensation and the \$50,000 death benefit provided by the Public Safety Officers Benefits Act. How can the Federal fire service, which demands longer hours and lower pay, on top of marginal death benefits, hope to keep a stable, effective and qualified fire fighting force under these circumstances.

Moreover, we feel that coverage under FECA is generally inadequate. A major flaw in its provisions is that, since it is based on employee salary, those who are most likely to die—the younger, less experienced, and lower paid fire fighter—re-

ceive the least amount of coverage. Financial burdens are further aggravated by the fact that the young fire fighter's family is likely to be in the greatest financial need, faced with high mortgage balances, minimal savings and huge outlays for raising and educating young children.

Under current FECA provisions, a fire fighter or law enforcement officer's widow who has no children is entitled to 50 percent of his monthly salary. If she does have children, she is entitled to 45 percent of monthly pay, and an additional 15 percent for each child, up to a maximum of 75 percent. Today's average Federal fire fighter falls between GS 4, Step 4 and GS 5, Step 4. Taking the midpoint, the average fire fighter salary for purposes of FECA computations, is approximately \$17,406 per year. Thus, the minimum benefit for a widow with no children is approximately \$7,832 per year, and the maximum benefit of 75 percent for a widow with two or more children works out to \$12,954. And let's remember that this computation is based on the pay for the average fire fighter. The younger fire fighter is likely to fall below these levels.

In today's economy, these amounts literally force fire fighter widows to either remarry or seek employment. This is particularly tragic when small children are involved. Such treatment of the surviving families of Federal fire fighters, who lay down their lives in public service, who often suffer horrible deaths, is incomprehensible and insensitive to the pain and financial dislocation with which these families are faced.

In arguing against a \$50,000 death benefit for Federal public safety officers, opponents have continually characterized the measure as being inherently preferential, singling out a particular group of employees for special treatment. However, we find numerous instances of such special treatment in title 5 of the U.S. Code.

In subpart D, dealing with pay and allowances, section 5102 provides a long list of particular employee groups receiving special treatment, including employees in the Foreign Service and physicians, dentists, and nurses in the Department of Medicine, Veterans' Administration, to mention just a few. In chapter 83, dealing with retirement, section 8331 provides another such listing of particular employee groups receiving special treatment, among them justices and judges of the United States.

In light of these facts, objection to the special treatment of Federal fire fighters and law enforcement officers has little merit, since the Federal Government does regularly recognize the special needs or particular groups of employees, providing special treatment and benefits to meet those needs.

Furthermore, the preferential treatment argument loses all credibility when one realizes that some Federal law enforcement officers already receive such special treatment, since they are eligible for a \$50,000 death benefit under the provisions of the District of Columbia Policemen's and Firemen's Retirement and Disability Plan. That plan provides the death benefit to members of the U.S. Park Police Service, the Executive Protection Service, and to certain members of the U.S. Secret Service.

The International Association of Fire Fighters believes that the current inequity in the provision of death benefits to the survivors of Federal fire fighters and law enforcement officers should now be corrected. We urge the subcommittee to support this measure. With that support and the assurances we have received from the Reagan administration, we feel hopeful that this measure will finally be enacted into law.

I thank the subcommittee for your time and consideration of our testimony today, and for this opportunity to express the views of the International Association of Fire Fighters and its members.

STATEMENT OF HAROLD A. SCHAITBERGER, LEGISLATIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS

Mr. KILDEE. Mr. Schaitberger.

Mr. SCHAITBERGER. Thank you, Mr. Chairman. I will attempt to summarize somewhat, but in light of some of the questions that have been asked to the other panel members, I will read sections of our testimony. I would start by first extending the deep appreciation of the members of the International Association of Firefighters which consists of 170,000 professional firefighters through throughout the United States and Canada.

As pointed out, this legislation has received attention and merit by the Congress over the last several years and in the last two Con-

gresses. In the 96th Congress H.R. 5888 passed the House by a margin of 313 to 56. The Senate passed the measure without objection on the Unanimous Consent Calendar.

Unfortunately, in spite of strong congressional support, including the leadership at that time of the Congress, and the Vice President, the measure was not approved by, at that time, President Carter.

In the 97th Congress, an identical bill, H.R. 756 again was overwhelmingly passed by the House by a vote of 327 to 82, and the Senate in the final hours of the 97th Congress included a similar version as an amendment to the continuing budget resolution. However, many unauthorized amendments to the budget resolution, including our death benefit provision, were dropped in conference.

During the hearings last year, our International Union provided to the subcommittee the results of a meeting that we had with members of White House staff. That included Mr. Ed Rollins, at that time the Deputy Political Director for President Reagan. We had received assurances from Mr. Rollins that if that measure similar to this or identical to this, were to pass the President would be inclined to support it.

Unfortunately, as you mentioned, Mr. Chairman, the Office of OMB, unfortunately, sent a letter to the Members of Congress and it appeared we had two distinct signals coming from one administration. I must say that again this year we have received similar assurances that if this measure were to come to the President, it would be approved.

I understand that my colleagues will be conveying to you of meetings with Mr. Meese of the White House and I believe his assurances have also been offered.

We do not see the logic in the distinction between Federal, State, and local public safety officers. Federal firefighters, like their State and local counterparts, are engaged in the most hazardous of all occupations, suffering one of the highest death and injury rates in this country.

The tragic inequity of this exclusion becomes particularly poignant when one considers that Federal, State, and local public safety officers often work side by side, which has been mentioned.

For example, most, if not all, Federal installations participate in mutual aid agreements with their surrounding localities. If death occurs, such cooperative firefighting efforts, the State and local firefighters family receives the \$50,000 death benefit while a Federal firefighter's family does not.

Again, I would like to underline that the vast majority of our military installations cooperative agreements with the municipal fire department and the Federal fire department are in place and each helps the other in both localities. It really underlines the inequity of the situation.

A further example is the current situation where a Federal firefighter who takes part in his community's volunteer fire service. If he dies while on volunteer status, he is eligible for the death benefit since the Public Safety Officers Benefit Act does include volunteers in its provisions. Even more ironic, the off-duty Federal firefighter on volunteer status may well be called through a mutual

aid agreement to assist in a fire on a Federal installation, perhaps the very installation where he is employed.

If he dies as a volunteer, his family is eligible for the death benefit. But if he dies while on regular duty his family does not receive the benefit. Federal firefighters and law enforcement officers were excluded from coverage under the Public Safety Officers Benefit Act on the basis of arguments that they receive comparable and adequate death benefits under FECA, as has been mentioned. In fact, though, a comparison of FECA benefits to what State and local firefighters receive from their own death and pension plans show Federal firefighters receiving benefits at or below the level of their State and local counterparts.

The IAFF represents both Federal, State and local firefighters and a survey of our State and local membership shows that approximately 50 percent of them receive comparable or better death coverage as compared to FECA.

Furthermore they are entitled to workmen's compensation, which is provided by the State and the \$50,000 death benefit provided by the Public Safety Officers Benefit Act. How can the Federal fire service, which demands longer hours and provides lower pay on top of marginal death benefits hope to keep a stable, effective, and qualified firefighting force under these circumstances?

Moreover, we feel that coverage under FECA is generally inadequate. A major flaw in its provisions is that since it is based on an employee's salary, those who are most likely to die, the younger, the less experienced and lower paid firefighter receive the least amount of coverage.

Financial burdens are aggravated by the fact that the younger firefighter's family is likely to be in the greatest financial need, faced with high mortgage balances, minimal savings and huge outlays for raising and educating young children.

Under current FECA provisions, a firefighter or law enforcement officer's widow who has no children is entitled to 50 percent of his monthly salary. If she does have children, she is entitled to 45 percent of the monthly pay and an additional 15 percent for each child up to a maximum of 75 percent.

But let's take a more practical look at this. Today's average Federal firefighter falls between a GS-4, step 4, and a GS-5, step 4. Taking the midpoint, the average firefighter's salary, for purposes of FECA computation, is approximately \$17,406 per year. Thus the minimum benefit for a widow with no children is approximately \$7,832 per year and the maximum benefit of 75 percent with two or more children works out to \$12,954 a year.

Let's remember that this computation is based on the pay for the average firefighter. The younger firefighter is likely to fall below these levels. In today's economy these amounts literally force firefighter widows to either remarry or seek employment. This is particularly tragic when small children are involved.

Such treatment of the surviving families of the Federal firefighters who lay down their lives in public service, who often suffer horrible deaths, is incomprehensible and insensitive to the pain and financial dislocation with which these families are faced.

In arguing against the \$50,000 death benefit, opponents have continually characterized the measure as being inherently preferen-

tial, singling out a particular group of employees for special treatment.

However, we find numerous instances of such special treatment in title V of the United States Code. In subpart D dealing with pay and allowances, section 5102 provides a long list of particular employee groups receiving special treatment, including employees in the Foreign Service and physicians, dentists and nurses in the Department of Medicine, Veterans' Administration, just to mention a few.

In chapter 83 dealing with retirement, section 8331 provides another such lifting of particular employee groups receiving special treatment. Among them, justices and judges of the United States.

In light of these facts, objection to the special treatment of Federal firefighters and law enforcement officers has little merit since the Federal Government does regularly recognize the special needs or particular groups of employees providing special treatment and benefits to meet those needs.

Furthermore, the preferential treatment argument loses all credibility when one realizes that some Federal law enforcement officers already receive such special treatment since they are eligible for the \$50,000 death benefit under the provisions of the District of Columbia's Policemen and Firemen's Retirement and Disability Plan. That plan provides a death benefit to some members of the U.S. Park Service, the Executive Protective Service, and certain members of the U.S. Secret Service.

In closing, Mr. Chairman, I would also like to offer to the committee a copy of the January 1, 1983, Workers' Compensation and Unemployment Insurance Under State Laws.

This is an update of the coverage and benefits provided to survivors of those in the line of duty regardless of their employment and I think the committee can review for itself the benefits paid by the State.

Mr. KILDEE. Without objection, that will be made part of the record.

[The January 1, 1983, Workers' Compensation and Unemployment Insurance Under State Laws follows:]

Workers' Compensation and Unemployment Insurance Under State Laws January 1, 1983

Workers' Compensation Und

EXEMPTIONS		Waiting Period, Jan. '83			Jurisdiction (Ranked Highest to Lowest Max. PTD Benefit within Region)	Intended Benefit as % of Weekly Wage	Permanent Total Disability, Jan. '83		Base Duration (in Weeks)	
Jan. '83 Compensatory Power Team (Where Applicable)	Jan. '83 Firm Employing Power Team	Jan. '83 Maximum Medical Care	No Benefit Payment for First Exceeds (in Number of Days)	Time Off Deduction (in Number of Days)			Weekly Payments Maximum	Maximum as % of SAWW		
*	0	Full	3	14	Region I	Iowa	80% †	\$542	200%	Duration
*	0	Full	3 ¹	14		Illinois	66½	446	133½	
*	3	Full	7	14		Michigan	80 †	330	90	Duration
*	3	Full	3	7		Wisconsin	66½	294	100	
*	0	Full	3 ¹	10		Minnesota	66½	290	100	Duration
*	0	Full	7 ²	21		Indiana	66½	140	N/A	500
*	0	Full	5	5	Region II	Montana	66½	263	100	Duration
*	0	Full	4	5		North Dakota	66½	261	100	Duration
*	0	Full	3 ¹	8		Wyoming	N/A	233	66½	257
*	0	Full	7	7		South Dakota	66½	227	100	Duration
*	Firm with Less Than \$10,000 Payroll	Full	7	21		Kansas	66½	204	75	—
*	0	Full	3	3		Oklahoma	66½	196	66½	Duration
*	5	Full	3	14		Missouri	66½	189	66½	Duration
*	0	Full	7	42		Nebraska	66½	180	N/A	Duration
*	3	Full	7	14		Arkansas	66½	154	N/A	Duration
*	0	Full	3	14	Region III	District of Columbia	66½	397	100	Duration
*	0	Full ¹	7	14		Ohio	66½	320	100	
*	0	Full	7	14		Pennsylvania	66½	306	100	Duration
*	0	Full	3	7		West Virginia	70	301	100	
*	0	Full	3	14		Maryland	66½	292	100	Duration
*	0	Full	7	14		Kentucky	66½	278	100	Duration
*	3	Full	7	21		Virginia	66½	253	100	Duration
*	0	Full	3	7		Delaware	66½	208	66½	Duration
*	0	Full	3	14	Region IV	Colorado	66½	284	80	
*	3	Full	7	28		New Mexico	66½	272	100	600
*	0	Full	7	42		Louisiana	66½	204	66½	Duration
*	0	Full	7	28		Texas	66½	182	N/A	401+
*	3	Full	7	14	Region V	Florida	66½	271	100	Duration
*	4	Full	7	14		South Carolina	66½	254	100	500
*	4	Full	7	28		North Carolina	66½	248	100	Duration
*	3	Full	3 ¹	21		Alabama	66½	174	66½	Duration
*	5	Full	7	14		Tennessee	66½	136	N/A	550
*	3	\$5,000 ¹	7	28		Georgia	66½	135	N/A	Duration
*	5	Full	5	14		Mississippi	66½	112	N/A	450
*	0	Full	3	28	Region VI	Alaska	66½	996	200	Duration
*	0	Full	3 ¹	14		Oregon	66½	305	100	Duration
*	0	Full	5	5		Nevada	66½	297	100	
*	0	Full	2 ¹	5		Hawaii	66½	266	100	Duration
*	0	Full	3 ¹	14		Washington	60-75	243	75	Duration
*	0	Full	3 ¹	14		Utah	66½	241	85	312+
*	0	Full	5	14		Idaho	60	239	90	52
*	0	Full	7	14		Arizona	66½	204	N/A	Duration
*	0	Full	3 ¹	21		California	66½	196	N/A	
*	0	\$100 ¹	7	7	Region VII	New Jersey	70	236	75	450
*	0	Full	7	14		New York	66½	215	N/A	Duration
*	0	Full	3 ¹	10		Puerto Rico	66½	31	N/A	—
*	0	Full	3	14	Region VIII	Maine	66½	396	166½	Duration
*	0	Full	3	7		Connecticut	66½	326	100	Duration
*	0	Full	5	6		Massachusetts	66½	298	100	—
*	4	Full	3	14		Rhode Island	66½	257	100	Duration
*	0	Full	3	7		New Hampshire	66½	256	100	Duration
*	0	Full	3	10		Vermont	66½	243	100	Duration

SAWW is State Average Weekly Wage.
*† is payment to widow/child until death or remarriage.
† is payment to children until age specified.

Lower benefit amount applies if no dependents. Higher amount is to
be paid to dependent child until death or remarriage.
† Based on schedule earnings.
* Employee must petition for further treatment.

State Laws, January 1, 1983

Temporary Total Disability, Jan. '83				Permanent Partial Disability, Jan. '83 (Non-Scheduled)				Date Benefits, Jan. '83			
Amount	Maximum Weekly Benefit Allowed	Duration (in Weeks)	Benefit Limitations	Amount	Maximum Weekly Benefit Allowed	Duration (in Weeks)	Benefit Limitations	Amount	Maximum Weekly Benefit Allowed	Duration (in Weeks)	Benefit Limitations
Disability	\$542		Duration of Disability	\$499		Based on % Disability	\$542	W, C-18+			No Limit
a	446		Duration of Disability	282		Duration of Disability if Unable to Perform Usual Work	446	W, C-18+			The Greater of 20 Yrs. or \$250,000
Disability *	330		Duration of Disability *	330		Duration of Disability *	330	W-500 Wks. C-18+			No Limit
j *	294		Duration of Disability *	90	1000	—	294	W-500 Wks. C-18+			No Limit
Disability *	290		Duration of Disability *	290	350	—	290	W, C-18+			No Limit *
\$70,000	140	500	\$70,000	75	500	\$70,000	140	W-500 Wks. C-18+			\$70,000
Disability *	263		Duration of Disability *	132	500 *	—	263	W, C-18+			No Limit *
Disability *	261		Duration of Disability *	40	500	—	261	W, C-18+			No Limit
—	350		Duration of Disability	233		Based on % Disability	233	\$165 Plus \$7 Each Child			No Limit
Disability	227		Duration of Disability	227		Duration of Disability	227	W-500 Wks. C-18+			No Limit
\$100,000	204	—	\$75,000	204	415	\$75,000	204	W, C-18+			W-\$100,000
Disability	196	300	—	147	500	—	196	W, C-18+			No Limit
Disability	189	400	—	114	400	—	189	W, C-18+			\$195,000
Disability	180		Duration of Disability	180	300	YTD Benefit Deducted	180	W, C-18+			No Limit
Disability	154	450	\$69,300	154	450	\$69,300	154	W, C-18+			No Limit
Disability	397		Duration of Disability	397		Duration of Disability	397	W, C-18+			No Limit
i *	320		Duration of Disability *	320		Same Earning up to \$17,500 or if Physical Impairment up to \$21,200	320	W, C-18+			No Limit
Disability	306		Duration of Disability	306	500	60% of Difference of Wages & Cost Capacity	306	W, C-18+			No Limit
e	301	208	—	201	336	Payable for Life if No-100% Disability	301	W, C-18+			No Limit
Disability	292		Duration of Disability	292		Duration of Disability	292	W, C-18+			\$45,000+
Disability	278		Duration of Disability	208	425	—	208	W, C-18+			No Limit
Disability	253		Duration of Disability	253	500	Benefit May Extend	253	W, C-18+			No Limit *
Disability	208		Duration of Disability	208	300	—	208	W, C-18+			No Limit *
i *	284		Duration of Disability *	84	—	\$26,292 *	284	W, C-18+			No Limit *
\$163,200	272	600	\$163,200	272	600	YTD Benefit Deducted	272	W-500 Wks. C-18+			\$163,200
Disability *	204		Duration of Disability	204	450	—	204	W, C-18+			No Limit
—	182	401	—	182	300	—	182	W, C-18+			No Limit
Disability *	271	350	—	271	350	90% of Diff. between 85% of Monthly Wage & Post-Retiree Wage Up To 68% of Avg. Mo. Wage	271	W, C-18+			\$100,000
—	254	500	—	254	340	—	254	W, C-18+			No Limit
Disability	248		Duration of Disability	248	300	—	248	W-500 Wks. C-18+			Benefits for Life if Survivor Unable to Work
Disability	174	300	—	174	300	YTD Benefit Deducted	174	500 weeks			No Limit
or 400 Wks. \$15 Wks. to 350,400	136	—	\$54,400	136	400	\$54,400	136	W, C-18+			\$54,400
Disability	135		Duration of Disability	135		Based on Statutory Schedule	135	400 weeks			\$32,500 if no Children
\$50,400	112	450	\$50,400	112	450	\$50,400	112	W-500 Wks. C-18+			\$50,400
Disability *	996		Duration of Disability *	996	—	\$60,000 *	996	W-10 Yrs. Unless Disab. or Age 55, 60 Yrs.			No Limit *
Disability *	305		Duration of Disability *	305		Based on % Disability	305	W, C-18+			No Limit *
Disability *	297		Duration of Disability *	297		Based on % Disability	297	W, C-18+			No Limit *
Disability	266		Duration of Disability	266		Based on % Disability	266	W, C-18+			No Limit
Disability *	243		Duration of Disability *	243		Based on % Disability	243	W, C-18+			No Limit
—	284	312	—	189	312	YTD Benefit Deducted	241	312 weeks			No Limit
thereafter, 60% of Wage for Duration	238.50 312.25	52	thereafter, 60% SAWW for Durat	168		Based on % Disability	168	500 weeks			No Limit
Disability	204		Duration of Disability	168		Duration of Disability	168	W, C-18+			No Limit
—	196		Duration of Disability	130		Based on % Disability	196	—			\$85,000
Benefit May Extend	236	400	—	236	600	—	236	W, C-18+			After 450 Wks. Any Earnings Deducted
Disability	215		Duration of Disability	105		Duration of Disability	215	W, C-18+			No Limit
\$18,900	45	312	—	45		Based on % Disability	31	W, C-18+			No Limit *
Disability *	396		Duration of Disability *	396		Duration of Disability *	396	W, C-18+			No Limit *
Disability *	326		Duration of Disability *	326	780	—	326	W, C-18+			No Limit *
250 x SAWW	298	—	250 x SAWW	298	—	250 x SAWW	298	W, C-18+			250 x SAWW
Disability	257		Duration of Disability	257		Duration of Disability	257	W, C-18+			No Limit
Disability	256		Duration of Disability	256		Duration of Disability	256	W-400 Wks. C-18+			Benefits Beyond 400 Wks. if Disabled
Disability	243		Duration of Disability	243	300	—	243	W-400 Wks. if C-18+			Max. 150 Wks. for Children Over 18

Notes:
1. Certain occupational diseases are not covered unless employee is totally disabled or requires a change of occupation.
2. Temporary total disability only.
3. Subject to 23 and/or 21 offset.

* Certain occupational diseases are not covered unless employee is totally disabled or requires a change of occupation.
† Temporary total disability only.
* Subject to SS and/or UI offset.

Unemployment Insurance Under State Laws, Jan. 1, 1983

Jurisdiction (Ranked Highest to Lowest by Maximum Weekly Benefit)	Maximum Weekly Benefit 1981	Average Weekly Benefit Paid for Total Unemployment 1981	Average Weekly Wages in Covered Employment 1981	Ratio Maximum Weekly Benefit as a Percentage of Aver- age Weekly Wages 1981	Ratio Maximum Weekly Benefit as a Percentage of Aver- age Weekly Wages 1982	Regular Duration of Benefits by Weeks	Percent- age of Claims Exhausted Benefits 1982	Percent- age of Taxable Payroll 1982	Percent- age of Total Payroll 1982
United States	\$107	\$297					38%	2.6%	1.1%
Region I									
Michigan	197	128	351	28%	53%	13-26	40	4.1	1.3
Wisconsin	196	123	280	60*	55	1-34	40	2.7	1.1
Minnesota	191	126	289	56*	62	11-26	47	2.4	1.1
Illinois	166-224	133	324	44*	56	26	49	3.8	1.4
Indiana	156-190	122	271	49*	57	15-26	39	2.4	1.2
Ohio	94-141	81	305	28	58	9-26	42	2.8	1.1
Region II									
Oklahoma	193	114	285	53*	61	20-26	58	0.8	0.4
Wyoming	180	121	332	44*	58	12-26	36	2.5	1.5
North Dakota	175	114	281	55*	68	12-26	41	2.7	1.5
Kansas	163	102	272	50*	68	10-26	43	2.5	1.1
Nebraska	158	111	263	50*	60	8-26	43	2.7	1.4
Arkansas	136	82	243	56*	95	10-26	31	2.5	1.4
South Dakota	129	104	228	53*	59	18-26	20	1.8	0.8
Nebraska	106	85	251	42	68	17-26	38	1.8	0.7
Missouri	105	91	284	37	61	10-26	38	2.7	0.9
Region III									
West Virginia	211	110	301	61*	58	26	35	4.8	2.1
District of Columbia	208	131	347	56*	59	17-34	48	3.0	1.2
Pennsylvania	205-213	126	297	59*	60	26-30	30	4.1	1.8
Ohio	156-250	128	311	44	54	20-26	44	2.9	1.1
Maryland	153	102	281	43	65	26	34	2.5	0.8
Delaware	150	106	313	48*	58	18-26	20	3.4	1.0
Kentucky	140	106	278	46*	68	23-26	38	4.3	1.8
Virginia	138	98	266	46	74	12-26	27	1.8	0.8
Region IV									
Louisiana	205	121	306	54	90	12-26	50	2.1	1.0
Colorado	190	122	307	52*	62	7-26	50	1.2	0.8
Texas	168	100	309	41	65	14-26	44	0.8	0.3
New Mexico	142	90	272	43*	73	18-26	40	1.7	0.9
Region V									
North Carolina	186	92	249	58*	89	13-26	22	1.6	0.7
Florida	125	81	262	40	81	10-26	44	1.0	0.4
South Carolina	118	85	247	48*	99	14-26	30	1.8	0.9
Georgia	115	83	269	33	87	4-26	31	1.4	0.5
Tennessee	110	82	280	42	78	13-26	33	2.8	1.0
Mississippi	105	73	237	38	97	13-26	32	2.9	1.4
Alabama	90	77	261	35*	72	11-26	30	1.8	0.9
Region VI									
Idaho	178	118	266	69*	85	26	28	1.7	1.2
Washington	178	119	327	48*	57	16-30	37	3.0	1.7
Oregon	175	107	282	47*	53	8-26	39	2.9	1.7
California	166	92	316	38	50	12-26	46	2.8	1.0
Utah	166	115	283	47*	70	10-26	43	1.7	1.1
Idaho	159	105	265	47*	82	10-26	51	2.1	1.4
Alaska	156-228	129	494	30	41	16-26	42	3.0	2.0
Nevada	149	107	297	41*	57	11-26	40	1.7	1.0
Arizona	115	86	289	23	61	12-26	41	1.2	0.4
Region VII									
New Jersey	158	106	314	42*	55	15-26	46	3.4	1.6
New York	125	84	327	38	51	26	38	3.1	1.1
Puerto Rico	84	40	172	49*	—	20	32	3.0	3.0
Region VIII									
Massachusetts	172-258	105	267	49*	57	9-30	31	3.3	1.4
Connecticut	156-206	111	313	45*	56	26	20	2.3	0.8
Rhode Island	154-174	96	258	51*	70	12-26	37	4.1	2.3
Vermont	145	97	244	51*	66	28	24	3.2	1.5
New Hampshire	132	88	292	45	70	28	8	1.4	0.6
Maine	124-186	94	238	43*	74	7-26	48	3.1	1.3

* Calendar Year—latest data available.
 * Where two figures are shown, the larger includes maximum dependent allowances.
 * Where two figures are shown, the lower represents the shortest possible duration. In most states this is the settlement of a claimant with minimum weekly benefits and minimum qualifying wages.
 * Maximum weekly benefit is a specified percentage of average weekly covered wages and is computed annually, or in a few states semi-annually. Since the base year used for setting the maximum is not necessarily calendar 1982, the percentage figures may vary from statutory percentages.
 * Maximum received only for 10 weeks, if only one base period employer.
 * Preliminary.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
 815 16th STREET, N.W., WASHINGTON, D.C. 20004
 Publication No. 34-2
 LANE KIRKLAND President THOMAS E. DONAHUE Secretary-Treasurer

Mr. SCHATBERGER. I would also like to submit for the committee's review a study which we have put together from our pension profile, which shows the local benefits that are provided to survivors to those employees who die in the line of duty, and those benefits are provided by local pension plans, which are on top of the State workmen's compensation plan, and in addition to the \$50,000 death benefit.

Mr. KILDEE. Without objection, that, too, will be made a part of the record.

[The study on local survivors benefits follows:]

OVERVIEW OF COMPENSATION FOR IN LINE-OF-DUTY DEATHS AVAILABLE TO STATE AND LOCAL FIRE FIGHTERS (NOT INCLUDING GROUP INSURANCE PROGRAMS NORMALLY AVAILABLE THROUGH STATE AND LOCAL GOVERNMENT EMPLOYERS - Typically Providing Equivalent or Twice the Average Annual Salary)

STATE	WORKER'S COMPENSATION (January 1982)	CITY OR LOCALE	SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN (1977)
ALABAMA	\$8,372/yr.; \$80,500 max.	Anniston Birmingham	\$1,260-\$2,100/yr. 45% Final Average Salary
ALASKA	\$48,984/yr.; no limit	Anchorage Fairbanks	66.6% Final Monthly Salary 45-70% Salary
ARIZONA	\$5,566-\$10,600/yr.; no limit	Phoenix Tempe	33.3-40% Final Average Salary for Widow; 7.3% Final Average Salary per child; 3 children Max. 33.3-40% Final Average Salary for Widow; 7.3% Final Average Salary per child; 3 children max.
ARKANSAS	\$8,008/yr.; no limit	Not Available	
CALIFORNIA	\$9,100/yr.; no limit	Contra Costa Indio Kern County Mountain View Oakland Orange Pasadena Sacramento San Francisco San Gabriel San Jose Watsonville	50% Salary; 12.5% Salary per child 50% Final Salary 50% Salary 50% Final Average Salary 66.6% Salary 59% Salary 50% Final Average Salary 50% Final 3 yr. Average Salary 41% Final 3 yr. Average Salary 25% Final Average Salary 19-28% Salary; 12.5% Salary per child 25% Salary
COLORADO	\$13,613/yr.; no limit	Aurora Boulder Colorado Springs Denver Greeley Lakewood North Washington Pueblo	33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child 33.3% Salary; \$360/yr. per child
CONNECTICUT	\$16,120/yr.; no limit	Bristol East Hartford Hartford Manchester	50% Salary 50% Salary 50% Salary; 10% Salary per child 25% Salary; 12.5% Salary per child

<u>STATE</u>	<u>WORKER'S COMPENSATION</u> (January 1982)	<u>CITY OR LOCALE</u>	<u>SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN</u> (1977)
CONNECTICUT (cont'd)		Meriden Milford New Haven Waterbury West Haven	25% Salary 33.3% Salary; 16.6% Salary per child 100% Salary 50% Salary 50% Salary
DELAWARE	\$10,130-\$12,156/yr.; no limit	Wilmington	50% Salary
FLORIDA	\$13,136/yr.; \$50,000 max.	Boca Raton Clearwater Daytona Bch. Airport Deerfield Bch. Delray Beach Ft. Lauderdale Jacksonville Miami Beach Miami Springs North Naples Orlando Pine Castle Pompano Bch. Safety Harbor St. Petersburg South Trail	75% Salary; 7.5% Salary per child; \$5,000 lump sum 40% Salary 50% Salary \$20,000 lump sum 50% Average Monthly Salary; 5% Average Monthly Salary per child; 60% Average Monthly Salary max. 50% Salary 33.3% Salary 100% Salary first year; 50% Salary thereafter; \$1200- \$2400/yr. for children 25% Salary; 7.5% Salary per child 50% Salary 45-60% Final 3 yr. Average Salary 50% Salary \$5000 lump sum; 75% Salary; 7.5% Salary per child 50% Salary 30% Salary; 7.5% Salary per child 50% Salary
GEORGIA	\$5,980/yr; \$32,500 max.	Atlanta	100% Salary first year; 49.5% Salary thereafter
HAWAII	\$9,828-\$13,104/yr.; \$58,968-\$78,624 max.	All Counties	50% Final Average Salary; Return Retirement Contribution with Interest
IDAHO	\$5,663-\$7,550/yr.; \$54,450-\$72,600 max.	All Cities	65% Final 5 yr. Average Salary
ILLINOIS	\$20,962/yr.; \$419,240 max.	All Cities except Chicago	40% Salary; 12% Salary per child; 75% Salary max.
IOWA	\$26,052/yr.; no limit	Sioux City	50% Final 5 yr. Average Salary; \$240/yr per child; Return Retirement Contribution

<u>STATE</u>	<u>WORKER'S COMPENSATION</u> (January 1982)	<u>CITY OR LOCALE</u>	<u>SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN</u> (1977)
KANSAS	\$9,724/yr.; \$100,000 max.	Kansas City Prairie Village	50% Salary 50% Final Salary; 10% Final Salary per child; 75% Final Salary max.
		Wichita	50-60% Salary
KENTUCKY	\$9,919/yr.; no limit	Covington Hopkinsville Louisville Mayfield	50% Salary; 10% Salary per child; 75% max. 50-75% Salary 75% Salary 50% Salary; 10% Salary per child
LOUISIANA	\$9,516/yr.; no limit	Alexandria Bossier Houma New Iberia	66.6% Salary; \$300-\$600/yr. for children 50-66.6% Salary 66.6% Salary 50% Salary
MAINE	\$19,097/yr.; no limit	Lewiston Rumford Waterville	50% Salary 66.6% Salary \$1200-\$2400/yr.
MARYLAND	\$13,884/yr.; \$45,000 max.	Annapolis Baltimore Baltimore County	10-30% Salary 100% Salary 66.6% Final Average Salary; Return Retirement Contribution
MASSACHUSETTS	\$5,720/yr.; \$312/yr. per child; \$32,000 max.	All Cities	72% Salary; \$312/yr. per child
MICHIGAN	\$15,964/yr.; \$153,500 max.	All Cities	\$15,964/yr.; \$153,500 max.
MINNESOTA	\$13,884/yr.; no limit	Austin Faribault Moorhead Redwing Richfield St. Cloud St. Paul South St. Paul West St. Paul	30% Salary; 10% Salary per child 30% Salary; 10% Salary per child 30% Final Salary; 10% per child 25% Salary; 8% Salary per child 40% Salary; 5% Salary per child; 50% Salary max. 30% Final Average Salary; 10% per child 21.9% Salary; 7.9% Salary per child 27% Salary; 8% Salary per child; 50% Salary max. 30% Salary; 5% Salary per child; 40% max.
MISSISSIPPI	\$5,834/yr.; \$50,400 max.	Not Available	

<u>STATE</u>	<u>WORKER'S COMPENSATION</u> (January 1982)	<u>CITY OR LOCALE</u>	<u>SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN</u> (1977)
MISSOURI	\$9,048/yr.; \$195,000 max.	St. Louis Sedalia Springfield	50% Salary; 10% Salary per child; 3 child max. 40% Salary 50% Salary; 10% Salary per child; 75% Salary max.
MONTANA	\$12,532/yr.; no limit	Fremont Lincoln Omaha	50% Final Monthly Salary to widow; if widow deceased then \$10,000 lump sum to children 50% Salary 35% Final Salary; 10% Final Salary per child; 75% Final Salary max.
NEVADA	\$14,050/yr.; no limit	Not Available	
NEW HAMPSHIRE	\$12,168/yr.; \$93,600 max.	Not Available	
NEW JERSEY	\$11,284/yr.; after \$97,650 any earnings deducted	Not Available	
NEW MEXICO	\$12,815/yr.; \$147,864 max.	Not Available	
NEW YORK	\$11,180/yr.; no limit	All Cities	50% Salary
N. CAROLINA	\$11,856/yr.; no limit	Not Available	
NORTH DAKOTA	\$5,460/yr.; no limit	Fargo	40% Salary; 20% Salary per child; 60% Salary max.
OHIO	\$15,496/yr.; no limit	All State	100% Salary until anticipated date of retirement; then \$2400/yr plus \$780/yr. per child
OKLAHOMA	\$9,100/yr.; no limit	Edmond Lawton Sapula Shawnee Warr Acres	50% Salary 50-75% Final 30 month Average Salary 50% Final 30 month Average Salary 50-75% Final 30 month Average Salary 50-75% Final 30 month Average Salary
OREGON	\$7,458-\$14,917/yr. no limit	Portland All other cities	50% Salary until anticipated date of retirement; then actuarially determined Return Retirement Contribution; \$10,000 lump sum

<u>STATE</u>	<u>WORKER'S COMPENSATION</u> (January 1982)	<u>CITY OR LOCALE</u>	<u>SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN</u> (1977)
PENNSYLVANIA	\$14,768/yr.; no limit	Allentown Edwardsville Hazleton Harrisburg Lebanon Meadville New Castle Philadelphia	50% Final Average Salary 50% Final Salary 50+% Salary 50+% Salary 50% Salary 50% Salary 50% Salary 60% Final Average Salary; 10% Final Average Salary per child; 80% Final Average Salary max.; Return Retirement Contributions 50% Final Average Salary 50% Final Average Salary \$20,000 Lump Sum 50% Salary; \$240/yr. per child 30-50% Salary
RHODE ISLAND	\$12,376/yr.; no limit	N. Kingston Pawtucket,	66.6% Salary 30% Salary; 10% Salary per child; 50% max.
S. CAROLINA	\$12,220/yr.; \$117,500 max.	Not Available	
SOUTH DAKOTA	\$10,816/yr.; no limit	Not Available	
TENNESSEE	\$6,552/yr.; \$50,400 max.	Not Available	
TEXAS	\$8,008/yr.; no limit	Plainview San Antonio Texas City Tyler	71% Final Salary 50% Salary 43% Final Average Salary 35% Final Average Salary; 25% Final Average Salary per child; 105% max.
UTAH	\$11,336/yr.; \$68,016 max.	Logan	37.5-75% Final Average Salary
VERMONT	\$11,700/yr.; no limit	Not Available	
VIRGINIA	\$12,012/yr.; no limit	Fairfax Norfolk Richmond	Return Retirement Contribution with interest; \$10,000 Lump Sum 50% Final Average Salary 50% Final Average Salary
WASHINGTON	\$11,614/yr.; no limit	Not Available	
W. VIRGINIA	\$14,366/yr.; no limit	Bluefield	30% Final 3 yr. Average Salary; 10% Final 3 yr. Average Salary per child

STATE

WORKER'S COMPENSATION

CITY OR LOCALE

SURVIVOR'S BENEFITS PROVIDED BY LOCAL PENSION PLAN

WISCONSIN

\$13,988/yr.; \$80,700 max.

Milwaukee

60% Final Average Salary

WYOMING

\$14,410/yr.; \$64,015 max.

Casper
Laramie
Sheridan

33.3% Salary; 10% Salary per child; 63.3% Max.
33.3% Salary; 10% Salary per child; 63.3% Max.
33.3% Salary; 10% Salary per child; 63.3% Max.

Mr. SCHATBERGER. Mr. Chairman, I would like to again thank the committee for allowing our international union to again participate in these hearings. We, too, have supported this issue for quite some time and hope that this year it will receive the signature of the President and be enacted into law.

Thank you very much.

Mr. KILDEE. Thank you.

Our next witness now is Sterling Epps, Federal employee coordinator, National Association of Police Organizations.

STATEMENT OF STERLING EPPS, FEDERAL EMPLOYEES COORDINATOR, NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

Mr. EPPS. Mr. Chairman and members of the subcommittee, my name is Sterling Epps and I am Federal employee coordinator for the National Association of Police Organizations, representing approximately 60,000 law enforcement officers throughout the country. I am also president of the Los Angeles, Calif. Chapter of the Federal Law Enforcement Officers Association and am currently employed by the U.S. Customs Service as a special agent criminal investigator.

I am pleased to appear before this subcommittee today and to express NAPO's views on H.R. 622, providing a \$50,000 death benefit to the survivors of Federal law enforcement officers and firefighters who die in the line of duty.

NAPO is in strong support of this measure and its passage has been a major legislative priority of our organization for some time.

In summary, I would like to state that we cannot see the logic in the distinction between Federal, State, and local public safety officers. Federal law enforcement officers, like their State and local counterparts, are engaged in a most hazardous of all occupations, suffering one of the highest death and injury rates in this country.

The provision of an equal death benefit to Federal law enforcement officers is simply a matter of equity. After all, death does not distinguish between Federal, State, and local law enforcement and neither should the law.

Yet the law implicitly says that one's life and service are more valuable than the other. In today's economy, the small amounts which are provided under Federal law force law enforcement widows to either remarry or seek employment. This is particularly tragic when small children are involved. Such treatment of the surviving families of Federal law enforcement officers who lay down their lives in public service, who often suffer horrible deaths is incomprehensible and insensitive to the pain and financial dislocation with which these families are faced.

The National Association of Police Organizations and FLEOA believe that the current inequity in the provision of the death benefit to the survivors of Federal law enforcement officers should now be corrected. I urge this subcommittee to support H.R. 622. I would like to point out that the bill was passed in 1976, and from 1976 until 1980 no Federal agents were killed. In 1980 Julie Cross, a secret agent in Los Angeles and the first female agent, was maliciously gunned down on the streets of Los Angeles. That murder has never been solved.

There are fewer than 30 agents that have been killed since this bill was passed. The \$500,000 estimate of this bill is totally inaccurate in my estimation. In the last year since October 1982, we have lost 11 agents, the greatest number since 1776.

I thank the subcommittee for your time and consideration of our statement today and for the opportunity to express the views of the National Association of Police Organizations and FLEOA.

Mr. KILDEE. Thank you very much, Mr. Epps.
[Prepared statement of Sterling Epps follows.]

PREPARED STATEMENT OF STERLING EPPS, FEDERAL EMPLOYEE COORDINATOR, THE NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS

Mr. Chairman, members of the subcommittee, my name is Sterling Epps and I am the Federal Employee Coordinator of the National Association of Police Organizations, representing approximately 60,000 law enforcement officers throughout the country. I am also president of the Los Angeles, Calif. chapter of the Federal Law Enforcement Officers Association [FLEOA] and I am currently employed as a U.S. Customs Agent of Criminal Investigation. I am present today with my associate, Mr. Tom Doyle, FLEOA national vice president and legislative chairman who is also a U.S. Secret Service agent. I am pleased to appear before the subcommittee today to express our views on H.R. 622, providing a \$50,000 death benefit to the survivors of Federal law enforcement officers and firefighters who die in the line-of-duty. NAPO and FLEOA are in strong support of this measure and its passage has been a major legislative priority of our organization for some time.

Under current Federal law—the Public Safety Officers Benefits Act—State and local law enforcement officers and firefighters receive a \$50,000 benefit for death in the line-of duty. Congress passage of the act in 1976 demonstrated its support for the work of these public servants and recognized the debt owed to those who give their lives, by guaranteeing that their widows and children would not be forced into poverty. However, the act suffers from a serious shortcoming in that Federal law enforcement officers and firefighters were excluded from its provisions.

We cannot see the logic in this distinction between Federal and State and local public safety officers. Federal law enforcement officers, like their State and local counterparts, are engaged in the most hazardous of all occupations, suffering one of the highest death and injury rates in this country. Provision of an equal death benefit to Federal law enforcement officers is a simple matter of equity. After all, when a Federal officer and a local law enforcement officer are killed, the deaths are no less tragic and painful for one officer's family than the other. Yet the law implicitly says that one's life and service are more valuable.

The tragic inequity of this exclusion becomes particularly poignant when one considers the Federal, State, and local public safety officers often work side-by-side. For example, in the tragic assassination attempt of President Reagan in 1981, both a Secret Service agent and a local policeman were injured by the assassin's bullet. Through the grace of God both survived, but if both had died, the D.C. policeman's families would have received a \$50,000 death benefit, while the Secret Service agent's family would not. Earlier this year, during the Queen of England's visit to Yosemite National Park, three Secret Service agents were killed in an accident involving State troopers. The State troopers survived, but the families of the Secret Service agents were left with nothing but sorrow and memories.

In arguing against a \$50,000 death benefit for Federal law enforcement officers, opponents have continually characterized the measure as being "preferential" and as singling out a particular group of employees for special treatment. In the first place, we do not view this measure as being "preferential," but rather a recognition that Federal safety officers are engaged in a more hazardous line of duty, one which carries with it the substantial risk that they may be killed while performing their jobs in the Federal Government. Moreover, the Federal Government already recognized the needs of a host of various occupations from doctors to judges and provides for special treatment for them under title 5 of the United States Code.

In today's economy, the small amounts which are provided under Federal law force law enforcement widows to either remarry or seek employment. This is particularly tragic when small children are involved. Such treatment of the surviving families of Federal law enforcement officers, who lay down their lives in public service, who often suffer horrible deaths, is incomprehensible and insensitive to the pain and financial dislocation with which these families are faced.

Most recently, Congress has accepted our arguments and sought to rectify the current inequity by lending overwhelming and bipartisan support to and passing an identical bill, H.R. 5888, in the 96th Congress. That bill passed the House by a margin of 313 to 56, and the Senate passed the measure without objection under the unanimous consent calendar. Unfortunately, in spite of this strong congressional support and the relatively modest cost estimates provided by the Congressional Budget Office—the measure was vetoed. Again, in 1982 by a vote of 327 to 82 in the House and without objection by the Senate, an identical measure was passed, but was attached to a continuing resolution and was stripped off in Conference.

The National Association of Police Organizations and FLEOA believe that the current inequity in the provision of death benefits to the survivors of Federal law enforcement officers should not be corrected. I urge the subcommittee to support H.R. 622.

I thank the Subcommittee for you time and consideration of our statement today, and for this opportunity to express the views of the National Association of Police Organizations and FLEOA.

Mr. KILDEE. The next witness is Thomas P. Doyle, national vice president, Federal Law Enforcement Officers Association.

**STATEMENT OF THOMAS P. DOYLE, NATIONAL VICE PRESIDENT,
FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION**

Mr. DOYLE. Good morning. My name is Thomas Doyle.

I am the national vice president of the Federal Law Enforcement Officers Association and a special agent with the U.S. Secret Service. I would like to begin by thanking the subcommittee for allowing me to come here today to testify on H.R. 622. The Federal Law Enforcement Officers Association has been a vocal advocate of the \$50,000 death benefit for Federal law enforcement officers and firefighters since even before H.R. 5888 came onto the scene in 1979.

As recently as March 18, 1983, FLEOA took its appeal for the death benefit bill directly to Edwin Meese III, Counselor to President Reagan. At our meeting with Mr. Meese at the White House, we expressed what I believe are the feelings of our 5,000 members and indeed all Federal law enforcement officers and criminal investigators.

We stated that the \$50,000 death benefit stands at the top of our profession's legislative concerns and is one of FLEOA's top priorities. Mr. Chairman, I have a copy of the statement paper which we gave to Mr. Meese in which the \$50,000 death benefit bill was mentioned on pages 5, 6 and 13, if you would like to have a copy of it.

Mr. KILDEE. Would you make that available for the record?

Mr. DOYLE. Certainly.

Mr. KILDEE. Without objection, that will be made a part of the record.

[The Federal Law Enforcement Officers Association statement paper to Edwin Meese III, Counselor to the President, follows:]



**Federal Law Enforcement
Officers Association**

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KEY FEDERAL LAW ENFORCEMENT ISSUES:

Combined responses of FLEOA Official
on Personal and Professional Problems
Confronting Officers, the Federal
Government and the American People

"A Professional Association for Federal Law Enforcement Officers"

INTRODUCTION

The Federal Law Enforcement Officers Association's National Executive Board, Administrative Presidents (those representing each federal agency) and Chapter Officers (elected officers representing federal law enforcement officers and criminal investigators geographically) were asked to fill out a sample questionnaire that asked the following questions. They were told to ask their colleagues, both FLEOA members and others, what they thought and to combine those answers with their own as their submission. Though this informal survey is in no way scientific, the problems it points out, the solution it suggests, and the perceptions it articulates are worth careful consideration.

The questionnaire asked the following questions:

1. List the key problems facing federal law enforcement officers today. These may be personal, professional, or other. If problems are agency specific, please indicate which agency.
2. List any suggestions, or opinions you may have on ways to address these problems that you feel should be brought to the attention of the White House.
3. List any and all pay and benefit issues which are of vital interest to your members. Consider your active, retired, and resigned federal law enforcement officers and criminal investigators.
4. What position do you feel is best for FLEOA to take on the narcotics enforcement issue? What position is best for the law enforcement community as a whole? Please answer the question even if you are not directly involved.
5. Please prepare a paragraph indicating the attitudes and opinions of your members concerning the Reagan Administration's stand on federal enforcement issues. What is the Administration doing correctly? What needs improvement? What recommendations do you have?
6. Indicate attitudes, opinions, and problems concerned with the application of the "Inspector General Concept" to various enforcement bureaus. (By Inspector General we mean an organized unit within each enforcement bureau to investigate fraud, waste, mismanagement, and/or corruption.)
7. The reorganization of the Bureau of Alcohol, Tobacco and Firearms has run for 18 months without a resolution. Do you believe the reorganization should take place? In your opinion what format for enforcing the nation's firearms, explosives, and arson laws would most benefit the country and the American people? Please indicate your agency and whether the opinions are those of members of BATF or other agencies.
8. List additional items which you feel should be included in a meeting with the White House.

FINDINGS

Ten (10) problem areas were identified as the most troublesome to federal law enforcement officers and criminal investigators. They fall into the general categories listed below.

1. Threats to the existing retirement system enjoyed by federal law enforcement officers and criminal investigators.
2. Inadequate standards for funding enforcement/ investigative operations.
3. Job risk including professional liability and the threats posed to agents and their families from the hazardous nature of the work.
4. Job uncertainty, that is, the deteriorating morale and efficiency caused by unsettled reorganizations and transfer policies.
5. Impact of politics on enforcement activities.
6. Imbalance in enforcement priorities.
7. Inadequacies inherent in current law.
8. Bottlenecks, that is, delays, inadequate resources, etc. in other aspects of federal criminal justice which hamper enforcement activities.
9. Poor communications.
10. Poor structuring of enforcement activities and lack of standardization.

Threats of Existing Retirement System

Most special agents responding to our questionnaire feared Congress and/or the current Administration would tamper with the existing government retirement system and particularly with the special "6c" retirement provisions that cover federal law enforcement officers and criminal investigators. They fear attempts will be made to place federal enforcement officers' retirements under the Social Security System. This move our members steadfastly oppose.

Attempts to change "6C" or include currently employed federal enforcement officers under Social Security would destroy morale altogether. Officers from HHS, FBI, IRS-CID, Customs Patrol, BATF and Secret Service all have made this point. FBI members feel an attempt to place the "Bureau" under Social Security would decimate the ranks of experienced agents.

Our retired members already felt betrayed and very wary when Congress and the Administration failed to exclude law enforcement retirements from the impact of the Omnibus Budget Reconciliation Act which cuts COLA for early retirees. Retired FBI agents have maintained that mandatory retirement at age 55 is not early retirement and as such, should have been exempted.

Postal Inspectors were particularly concerned about tampering with the retirement system because, at present, their pensions are roughly 20% below those of their colleagues from other agencies. They feel that additional changes, or placement under the Social Security System would penalize them even further.

Finally, the 55 year of age mandatory retirement creates problems in the computation of medicare insurance which does not commence until a person enters his 60s.

Inadequate Funding for Enforcement/Investigative Operations

Inadequate funding also has been cited as a key problem facing federal law enforcement.

Special agents from the IG in HHS pointed to the curtailment of AVO as a major difficulty. HHS IG's are required to work extensive overtime for which they cannot get paid. The demands of the job also have precluded them from using the compensatory time they earn.

FBI felt that cuts in funding have made it impossible to gather together enough manpower, automobiles, and equipment to handle at a professional level the foreign counter-intelligence threat posed by the USSR and satellite countries. This seems particularly inconsistent with major funding increases to other intelligence operations through the federal government.

Neither the US Park Police nor Alcohol, Tobacco and Firearms have been able to fill enforcement vacancies. Retrenchment has prevented both Park Police and Customs Patrol from upgrading, and has halted standardization of pay levels for uniformed and plainclothed personnel.

Today, US Postal Inspectors remain the only federal employees, including peacetime military, still working a 48 hour base work week. They have no AVO, SOT or premium pay. This not only affects their base pay, but all their computed retirement benefits as well. This, too, cannot be rectified due to inadequate funding.

Making matters worse are the manipulations to which AVO and SOT computations are subjected. Such chicanery simply aggravates strained relations between agencies and working enforcement officers. Consider the US Secret Service special agent. He/she has SOT computed on a bi-monthly basis in order to accelerate the max-out point, rather than on a more reasonable semi-annual or annual basis.

Indirectly compelling agents to work uncompensated overtime is yet another sore point which stems from the inadequate funding. FBI agents, in Dallas, for example, are assigned standby duty for one week at a time and must restrict their off-duty activity. This is done without compensation. Failure to respond immediately, however, is grounds for censure, suspension, or probation.

Again and again our agents and enforcement officers pointed to the fiscal/budgetary policies governing federal enforcement and their lack of clarity, uniformity and goals.

Job Risks

The legal and physical risks of law enforcement concern both federal officers and their families. A major concern is the unwillingness of the federal government to amend the Federal Tort Claims Act by substituting the government for the individual agent in lawsuits stemming from duty related incidents. The lack of "Peace Officer Bills" in many states adds to the risk of intervening in state felony crimes committed in the presence of federal enforcement officers. The absence of a \$50,000 Death

Benefit for federal law enforcement officers and criminal investigators is a major problem. And, the failure to explain existing death benefits enjoyed by federal enforcement officers aggravates the death benefit issue and adds to the uncertainty felt by federal enforcement officers and their families.

In some cases, the inherent distrust of agency sponsored individual and family counselling precludes early intervention in personal, professional, or family problems stemming from the job. Most agents feel that asking their employer for help stigmatizes them and injures their careers. Many Employee Assistance Programs are not effectively publicized and do not follow models of outstanding programs like that currently operated by DEA and mandated under PL 79-658, PL 91-616 and PL 92-255.

Job Uncertainty: BATF & DEA

The inability or unwillingness of this Administration, and this Congress to make a firm decision on reorganizing BATF or revitalizing it, and to assign a lead agency to the nation's narcotics enforcement effort has caused morale and efficiency to deteriorate. The impact of these delays can be seen among those directly involved -- BATF and DEA -- and among criminal investigators and enforcement officers who watch their colleagues left for months and months without answers about their jobs or their agency.

Federal enforcement officers feel the Administration and Congress should know the effects of these delays. Their willingness to tolerate these negative effects is perceived as callousness, or worse, ineptitude.

The Impact of Politics on Enforcement

Delays in reorganizing or revitalizing BATF, delays which are perceived as stemming from continued pressure by the gun lobby, are closely related to the job uncertainty issue.

In another area, the de-emphasis of White Collar Crimes, including the possibility of doing away with the "Economic Crimes Unit" in Justice, is seen as protecting

the rich and big business. This was mentioned specifically by HHS and IRS-CID.

Internal bureaucratic politics within agencies themselves appears to prevent the establishment of clear lines of authority for enforcement officers. IRS-CID felt the placement of OI under Regional Commissioners rather than in a straight line extending down from the Treasury's top enforcement officer, the Assistant Secretary of the Treasury for Enforcement, through IRS-CID to IRS's criminal investigators was a problem. Customs Office of Investigation also felt a straight enforcement line of authority would be better than having OI come under the Regional Commissioners.

Imbalance in Enforcement Priorities

The unwillingness to go after white collar crime as vigorously as violent crime is perceived as a serious problem particularly during hard economic times. The need to pursue "rich people's" crimes as well as "poor people's" criminality was pointed to as a key problem by HHS.

Inadequacies in Current Laws

Many federal laws simply do not meet the current enforcement needs, nor do they effectively protect the public's right to safety over the individual rights of the accused.

The exclusionary rule was cited as a major example. Failure to pass comprehensive revisions to the Federal Criminal Code was another. The lack of effective laws enabling the US Department of Commerce to prosecute individuals or companies that export directly or indirectly to restricted nations is mentioned as another problem area.

Bottlenecks

Shortages of judges and prosecutors is seen as a major cause of bottlenecks and costly delays. Excessive paperwork occupies the working hours of special agents, preventing them from getting out on the street and investigating. The clearest example of this bureaucratic mess is illustrated by the layer upon layer of review that IRS-CID must go through to bring a case up for prosecution, and to make a request for grand jury investigation or to obtain search warrants.

The unwillingness of judges to give stiffer sentences and order restitution was mentioned as a major problem by US Postal Inspectors. And HHS Inspector General personnel and Postal Inspectors pointed to the unwillingness of US Attorneys to aggressively prosecute White Collar Crime.

Poor Communications

Poor communications within federal agencies and between the Administration and federal law enforcement officers was mentioned in several questionnaires.

In agencies where regulatory and criminal enforcement authority existed side-by-side, the dialogues between regulatory/licensing personnel and personnel involved solely with criminal enforcement were regularly poor. During the last two administrations this phenomenon occurred in U.S. Customs. More recently, it occurred in BATF under the former director. And it has prevented IGs in HHS from reviewing contracts and regulations and thus closing enforcement holes before they become violations. This lack of communications exacerbates the problems of competition for limited resources and positions of influence in these agencies.

Consistently, a reliance on authoritarian management styles -- that is, operating by fiat -- creates hard feelings, and leads to lawsuits over transfer policies, overtime policies and disciplinary actions which are costly and avoidable. This style of management perpetuates an environment where managers and agents oppose one another rather than cooperate.

Where the Administration is concerned, positive law enforcement statements do not match up with actions on behalf of federal officers and a credibility gap has developed. Let me give some examples of these points: Transfer policies put forth by the Postal Inspection Service, FBI, and the US Secret Service all are experienced as arbitrary and punitive, especially these hard economic times. Poor communications have made these difficult personnel policies grow into continuing sore points, irritations that produce regular lawsuits before the Merit System Protection Board and the courts.

Current and retired FBI agents and their colleagues from other agencies experienced the government turning on enforcement personnel, investigating and prosecuting them during the "Weatherman Case." They quite reasonably maintain a distrust for their enforcement agencies and feel their organization cannot be trusted to protect them. Against this perception that agencies will sell out their own enforcement employees when politics demand they do so, criminal investigators and enforcement officers hear themselves being asked to give their all to their agencies. This, too, has produced a longterm communications and credibility problem.

The willingness to deny benefits to enforcement personnel like the \$50,000 death benefit, to cut COLA, and to leave unrefuted the threat that federal retirement benefits will be placed under Social Security inflames this credibility/loyalty problem.

Poor Structuring of Enforcement Activities and Lack of Standards

Trust and credibility cannot exist without consistency, and consistency is impossible without standards. The noticeable lack of uniform standards throughout federal enforcement is seen as the final major problem area.

Uniformed members of FLEOA feel that they operate under a lower pay/grade system than do plainclothed federal officers even when they do the same or similar work. US Park Police and Customs Patrol Officers raised this issue.

There appears to be no clear cut logic connecting federal law enforcement's goals to fiscal policies.

Promotion policies and career paths have been confusing and points of contention in FBI, DEA, and the Postal Inspection Service. Agents frequently ask whether promotions are based upon seniority, experience, production, or the "old boy" networks.

Criminal investigators in HHS conduct investigations in situations which may be life threatening and their Inspector General has no authority to permit selected officers to bear firearms when he deems it necessary.

There is no standard pay/grade that is considered the journeyman level. A GS-12 is journeyman in USSS and a GS-13 is journeyman level in FBI.

When agents perform interdiction functions normally done by patrol officers, the uniformed officers remain at lower pay/grade levels than the agents. This problem may be in evidence in the South Florida Task Force operations.

There are no clearcut goals or objectives existing for controlling illegal aliens or steering I&NS enforcement policies.

And, in agencies where regulatory and criminal investigative/enforcement responsibilities exist side-by-side, the lines of authority and command are at wide variance. This, in the cases of Customs Office of Investigations, IRS-CID and BATF has placed enforcement responsibilities under non-enforcement management.

RECOMMENDATIONS

The following solutions or possible solutions have been posed by FLEOA members to redress some of the major problems listed in the preceding pages.

Threats to the Existing Retirement System

A clearcut and public statement by this Administration saying that any attempt to include federal law enforcement officers or criminal investigators' retirements under Social Security will be vetoed would enhance credibility and put the minds of federal law enforcement officers and their families at ease.

Straight 20 year retirement regardless of age should be allowed and the minimum 50 years of age for retirement should be eliminated.

The Administration should bring to the attention of Congress the fact that some federal law enforcement officers are not adequately compensated for overtime -- e.g. Postal Inspectors -- and are penalized in computation of retirement benefits. They should propose a means of redressing this.

The Catch 62 should be revised to exclude "6c" retirees between the ages of 62 and 65 years of age, and the Omnibus Budget Reconciliation Act should be amended to exclude federal enforcement officers and criminal investigators who must retire at age 55.

The "6c" retirement should be amended to permit individuals to become vested in "6c" for each full year they work. This will produce a higher retirement amount for those years that the individual worked in enforcement positions and paid higher retirement rates.

See to it that the minimum retirement age for FBI is not raised.

Provide a means for obtaining medicare or some other medical insurance benefits prior to age 65 for those federal enforcement officers who retire at age 55.

Inadequate Funding

Establish a blue ribbon panel made up of (1) representatives of all federal agencies with criminal investigative or enforcement jurisdiction; (2) representatives of business, industry and labor; (3) individual citizens; and (4) working enforcement officers to establish overall goals for federal enforcement and a fiscal policy that realistically leads to the accomplishment of these goals and the meeting of public expectations.

Separate out enforcement budgets so they may be thought through and planned in this fashion once recommendations are made. Uniformly computed pay, AVO, and SOT should be established as the norm enjoyed by all federal criminal investigators and enforcement officers. Disparities in application of pay standards should be examined, and a mechanism for insuring uniform application should be designed. In the same vein, the max-out on SOT should be determined on a quarterly, semi-annual or annual basis rather than on the current bi-monthly basis. An officer's actual grade rather than the grade of GS-10, Step 1, should be used to compute AVO, and overtime funds should be available so Attorneys and Assistant US Attorneys are able to pursue complicated, time-consuming white-collar crime cases.

Pay and grade levels for uniformed officers should be brought up to the level of plainclothed officers if the nature of the work and its complexity are the same. GS-13 should be established as the journeyman grade for all federal criminal investigators.

The budgeting of IG operations should be separated from the direct control of the agencies in which they are expected to work. Many of our IG members feel the agency which is subject to IG investigations should not determine the budget to be allotted for those investigations. This is particularly true in agencies like HHS where major philosophical differences exist between those who dispense funds and those who investigate fraud, waste, and mismanagement.

Build a meaningful system of salary increases so that promotions keep pace with inflation.

Establish pay or compensatory time provisions for all federal officers assigned to standby duty.

Make reimbursements received for transfers immediately tax exempt.

Job Risk

The study of job risk and its impact on the officers and their families would be a vital starting place. Such studies should be public knowledge and not buried under the guise of national security.

The Federal Tort Claims Act should be amended to make the government rather than the individual officer the defendant in lawsuits stemming from the legitimate carrying out of official duties.

The Federal Law Enforcement Officers Retirement Protection Act introduced by Mr. Biaggi should be passed and signed.

Passage of state "Peace Officer Bills" modeled after that passed in New York should be encouraged by federal agencies and the Administration.

The treatment of disability claims for officers injured in the line of duty should be immediately streamlined. In New York, FLEOA members in serious accidents have waited up to 18 months before receiving a disability check. In another incident, the injured officer's claims were not filled out by his agency because of management apathy or competing priority items.

Employee assistance programs like DEA's should be established in all enforcement organizations and operated so that confidentiality is guaranteed.

The \$50,000 death benefit bill should be passed and signed into law.

Impact of Politics on Enforcement

Eliminate the impact of special interests, the wealthy, and senior bureaucrats on the evenhanded application of enforcement efforts.

Come to a firm decision on ATF that will insure effective enforcement of the firearms, explosives, and arson laws.

Reestablish white-collar crime as an equal priority with enforcement of violent crime.

Render a decision that will permit drug enforcement to be led by any single agency. This need was acknowledged in a recent GAO report also.

Appoint permanent directors to those enforcement organizations which have been led by acting directors.

Legal Changes

Begin to rethink passage of a revised federal criminal code that would amend the exclusionary rule and make "good faith" the criteria for admissibility of evidence. Begin to add law and regulations that would enhance export control. Select out and pass elements of the "Kennedy" revision of Federal Administration Code that are vital.

Bottlenecks

More courts, more judges, more prosecutors. Establish a system for identifying targets of multi-agency investigations. This will serve as an early alert system to commence formal information requests on suspects. Expedite the IRS-CID review process by Executive Order. Free up agents, management, regional counsels, and tax division personnel to spend time more productively.

Poor Communications

Federal law enforcement officers want to know that the Administration thinks they are doing a worthwhile job. They want reward and praise for competent performance. Inclusion of working agents from around the nation in new programs and in design and management of new initiatives will help show the Administration's faith in its officers. It would also build "grass roots" support needed if federal enforcement is to recover from the experiences of the 1970s. In line with this, all enforcement agency heads should be encouraged to meet with FLEOA and conduct discussion or iron out communications difficulties.

Poor Structure and Lack of Standards

In addition to items mentioned previously, it has been suggested that a Treasury Bureau of Enforcement be formed to consolidate all enforcement duties of IRS, ATF, Customs, USSS. This criminal enforcement unit would be responsible directly to the Undersecretary of the Treasury for Enforcement and would have a single straight line of command. Another idea mentioned a consolidation of all administrative and technical support for criminal enforcement under main Treasury. This unit would then service the needs of each Treasury Bureau with enforcement duties.

THE POSITION FLEOA SHOULD TAKE ON THE ISSUE OF FEDERAL DRUG ENFORCEMENT

Some decision must be made by this Administration on the final configuration of the nation's drug enforcement effort before very much longer. Regardless of what position is chosen, some position must be taken before morale and efficiency fall off even further.

Several of those responding said that the Task Force Concept seemed acceptable with these provisos. The task forces should not be mere remakes of ODALE. An impartial panel of working agents, and others should be formed to study results and determine if the task forces are the best way to spend dollars or a merger of resources would be better. Immediately, charges that a gag has been placed on those who feel the results of the South Florida Task Force are less than great should be studied. Also the claim that DEA special agents and CPO's were doing the same type interdiction in Florida should be studied to see if that is the best method of employing special agents.

CPO's called for improved coordination between different services, particularly where the dissemination of information is concerned. The CPO's also tended to favor the formation of a single organization with primary jurisdiction over the drug enforcement.

FBI felt that FBI and DEA should be separate.

DEA felt very strongly that its special agents should remain under the Civil Service System.

IG's from HHS suggested that the Task Forces should include IG's from HHS, VA, DoD to pursue the persons receiving or securing drugs paid for by medicaid, medicare or other frauds or embezzlements from such sources as the VA or Public Health Hospitals. This would be used in support of DEA Compliance activities. IG's also felt that FBI, DEA, Customs, should concentrate on drug enforcement and turn fraud aspects over to the IG's when appropriate.

The need for clearly defined roles and complete straight answers on the drug matters were called for by several Chapter officers. And, some DEA agents favored absorption into FBI if it produced a grade increase in journeyman levels.

I&NS felt it could play a role in providing information on illegals that traffick in drugs and believes that alien enforcement could and should be integrated into the task force operations.

Recruitment for beefed up narcotics enforcement efforts should take place from within the current body of law enforcement officers, particularly uniformed officers, prior to going outside and recruiting according to US Park Police.

Reconsideration of the border management concept combining I&NS and Customs has also been suggested by USSS.

PERCEPTIONS OF THE REAGAN ADMINISTRATION

FLEOA members felt very positive about the things that the Administration said and some of the things they have done. There is also growing resentment about all that has not been done.

The steps the Administration has taken to correct problems presented by the Privacy Act has made it easier to get access to tax information. The President's view on the need to eliminate fraud, waste, mismanagement in government was viewed very positively. The increase in funds in the narcotics area was welcomed and the steady and constant pressure from federal and state politicians helped US Attorneys and Assistant US Attorneys to set prosecutions of narcotics offenders as a top priority. The FBI members felt that President Reagan was largely supportive of federal law enforcement objectives.

On the negative side the FBI felt that President Reagan and the White House staff did little to back up their sympathies with clear policy statements or overt actions. Some FLEOA members felt the Administration's overseeing of law enforcement policies was vague and haphazard. Some of the federal law enforcement officers also feel they are getting no support from Reagan other than lip service.

From the IG's perspective, the feeling is the Administration budgeting for law enforcement is poor. Allocation to enforcement does not reflect the rate of return IG's and others produce, nor the level of general compliance which enforcement produces.

Members also feel the Administration is not able to foster cooperation as well as it should be. They site DEA, Customs CIA, State Department and Pentagon in particular and criticism centers on the narcotics enforcement issue.

West Coast DEA people feel the Task Force concept may be too little too late.

The recommendation made on ways to improve these perceptions and others include:

1. Praise federal enforcement officers and protect their interests and benefits.

2. Separate out law enforcement budgets and provide the resources that are warranted to meet clear goals.
3. Appoint administrators to positions that are currently filled by acting administrators, and draw these permanent people from professional law enforcement officers who are familiar with the particular enforcement specialties of the organization they are to head. Draw from the ranks.
4. Eliminate nominees who have negative press or backgrounds associated with their names.
5. Assign blue ribbon panels of law enforcers, academics, common people, to study federal enforcement organizations and operations and make recommendations. The panels should be bipartisan and made up of more than leaders from fortune 500 companies.
6. Take a stand showing that federal enforcement is not being shaped by special interests, the NRA and the wealthy, but can be fair and impartial.
7. Clarify issues that are hanging in limbo such as the threat to federal retirement, particularly "6c."

WHAT ATTITUDES AND OPINIONS DO YOU HAVE CONCERNING APPLICATION OF THE IG CONCEPT TO VARIOUS LAW ENFORCEMENT BUREAUS?

Whether the job of policing an organization is undertaken by an IG or an Internal Affairs unit, there should be some uniform standards for conducting these duties within all federal enforcement bureaus.

HHS called for granting the IGs primary jurisdiction and resources to deal with fraud within their particular departmental programs. Their reasoning is that this was a job largely ignored by FBI who failed to prosecute in this area prior to inception of IG programs. The IGs also need people who are interested in becoming involved in program fraud investigations.

Bridges need to be built between newer IGs from predominantly non-enforcement agencies and those enforcement bureaus with the older concept of Internal Affairs and self-policing. This bridge is the first step towards standardization.

Overcentralization of Field Inspectors at Headquarters prevented timely response to IA problems in DEA. However, this was the path chosen by the current director and is deemed by West Coast DEA members as ill-conceived.

Postal Inspectors stated that an IG in each agency would compliment the system of checks and balances built in by the Constitution and laws. In the Postal Inspection Service it is difficult to both investigate and serve as your own IG. A separate IG is needed within the USPS.

SHOULD THE BATF REORGANIZATION TAKE PLACE?
WHAT FORMAT SHOULD EXPLOSIVES, ARSON, AND FIREARMS
ENFORCEMENT TAKE?

ATF personnel feel that a reorganization is necessary in order to control firearms in this country and therefore violent crime. Whether the reorganization places ATF agents under USSS, or simply separates the criminal enforcement aspects of ATF from the regulatory and places it within an organization that will undertake vigorous enforcement does not matter. But the issue of violent crimes like firearms, arson, and explosives is too vital to be left dangling.

Uniformly the federal law enforcement officer and criminal investigators resent the enforcement posture of this country being dictated by the gun lobby. They feel that the Administration should stand up to them, but FLEOA must stand up against the NRA on this issue.

Regardless of the form of reorganization, BATF agents must be treated as equals among equals in whatever agency might take over their function. Moreover, delays in re-vitalizing BATF enforcement, delays appointing a permanent director, and delays in reorganizing it must be halted. Some permanent status must be reestablished. Viewing delays in this is not only destructive to BATF personnel but to all federal enforcement officers.

Park Police and DEA feel that the FBI should play some role in arson, firearms, and explosive enforcement, but do not elaborate. Postal Inspectors call for nationwide registry of handguns, rifles, and shotguns. And IG's believe that BATF should be brought up to strength and left intact to enforce the explosives, firearms, and arson laws.

Mr. DOYLE. The \$50,000 death benefit is more than just a lump-sum financial protection for surviving dependents. Its value extends far beyond the miniscule amount of dollars it would cost the Federal Government each year.

Alice M. Rivlin, Director of the Congressional Budget Office, estimated that H.R. 756 would cost approximately \$500,000 a year. I would hope and pray it wouldn't cost that much.

Passage of H.R. 622 would mean the American people, through elected representatives, recognize the dangerous and necessary work performed by Federal law enforcement and have elected to help us protect our families. This certainly helps create a peace of mind for many officers and, in doing so, is bound to increase morale and productivity.

The jobs of Federal law enforcement officers and firefighters demand that they cast aside personal safety in order to protect lives and property. We are sworn to act immediately. But to expect immediate action from Federal law enforcement officers is also to incur an obligation. It requires there to be caring for surviving children and spouses when the prime breadwinner is seriously injured or killed in the line of duty.

Failure to do so not only hurts law enforcement performance but it is unethical. The \$50,000 death benefit also compensates for inequities in the benefits provided by FECA. Since current Federal death benefits are a percentage of salary and it is normally younger officers at lower pay grade levels who become involved in fatal confrontations, these younger officers naturally receive reduced compensation benefits if they are killed in the line of duty. At the same time, it is the younger officers who often have the most dependents, especially small children in need of prolonged financial support.

Therefore, under current FECA provisions, those with the most risks and the most need receive the lowest benefits based on a percentage rate of their income.

H.R. 622, however, promises to change that for it offers a safety net to the truly deserving. In preparing my remarks for the subcommittee, I have reviewed much of the debate on H.R. 756. Though opposition to Federal law enforcement officers and firefighters death benefits was articulately argued, it was just so much sophistry. The arguments were made by men wearing thin half-glasses.

When they looked down, they could see only dollars and cents on the bottom line in their ledgers—

Mr. ERLNBORN. Mr. Chairman, I wonder if the witness would identify who, in particular, or what group of people he may be referring to with that designation.

Are you talking about Members of Congress or are you talking about people in the general public or any individual? It's not a very flattering designation.

Mr. DOYLE. No, I believe, if I can refer to my notes, I believe David Stockman made a comment about opening a myriad of doors, almost like a Christmas tree effect, for benefits for other Federal employees.

Mr. ERLNBORN. And how do you describe David Stockman in your statement there?

Mr. DOYLE. Well, I am not specifically referring to David Stockman. I am just saying that people—

Mr. ERLBORN. Well, who are you referring to?

Mr. DOYLE. Nobody individually.

Mr. ERLBORN. Members of Congress, generally?

Mr. DOYLE. No, not Members of Congress either.

Mr. ERLBORN. Well, are you talking about the debate on the floor of the House?

Mr. DOYLE. No, I am talking about the debate on the law in general, that someone who would say that a person's life is worth \$5 or \$10 or \$100 is being extremely shortsighted.

Mr. ERLBORN. All right. So you are excluding Members of Congress then from that unflattering description?

Mr. DOYLE. Well, I was not personally on the floor of Congress when the arguments were being made so I am not aware of whether or not any Congressman made that type of remark.

Mr. ERLBORN. Let me just say, Mr. Chairman, for the record, to the extent this witness is referring to me or other Members of Congress, I take great exception to his testimony.

Mr. DOYLE. Well, I apologize.

Mr. KILDEE. The Chair did not infer from his comments that he was questioning the motives of anyone present here. I think he was making a general statement. I have probably used similar statements myself so I can at least—

Mr. ERLBORN. I hope not.

Mr. KILDEE. So in similar statements I would think that a—

Mr. ERLBORN. You are too much of a gentleman.

Mr. KILDEE [continuing]. A witness should be permitted a degree of latitude in making a judgment. On the floor of the House we have a certain comity which is different among ourselves than what latitude which I think is necessary for a witness to have here. I don't certainly think it was meant to be directed at any one individual but more to the situation in which people may find themselves not looking at things perhaps in the broadest possible way.

You and I are both gentlemen and I think Mr. Doyle is also a gentleman. I think perhaps we have to recognize that latitude,

Mr. ERLBORN. If you would yield, Mr. Chairman, let me just say that being legislators we are often involved in differences of opinion in debate. Seldom, if ever, do I see gentlemen who will use unflattering remarks about their opponents. I think we realize that honest people can have different opinions and you don't have to denigrate those with whom you disagree. You can honor because, very often, they may be right and you may be wrong. But at least they have the right to have their opinions. To use ad hominem sort of arguments is just not, I think, a very good way of trying to win friends and influence people.

Mr. DOYLE. Well, sir, the way I meant the remark, although it may not have come out that way, was to say possibly the individuals who feel this way about the bill might be shortsighted. I didn't particularly feel that that was unflattering or a personal attack on anyone and I certainly didn't mean for it to be a personal attack on anyone.

Mr. ERLBORN. I thank you

Mr. KILDEE. Mr. Doyle, you may proceed.

Mr. DOYLE. The unusual nature of law enforcement and firefighting has been acknowledged for decades. Nothing about providing the same \$50,000 death benefit to Federal officers as is currently provided to State and local personnel, in our opinion, could be construed as preferential or unwarranted.

This year more Federal enforcement officers have been killed in the line of duty than ever before. The fatal accident which took the lives of three Secret Service special agents also involved two local police officers. Thankfully, these officers did not die, but if they had, their families would have received \$50,000 from the Federal Government under Public Law 94-430 whereas the three Secret Service agents' families would not. That, gentlemen, is unfair.

Opponents of H.R. 622 claim that the administration opposes such a bill may be in error. FLEOA and its delegates received a distinctly positive statement from Mr. Meese on the \$50,000 death benefit for Federal law enforcement officers. He indicated President Reagan would more than likely sign such legislation into law, were it to cross his desk. Judging from the administration's positive law enforcement record, no less than that should be expected.

H.R. 622 offers the kind of Federal protection which is altogether appropriate. It is essential to the protection of those who protect the Nation. In conclusion, I would like to say once more that we wholeheartedly support H.R. 622 and I would like to thank the committee for allowing me to testify.

Mr. KILDEE. Thank you very much, Mr. Doyle, for your testimony.

[Prepared statement of Thomas Doyle follows:]

PREPARED STATEMENT BY THOMAS W. DOYLE, NATIONAL VICE PRESIDENT, THE
FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

My name is Thomas W. Doyle. I am the national vice president of the Federal Law Enforcement Officers Association and a Special Agent with the U.S. Secret Service. I would like to begin by thanking the subcommittee for giving me this opportunity to testify on H. R. 622.

The Federal Law Enforcement Officers Association has been a vocal advocate of the \$50,000 death benefit for Federal law enforcement officers and firefighters since even before H.R. 5888 came on the scene, in 1979. As recently as March 28, 1983, FLEOA took its appeal for a death benefit bill directly to Edwin Meese III, Counselor to President Reagan. At our meeting with Mr. Meese, at the White House, we expressed what I believe are the feelings of our 5,000 members, and indeed, all Federal law enforcement officers and criminal investigators. We stated that the \$50,000 death benefit stands at the top of our profession's legislative concerns, and is one of FLEOA's top priorities.

The \$50,000 death benefit is more than just lump sum financial protection for surviving dependents. Its value extends far beyond the miniscule amount of dollars it would cost the Federal Government each year.¹ Passage of H. R. 622, that is—adding section 8148 to chapter 81 title 5 USC (a)(1)—signals a turning point in America's relationship with its Federal law enforcement professionals. In passing H.R. 622 into law, years of suspicion, anger and political division give way to a tangible expression of appreciation. Passage of H.R. 622 would mean the American people, through their elected representatives, recognize the dangerous and necessary work performed by Federal law enforcement and have elected to help us protect our families. This certainly helps create peace of mind for many officers, and in so doing, is bound to increase morale and productivity.

Clearly H.R. 622 does for Federal law enforcement officer what the Public Safety Officers Benefit Act (Public Law 94-430) did for state and local officials, in 1976. It

¹ Alice M. Rivlin, Director of the Congressional Budget Office, estimated that H.R. 756 would cost approximately \$500,000/year.

recognizes the fact that federal law enforcement officers, criminal investigators and firefighters are exposed to greater hazards in their employment than are other Federal employees. The jobs of Federal law enforcement officers and firefighters demand they cast aside personal safety in order to protect lives and property. When we must act, our mandate does not permit us time to weigh and measure. Judging pros and cons is a luxury we do not have. We are sworn to act immediately. But to expect immediate action from Federal law enforcement officers is also to incur an obligation. It requires the Government to be their caring for surviving children and spouses when the prime breadwinner is seriously injured or killed in the line of duty. Failure to do this not only hurts law enforcement performance, it is unethical.

The \$50,000 death benefit also compensates for inequity in the benefits provided by F.E.C.A. Since current Federal death benefits are a percentage of salary and it is normally younger officers at lower pay/grade levels who become involved in fatal confrontations, these younger officers naturally receive reduced compensation benefits if they are killed in the line of duty. At the same time it is the younger officers who often have the most dependents, especially small children, in need of prolonged financial support. Therefore, under current F.E.C.A. provisions those with the most risk, and the most need receive the lowest benefits based on a percentage rate of their income. H.R. 622, however, promises to change all that, for it offers a "safety net" to the truly deserving, a point about which that both Democrats and Republicans should be able to agree.

In preparing my remarks for this subcommittee, I carefully reviewed much of the debate on H.R. 756. Though opposition to a Federal law enforcement officers and firefighters death benefit was articulately argued, it was just so much sophistry. The arguments were made by men wearing thin, half glasses. When they looked down they could see only dollars and cents on the bottom line in their ledgers, when they looked over the tops of their lenses into the distance they were completely blind. Congressman Kildee pointed to this in an interview with FLEOA's newsletter. He said, "They know the cost of everything and the value of nothing."

The unusual nature of law enforcement and firefighting has been acknowledged for decades. Nothing about providing the same \$50,000 death benefit to Federal officers as is currently provided to state and local personnel, in our opinion, could be construed as preferential or unwarranted. This year more Federal enforcement officers have been killed in the line of duty than ever before. The fatal accident which took the lives of three U.S. Secret Service Special Agents also involved two local police officers. Thankfully these officers did not die, but if they had, their families would have received \$50,000 from the Federal Government under Public Law 94-430, whereas the three Secret Service agents could not. That, gentlemen, is unfair.

I must admit I was also baffled by the charge that a piece of legislation which better enables Federal law enforcement to aid the public was special interest legislation. Further, opponents of H.R. 622 who claim that the administration opposes such a bill may be in error. FLEOA and its delegates received a distinctly positive statement from Mr. Meese on a \$50,000 death benefit for Federal law enforcement officers. He indicated President Reagan would more than likely sign such legislation into law were it to cross his desk. Judging from the administration's positive law enforcement record, no less than that should be expected.

Finally, to those who believe that H.R. 622 will open the floodgates to new benefit programs, I would like to say that we in the Federal Law Enforcement Officers Association believe their fears to be unfounded. We believe that consideration of and passage to a law protecting Federal law enforcement officers and firefighters is precisely the kind of basic issues with which the Federal Government should be involving itself. H.R. 622 offers the kind of Federal protection which is altogether appropriate for the Federal Government. It is as essential to the protection of those who protect the Nation as is national defense, and it is as basic as "insuring domestic tranquility."

In conclusion, I would like to say once more that we wholeheartedly support H.R. 622.

Mr. KILDEE. Mr. Albert Ferguson, the legislative chairman of the Fraternal Order of Police, an organization of which I have been an honorary member dating back to my teaching days, as a matter of fact.

STATEMENT OF ALBERT W. FERGUSON, LEGISLATIVE CHAIRMAN, FRATERNAL ORDER OF POLICE

Mr. FERGUSON. Thank you, Mr. Chairman.

My name is Albert Ferguson, national chairman for the legislative committee. I am also a retired deputy chief of police from the Metropolitan Police right here in Washington after 26 years.

The Fraternal Order of Police is an organization with over 165,000 members, including State, local, and Federal officers. We are in unanimous support of your bill, Mr. Chairman, for all of the reasons that were already stated here this morning.

Rather than be redundant, I would just merely like to make a few remarks to the committee relative to some of the things that I think are happening with the Federal officers.

First of all, I think that people may only think of Federal officers as being those people in plain clothes or doing the work of the FBI, the Secret Service and organizations such as that.

We also have many, many uniformed officers in the Federal system. Your own Capitol Police here on Capitol Hill that protect these grounds and the Members of Congress are also considered Federal officers.

The U.S. Park Police is a uniformed organization that is also considered Federal officers. They were the ones that were primarily responsible for the incident that happened on the Mall with the bomber with the Monument, although Metropolitan Police were also on board.

I don't want to bore the committee with statistics, but a very realistic statistic that we do have and it is included in my report is that since 1969 there has 1,552 law enforcement officers killed in the line of duty. That includes 29 from the Federal level. That goes back to what we are talking about in dollars and cents a very minimal figure when we consider only 29 officers killed in the line of duty from the Federal sector since 1969.

There's a reason probably for some of these figures. One of them, primarily, I would think, is that the duties performed by the Federal officers are somewhat different. That is, they are not involved in the day-to-day contact with criminals, traffic stops, family arguments, where most police officers find themselves either being killed or seriously injured.

However, that situation is changing everyday. Today, with our citizens making more and more demands about crime and what we are doing about crime, you will find that Federal law enforcement agencies are working more closely together today than ever before in joint task forces, narcotic forces, a task force against terrorism, the problems we are having on our borders with illegal immigrants coming into the country. All of these things are going to point up that there is going to be, unfortunately, more and more Federal officers killed in the future. So this figure is low now, but it could change.

Traditionally, and I think one of my colleagues talked about or mentioned the morale problem, and that is a serious problem when officers are basically doing the same type of duties and not covered equitably under the same type of bill. Morale affects performance.

Performance today is very important if we are going to do the job that the citizens want us to do, that the Congress wants us to do.

These are all the things that we, the Fraternal Order of Police, urge the Congress to pass this bill. Thank you.

Thank you.

Mr. KILDEE. Thank you very much, Mr. Ferguson.

[Prepared statement of Albert Ferguson follows:]

PREPARED STATEMENT OF ALBERT W. FERGUSON, LEGISLATIVE CHAIRMAN, FRATERNAL ORDER OF POLICE

Mr. Chairman, I am Albert Ferguson, chairman of the National Legislative Committee of the Fraternal Order of Police.

At the outset I would like to thank you, Mr. Chairman, and your committee, for the opportunity to testify here today.

The Fraternal Order of Police is an organization which represents over 165,000 Federal, State, and local law enforcement officers across our Nation. The Fraternal Order of Police would like to go on record for unanimous support of Mr. Kildee's bill, H.R. 622. As you know, this bill would amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters. Congress, in its wisdom, passed into law in 1976 the Public Safety Officer's Benefit Act which provided a \$50,000 death benefit to the families of law enforcement officers killed in the line of duty. Unfortunately, this act did not include Federal law enforcement officers.

It would appear that with a situation such as this you have a very basic inequity. We of the Fraternal Order of Police strongly urge that H.R. 622 be passed into law. Our brothers and sisters in the federal system certainly face the same dangers, have the same concerns and fears relative to the welfare of their families left behind when one is slain in the line of duty. It is our feeling that because of this inequity our brothers and sisters in the federal system are left to feel like second class citizens in the law enforcement community.

It should be pointed out that an inequity such as this can and does cause morale problems within an organization. Poor morale can and does affect performance. In today's never ending war against crime we cannot be effective with poor performance.

Our organization is well aware of the many demands and mandates placed upon the Congress in this period of austerity. However, it should be pointed out that this bill, if or when passed, would be of little cost to the Government in dollars and cents. Past statistics will point up that the number of Federal officers killed in the line of duty is negligible compared with those officers killed on the State and local levels. For example, since 1969 there have been 1,523 State and local law officers killed in the line of duty compared to 29 on the Federal level.

I must be completely honest with this committee and also point out that these low figures could change in the future. As you know today with more and more concern from our citizens about crime and its impact on our society, Federal and local law enforcement agencies are working more closely than ever before in their effort to combat crime.

Therefore, it is of the greatest importance that they both share in the same benefits. Is it not a travesty to the families of a Federal law officer who is slain performing basically the same duties as his counterpart in local law enforcement, yet, does not receive the coverage that this bill would provide? As an example, during the assassination attempt on President Reagan's life, had the secret service agent been killed instead of being wounded, his family would have been denied this benefit.

We of the Fraternal Order of Police, along with the National Association of Police Organizations which represents some 65,000 working police officers come before you now and urge you to grant this same \$50,000 death benefit to Federal law enforcement officers and firefighters. \$50,000 is a small price to pay to protect the interest of the family of a slain officer who has made the supreme sacrifice in the performance of duty. When the last words of the eulogy have been spoken and the dying notes of taps have sounded at the gravesite, the remaining members of the family must pick up the pieces and carry on. This bill will make it just a little easier.

In closing, may I further point out that this same bill was passed by the 96th Congress, only to be vetoed by President Carter. Again, on August 4, 1982, it received very favorable action when it was passed in the House by a vote of 323 to 82. Based on this it would appear that Congress has no problem with this bill, and the Frater-

nal Order of Police requests that the 98th Congress vote in favor of this bill without further delay.

Once again, I thank you for your kind attention.
Attachment.

LOCAL, COUNTY, STATE, FEDERAL OFFICERS KILLED IN THE LINE OF DUTY 1969 THROUGH JUNE 7, 1983—1,552¹

Year	Total	Including Federal
1969.....	86	
1970.....	100	
1971.....	129	
1972.....	116	4
1973.....	134	5
1974.....	132	3
1975.....	129	5
1976.....	111	2
1977.....	93	0
1978.....	93	1
1979.....	106	3
1980.....	104	2
1981.....	91	1
1982.....	92	2
1983 (through June).....	36	2
	1,552	29

¹ These figures were supplied by members of the Special Projects Division of the Federal Bureau of Investigation.

All local, county, state officers counted, however, in the Federal sector only 15 Federal agencies recorded:

Justice.—Bureau of Prisons, Drug Enforcement Administration, F.B.I., Immigration, U.S. Marshals, U.S. and Asst. U.S. Attorneys—six.

Treasury.—Bureau of Alcohol, Tobacco and Firearms, Internal Revenue Service, U.S. Customs, U.S. Secret Service—four.

U.S. Postal Service.—Postal Inspectors, Postal Security Police—two.

Department of Interior.—Bureau of Indian Affairs, National Park Service—two.

Judiciary.—All judges—one.

The 1,523 local, county, State times \$50,000 equals \$76,150,000; and 29 Federal times \$50,000 equals \$1,450,000.

Mr. KILDEE. Mr. Schaitberger, first of all, I would like to have you extend my greetings to John Gannon, your president who, along with you, has worked hard on this bill.

You talked about attracting and keeping good people in these two professions. Do you see the enactment of this benefit as important in recruiting and keeping quality people as Federal police and firefighters.

Mr. SCHAITBERGER. Well, particularly as it affects Federal fire service, it certainly would be an attraction. Unlike most other employees of the Federal Government, Federal firefighters still work 72 hours a week. Federal firefighters are in the GS-4, 5, and 6 payscale, which is a very minimal payscale for very long hours in a profession which has great hazards.

We do have benefits in the retirement system which help to attract employees into the service and to retain them. Certainly this measure would add to that. Now there are those who will say, "Well, there are long lines of people who would take these jobs in this present economy," and with the present unemployment situation that may be true, but I would point out also the high turnover rate experienced by the Federal firefighter work force over the last

10 years, where they tend to come into the Federal Government, receive their basic training, stay a couple of years and then move onto the municipal fire departments where they are going to receive better pay, better retirement, and extended benefits.

So I do think that this benefit will certainly be an added factor in being an attraction to remaining within the Federal fire service.

Mr. KILDEE. Thank you.

Mr. Doyle, you mentioned in your statement that it's fitting that employees who perform certain hazardous tasks be given special benefits. In conjunction with that, since these benefits will never enure to the person who is killed of course, but only to his family, is the family, as I mentioned earlier, aware of the particular hazards, both physical and fiscal, for the police and firefighter in that family?

Mr. DOYLE. Well, I am sure they are. I don't think they could help but not be. With the death of the ATF agent in Miami was quite widely publicized when he was working in an undercover operation. The death of the three agents in California which was also widely publicized, and then we also watched one of our agents get shot right on national television when the President was wounded. I think the families are very aware and I think it takes a toll on the family of Federal law enforcement officers, and I am sure, firefighters.

I know that we have a lot of families that have problems because of the tensions that are brought about by the danger of the job but because of the transfer policies and a whole myriad of problems.

Mr. KILDEE. It would seem that there would be an awareness, not only of the potential physical loss, but of a certain fiscal instability because of the nature of the work.

Mr. DOYLE. A lot of the Federal law enforcement officers, most of their families are not even in the location or the country where they might be from so if a law enforcement officer is killed and—I think Mr. Oriolo who was killed in Miami was originally from New York and his family was down in Miami. Now I would imagine that after the funeral and all of the arrangements were made that the family would somehow try to go back to the bosom of their family, either in New York or whatever part of the country that they are from. So that would incur even an additional expense. So, financially it would be a problem.

Mr. KILDEE. Mr. Epps, could you clarify a statement that you made in your prepared testimony? Is there any difference in the work performed by Federal officers as compared with their State and local counterparts that would suggest that there be a different, in this case, a lower level of benefits for the Federal officers?

Mr. EPPS. Basically, and on many occasions, we are doing exactly the same work at exactly the same time. I had occasion to work an undercover sting operation with the Los Angeles County Sheriff's Department over an extended period of time, where I remained undercover with organized crime figures that were major targets.

My family was acutely aware of that. It caused some strain on my family. There were situations that the local officers were present with me as well as other Federal officers in this extended undercover activity. I just had the feeling that somehow the Feder-

al Government would come in and take care of me or my family if the need be.

We are doing basically the same work on a broader scale. In many cases, we are doing much more dangerous work because of the level of involvement of organized crime or of narcotics. The Customs Service recently had three agents that were recognized by your honored body of the Congress for their undercover work during a program from South America where they sailed with the narcotics suspects for an extended period of time. And if they had to worry about their families being cared for, were they killed, it would have caused a great strain on their position and their memory of what was taking place and being able to articulate in court and remember what occurred during that period of time.

Mr. KILDEE. Thank you very much.

Mr. Ferguson, you have seen both local and Federal officers working. Do you see any significant difference in the hazards faced by the two groups?

Mr. FERGUSON. Not today, sir. As I indicated, there are more and more joint efforts between local and Federal officers today that places those officers in the same jeopardy that the State and local people have been under. The duties are getting very close. As I said, a lot of statistics would be—the family argument probably takes more policemen's lives than any other type call. So I am discounting that type of thing. That's a routine-type thing. I am talking about various task forces that we are becoming involved in with the Federal Government with the narcotics and organized crime—gambling syndicates and things like that, and they work undercover. We have an organization right here in Washington, a joint organization between our own Metropolitan Police and the Federal narcotic agents. They work side by side. We have detailed our people over there with them and they are working side by side.

Mr. KILDEE. Thank you very much.

Mr. ERLBORN. Thank you, Mr. Chairman.

Several times today, reference has been made to the assassination attempt on President Reagan here in Washington. It was pointed out that if the local police or the Federal officer had been killed or, let's say, both had been, there would be an inequity because the local officer would have gotten the \$50,000 death benefit and the Federal officer would not. That's an argument directed toward equity, which is what I think we all should seek.

Let me say, by the way, since I was the principle opponent to this legislation in the last Congress and led the opposition to it, both in committee and on the floor, I took Mr. Doyle's comments to be directed at me. I do not recall, and I could be corrected, if anybody has read the record or wants to search it out, I don't recall anywhere in committee or on the floor arguing that we couldn't afford this bill or that it was too expensive.

My arguments always have been arguments directed to the equity of the benefits, not to the cost. I don't recall anyone, as a matter of fact, in the debate ever saying that we couldn't afford this, that it was too costly. It always has been an argument of equity.

But to get to that argument of equity, if this bill had been in place and those two officers were killed, one Federal and one local,

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we still wouldn't have equity because the local officer's death benefits would be offset by FECA or vice versa and the Federal would not, because there is no offset provided in this bill.

If you are seeking equity and I am, too, let me ask you, the four of you, how would you respond—would you support an amendment to this legislation to provide the same offset?

Mr. SCHAIBERGER. Mr. Erlendorn, we may be about to say the same thing. I believe you may be mistaken in the way that you are framing the offset. I believe that the Public Safety Officers death benefit is offset by FECA in those situations where local or State law enforcement officers who are engaged in activities on Federal property and experience a death are, in fact, entitled to a FECA benefit. A non-Federal worker is entitled under some circumstances to a FECA benefit and in that situation that local or State officer would then have that portion of the FECA benefit that they would be entitled to offset from the \$50,000. But that is the only offset contained within the present act.

So, I just believe that you are possibly framing the offset in reverse.

Mr. ERLENDORN. I think you may be right, as a matter of fact. There is no offset against the workers' compensation benefits?

Mr. SCHAIBERGER. That's correct and it's only the local and State officer, only when they are on a Federal installation, which would be entitled possibly to a FECA benefit that would then have that \$50,000 offset.

Mr. ERLENDORN. But, in any event, it is an offset under FECA, not under State workers' comp?

Mr. SCHAIBERGER. That is correct.

Mr. ERLENDORN. I thank you for that clarification.

Mr. KILDEE. I think we discussed that last year too. It is a very narrow, limited offset.

In the State of Michigan, for example, there would be no offset of the Michigan compensation for that State officer.

It's a very limited situation and I don't think we should make any general application.

Mr. ERLENDORN. Several of you have made this observation that there is a major flaw in FECA since it is based on employee salary—the benefits are based on the employee's salary. How does that vary from State workers' comp?

Mr. SCHAIBERGER. Well, I don't want to hog the mike, but it does not vary in concept from State workers' comp at all.

Mr. ERLENDORN. That's based on salary also.

Mr. SCHAIBERGER. That's correct. But the difference is that State and local workers—local workers, in particular, are also entitled to a survivorship benefit provided by their pension plan, which is not the case for Federal employees.

So you have a municipal worker who would be entitled to a percentage of salary under workers' compensation as a benefit for their surviving dependents, and entitled to a benefit normally based on salary from their pension plan, their local or State or city pension plan, which provides a benefit to the surviving dependents.

Mr. ERLENDORN. Let me see if I understood you correctly. You are saying that the civil service retirement system does not provide a survivor benefit? Did I understand you correctly? You said the

State and local employees pension plans provide survivors benefits—and that's not true for the Federal officer?

My understanding is that there is a survivor benefit under the civil service retirement system as well.

Mr. FERGUSON. You are correct. Basically, the Federal civil service set-up is percentage points, as you know. I think it is 1½ for the first 5 and then it goes up to 2 percent and I think that's the most they get and it is multiplied by the years service. At the time of retirement their pension will be based on their percentage of those years worked. Should they pass away, then their widow would receive 40 percent of their pension. I think that's the way most of them work. That's the way the Metropolitan Police works, and I think we are very close to the Federal Government on that, except the percentages.

Mr. ERLENDORN. My recollection is that when the benefits program for the State and local officers was passed—I think that was in 1976—the arguments were not made at that time by the witnesses who came before the Judiciary Committee that we should include Federal officials.

As a matter of fact, some of those who were testifying in favor of the State and local program made the argument that it was necessary to bring them up to parity, or at least closer, to the equitable compensation with those fairly generous benefits already available to the Federal employees.

Did you or any of your organizations argue for, ask to have an amendment offered or in any other way try to include the Federal officers in that legislation then?

Mr. FERGUSON. I would have no way of knowing that without searching the record. However, I think that when we talk about bringing Federal people up or bringing State and local up to those people in the Federal service, I don't know if that is completely true because most of the salaries here—and I will use the Metropolitan Police for an example because I am most familiar with it—but our base salary for an officer entering the service is the same as the U.S. Park Police. The in-step raises, the promotional raises are all the same and they are very close here with the Capitol Police.

I don't think the equity there is—

Mr. ERLENDORN. Well, I wasn't talking about salary; I was talking about survivor's benefits.

Mr. FERGUSON. Well, these are one of the things that was mentioned, that this is the reason that this \$50,000 death benefit was given to State and local was bring them up on a par with those people in Federal law enforcement.

Mr. ERLENDORN. In other words, to match the double indemnity life insurance, to match the FECA benefits and the total survivor's benefits package?

Mr. FERGUSON. Yes, sir, but of course, as I said, there are people in the uniformed forces that are basically receiving the same pay as people in State and local. So it didn't take those into account then apparently. But I think one of the other things that we always point out, and anytime we come up before Congress requesting benefits, many of the benefits that we have received over the

years, that is, people in law enforcement, was the result of possibly passing up pay raises so that we would have benefits.

I know that's been the case with the Metropolitan Police over the years to maintain what we consider to be a very good retirement system. But over the years we did pass up pay raises to get this benefit and I think that's one of the things we have to consider.

I think you mentioned that perhaps if there is inequity that we should raise the salaries to offset it. But sometimes when you come up and you talk about raises then you are back to, "Well, you are already getting a benefit," and we look at a pay raise and we look at a benefit as a long-term condition that will be here even after we are gone to take care of our families and we opt for that.

Mr. EPPS. I would like to point out that in 1976, both NAPO and FLEOA were not in existence. Many years ago I was a State enforcement officer and I came to work for the Federal Government because the Federal Government paid a little bit better. Although I had to take an initial down step, a \$4,000 pay cut, to take a Federal job, I thought it offered certain advantages.

Were I to make the same evaluation today, thank God I don't have to, I think I would stay with the local. The benefits are much greater. I can only speak for California. I am not familiar with the other States. But California, comparably, pays a detective doing the same work, considerably more and the death benefits are considerably greater. They have a dental plan and we don't. The State or the city pays their life insurance in total. In addition, they get the \$50,000 death benefit.

Mr. ERLNBORN. Well, I guess I am hearing today that all of the arguments that justified the passage in 1976 of that legislation were either false or the conditions have changed drastically since then.

Mr. EPPS. Conditions have changed. When we were getting a 4- or 5-percent pay raise on the Federal level, the locals, I can speak for my city of Fountain Valley, were getting 17 and 22 percent a year. They caught us. They have now passed us in many cases.

Mr. ERLNBORN. Well, Mr. Chairman, I have probably gone on too long already. Let me just make one last observation and then put a question to the panel.

We have talked several times about the assassination attempt. There was one other who was gravely injured, the worst of the injuries, Jim Brady. It seems to me, without question, that Presidents are targets. You know, this isn't even accidental death. Presidents are targets. That's why the Federal officers and local officers were there, because we know there are people who are out trying to kill the President.

Now we have talked about the equity between the State and local officers, but the one who came closest to death, Jim Brady, what would he have gotten, talking about equity? What would he have gotten in the way of a death benefit?

Mr. SCHAIBERGER. Obviously, not enough.

Mr. ERLNBORN. Well, if this legislation were passed, what would he get? Would he get as much percentagewise—obviously, pay levels are different—but as much percentagewise as the law en-

forcement officials who were there to protect him and the President?

Mr. DOYLE. Well, if I might say, Mr. Brady was truly an employee of the Federal Government and would have been for a short period of time of maybe 8 years—4 to 8 years or maybe even less, maybe even 2 or 3 years. He made an entrance into the Federal service where he would work for the White House as a staff member and then most likely, if it's like most of the other press secretaries and staff members that work for the President or the Vice President, or some of the other Members of Congress he would go off into another line of employment, probably in the newspaper business.

But here we are talking about people who spend 20 and 30 years constantly interdicting themselves between danger and people and property that are in danger. I don't think that really is a fair comparison.

Mr. ERLNBORN. You are saying then that there is no inequity in one Federal employee whose life is in jeopardy who might be killed getting less in the way of benefits than another?

Mr. DOYLE. Well, the same argument, I assume, could be made if, in a bank robbery at the Federal Reserve Bank, where if you are walking down the street and you happen to be outside the Federal building and you were arresting a narcotics dealer and a gunfight broke out, and a clerk was killed that worked for the Federal Government. That same argument could be made. I don't see where it could be—whether there's any parallel.

Mr. ERLNBORN. My argument is certainly not on the basis that they're both Federal employees, but the fact that they both are in a very hazardous occupation. The one, as a matter of fact, is a target, whereas the other might, because of his duties, get involved in something that could cause his death. But the other is obviously a target.

Mr. DOYLE. The President. Not Mr. Brady. I don't think the assassin's bullet was directed at Mr. Brady.

Mr. ERLNBORN. Mr. Brady too.

Mr. DOYLE. It hit Mr. Brady and it's just like the assassin's bullet that hit our agent and hit the Metropolitan Police officer, I don't believe were directed at either one of those two individuals but were directed at the President, and just happened to hit them.

Mr. SCHAIBERGER. The Firefighters International would be happy to support any legislation to increase the benefits in that case for any members of the President's staff or the President himself. I don't think that we would find ourselves opposing increasing survivor benefits for those individuals.

Mr. EPPS. I would like to distinguish between the two in that Mr. Brady happened to be where the bullet was going. Mr. Jim McCarthy jumped into the bullet to protect the President. That's what he was hired to do. He knew the Government would take care of him. And he jumped in front of the bullet. That's the only distinction.

Mr. ERLNBORN. Thank you, Mr. Chairman.

Let me say, by and large, you have a pretty good panel here today.

Mr. KILDEE. Thank you. And I want to also thank you, Mr. Erlenborn. Through the years, even though we've disagreed on this

bill, you've always been honorable. As a matter of fact, you've never surprised me on the floor with arguments that you hadn't already used in committee. You do believe in full disclosure. [Laughter.]

And I do appreciate that. And you have been always extremely honorable in all my dealings with you and I mean that from the bottom of my heart.

I do think that we all recognize that no congressional act was written on Mt. Sinai, and that this committee in its oversight responsibilities goes back to all acts, including the Public Safety Officers Benefits Act of 1976, to see whether there are some ways we can refine them to give a greater degree of protection to those people who are especially sworn to protect the public. I think that's what we are having these hearings for.

One of the advantages of serving in the Congress and not the judiciary is that the presiding officer need not be totally objective. Being the cosponsor of this bill, I obviously am not totally objective.

But I think we, in our oversight responsibility, go back and look to see what we did in 1976 and see whether we did leave out a group that should have been included even then and maybe even more so included now because of changes in the nature of the work that have taken place since that time.

I want to thank all of you for your testimony here today. I want to include in the record a letter from Congressman Annunzio, who has introduced similar legislation.

[The letter from and prepared statement of Congressman Annunzio follow:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 15, 1983.

HON. GEORGE MILLER,
Chairman, Subcommittee on Labor Standards,
House Education and Labor Committee,
Washington, D.C.

Attention: Vincent Trivelli.

DEAR MR. CHAIRMAN: It is my understanding that on Thursday, June 16, you will be holding hearings on H.R. 26 and other bills to provide death benefits to survivors of Federal law enforcement officers and firefighters.

As a sponsor of H.R. 26, I would have liked to have appeared personally in support of this legislation. However, an unresolvable conflict in my schedule precludes my personal attendance, and therefore, I have prepared the attached statement on this legislation which I would appreciate your including in the official record of the hearings.

Thank you for your assistance and cooperation.
With every best wish, I am,
Sincerely,

FRANK ANNUNZIO.

Enclosure.

MR. ANNUNZIO'S TESTIMONY IN SUPPORT OF H.R. 26 BEFORE THE SUBCOMMITTEE ON LABOR STANDARDS OF THE HOUSE EDUCATION AND LABOR COMMITTEE ON JUNE 16, 1983

Mr. Chairman, I commend you on holding this hearing today on legislation introduced by others and me to amend the United States Code to provide a lump sum death benefit of \$50,000 for Federal law enforcement officers and firefighters who are killed in the line of duty. The Congress already has provided identical Federal benefits for State and local law enforcement officers and firefighters through the

Public Safety Officers Benefits Act of 1976, and the bills before the Subcommittee put their Federal counterparts under this same coverage.

My support for providing such benefits to individuals employed by the Federal Government goes back to the late 1960's, and as you know, although this legislation has been passed by both the House of Representatives and the Senate in previous sessions of Congress, it has not as yet become law. It is my hope that through the diligent efforts of your subcommittee, the 98th Congress finally will see the enactment of this most important legislation.

Mr. Chairman, I can think of no group more deserving of this survivor protection than our Federal law enforcement officers and firefighters. These dedicated men and women risk their lives daily to protect the property, the physical well-being, and the lives of their fellow Americans. When these public servants report to their duty assignments each day, they have no idea what dangers they will face, and whether they will live to see their families. The least we can do is to provide them with the peace of mind of knowing that if they do not survive, our Nation will not turn its back on them, and their dependents will have some financial assistance to carry on alone.

Last December, four FBI agents from my home State of Illinois were killed in a plane crash while they were on official duty trying to recover money from a bank embezzler. Sadly, not only did the Federal Bureau of Investigation lose four outstanding, dedicated agents—more than it has ever lost in a single operation—but also, and more importantly, these agents were all married and left behind a total of 13 young children. It is only right and fair that we extend benefits to the families of these heroic officers, and to all other Federal lawmen and firefighters killed in the line of duty, who would have been covered if they had been included in the 1976 act.

It is for this reason, Mr. Chairman, that my bill, H.R. 26, makes the death benefit payment of \$50,000 retroactive to cover all Federal law enforcement officers and firefighters who die after September 29, 1976, the date of enactment of the Public Safety Officers Benefits Act of 1976, and the date on which State and local individuals first became eligible for this payment. I strongly urge the subcommittee in the spirit of fairness and equity to use the September 29, 1976 date, and make benefits retroactive for the survivors of Federal law enforcement officers and firefighters, so as to be in parity with their State and local counterparts.

Although at the time Federal men and women were excluded from the 1976 Act because they were eligible for other benefits, these benefits have been eroded by inflation, and have become woefully inadequate for officers with large families to protect. Moreover, State and local officials are also eligible for other benefits. To correct this inequity, my bill, which includes the provision of retroactive benefits, is a small price to pay to the survivors of those who sacrificed their lives so that the property and lives of others might be preserved.

Mr. Chairman, it is time to provide more security and peace of mind for the families of all Federal public safety officers and firemen who must take risks in the pursuit of a safer society. We must not and cannot, in good conscience, turn our backs on the anguish and poverty suffered by the families of law officers slain while protecting our rights and liberties, and of firemen who die while protecting our lives and our property. I urge swift and favorable action on this legislation by your subcommittee.

Thank you, Mr. Chairman.

Mr. KILDEE. This hearing stands adjourned.

[Whereupon, at 12:05 p.m., June 16, 1983, the hearing was adjourned, subject to the call of the Chair.]

[Material submitted for inclusion in the record follows:]

STATEMENT OF INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, NATIONAL
ASSOCIATION OF GOVERNMENT EMPLOYEES

Mr. Chairman, the International Brotherhood of Police Officers is a division of the National Association of Government Employees and an affiliate of the Service Employees International Union AFL-CIO.

Our organization is the largest union representing police officers in the nation. We represent police in all sectors of government and also represent large numbers of federal firefighters.

We wish to thank Chairman Miller for his continued interest in the problems of the federal law enforcement officer and Congressman Kildee for introducing and so ably guiding HR. 622. The International Brotherhood of Police Officers (IBPO) has long supported legislation which would extend death benefits to police and fire officials who are killed in the line of duty. The IBPO vigorously supported the legislation which created Public Law 94-430, the Public Safety Officers Benefit Act of 1976 which extended \$50,000 to state and local public safety officers who were killed in the line of duty. Our organization has also supported legislation to extend this benefit to federal police and firefighters.

The overriding justification for the passage of legislation extending this benefit to the families of public safety officers is the recognition of the obligation of government to provide adequately for the survivors of those police and fire employees of which we asked the ultimate sacrifice.

The legislation you are considering here today would remedy this long-standing inequity and extend the \$50,000 lump-sum death benefit to surviving family members of federal public safety officers.

This bill recognizes that the duties of Federal Law Enforcement Officers and Federal Firefighters are as hazardous and as potentially threatening to life as their state and local counterparts.

This unfortunate fact was tragically driven home last year when IBPO Local 529 member Robert Yesucevitz was killed while on duty as a federal protective officer at the John Fitzgerald Kennedy Library in South Boston. The Protective Service had recently undergone drastic reductions in force which reduced the numbers of officers per shift from nine to three. Our union vigorously complained that this endangered the safety of the officers on duty, but tragically our warnings were not heeded.

The Library is stationed near a high crime area. While on patrol, Officer Yesucevitz apparently encountered trouble and signalled for help. When the supporting officers arrived, they discovered Officer Yesucevitz fatally wounded by a bullet to the back of his head. This crime has never been solved. Tragically the twenty-four year old officer was scheduled to resign in three days in order to attend school full time. It was at least a good thing the officer was still single. Officer Yesucevitz was the fifth federal protective officer killed in the FPO history.

These bills are limited in scope and extend the \$50,000 benefit only to where it is most needed, to law enforcement and firefighters who are in the front lines of law enforcement and firefighting. Language of the bill requires that only those officers directly involved in the physical pursuit of criminality

would be awarded benefits. Employees who are engaged in laboratory investigations, studies or other similar acts of a non-dangerous nature would not be included. Federal firefighters are only covered if their duties include work directly connected with the control and extinguishment of fires.

To recover the benefit, it is also required that the peace officer demonstrate not only that he was involved in the physical pursuit of criminality, or the control of fire, but also that the personal injury resulting in death arose from an outside force. The language of proposed section 8148b(1) specifies that "death must occur as a direct and proximate result of a personal injury inflicted by an outside force, and in the line of duty." (Emphasis provided). This language clearly states the intent of the legislation to exclude occupational diseases or heart attacks that gradually come about through subtle wear and tear. The term inflicted by an outside force mandates this interpretation.

Currently, the survivors of federal firefighters and law enforcement officers killed in the line of duty are compensated under the Federal Employees' Compensation Act (FECA). This Act provides only 50 percent of a deceased officer's salary to a surviving spouse if they have no children. If there should be dependent children, the spouse's percentage is reduced to 45 percent and 15 percent is added for each child. A ceiling on the maximum possible benefit is placed at 75 percent of the monthly compensation.

These figures demonstrate that each and every family would suffer an immediate reduction in income. If the deceased was the sole support of the family, the loss would be from 25 to 50 percent.

It is further noted that those law enforcement officers and firefighters on the front lines are most likely to be at the bottom of the pay scale. These are the individuals who face the greatest risk. Supervisors and those assigned to headquarters are more likely to be located at the higher end of the pay scale. This again points to the need to provide those individuals taking the greatest risk with a measure of support for their families.

The cost of this program is not great. Projections differ relative to the number of public officers who would be eligible to receive this benefit. This, we suggest, is a very small cost to pay in exchange for the great benefit which the bill produces.

It is suggested that since Congress has seen fit to provide these benefits to state and local police and fire employees, that in the interests of equality, the same benefits should be provided to federal employees in the same situation. Federal police and fire employees face the same dangers and hazards in the workplace as do their counterparts in the local setting. The spouses, children and relatives of federal police and fire employees suffer the same hardships in the event of tragedy as their counterparts in state and local jobs.

I would like once again to thank the Chair, and Congressman Kildee for their continued interest in this problem.

END