

94010

**AMENDMENTS TO THE PUBLIC SAFETY OFFICERS'
BENEFITS ACT**

HEARINGS

BEFORE THE

SUBCOMMITTEE ON CRIMINAL JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 385, H.R. 1968, H.R. 3089, and H.R. 4141

AMENDMENTS TO THE PUBLIC SAFETY OFFICERS' BENEFITS ACT

MAY 27, JUNE 15, AND SEPTEMBER 30, 1982

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AMENDMENTS TO THE PUBLIC SAFETY OFFICERS' BENEFITS ACT

THURSDAY, MAY 27, 1982

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 2226, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers, Edwards, and Sensenbrenner.
Staff present: Thomas W. Hutchison, counsel; Barbara Kammerman, assistant counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Today the subcommittee will hear testimony on four bills relating to the Public Safety Officers' Benefits Act. The act became law in 1976. It provides a \$50,000 supplemental death benefit to the survivors of a public safety officer killed in the line of duty.

When the act was first considered by Congress, proponents urged a need for these benefits because police officers and firefighters often had trouble securing insurance because their line of work was too dangerous. Also, the need arose from the disparity in benefits paid to survivors by the State and local governments. Survivors were often left without support. Providing Federal benefits was supposed to cure these ills and fulfill society's moral obligation to the families of those who daily risk their lives for others.

Since the law was enacted, there have been those who sought to extend it. The four bills before us now are intended to expand the coverage of the act.

1. H.R. 1968 would extend coverage by defining physical injury to include a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event.

2. H.R. 385 expands coverage by expressly including in the definition of public safety officer a rescue squad member who is certified by a State to carry out duties and functions as part of a legally organized rescue squad in such State.

3. H.R. 4141 similarly extends coverage to a rescue squad member, but defines such member as one who is certified by and who is acting as part of a legally organized rescue squad or similar prehospital emergency medical unit.

4. H.R. 3089 would extend coverage by eliminating the requirement that surviving parents of covered officers, in order to recover, must have been dependent upon the deceased.

The bills raise certain questions about the act.

First, is the present administration of the act consistent with the legislation and its history?

Second, how much new money will this cost the Federal Government? To the extent new money is involved, in these times of austerity, should this new money be spent on this program or other existing programs that are currently being cut back?

Third, does the proposal to include rescue squad members go far enough? It covers members of a rescue squad but does not include good samaritans. If the benefits of the program are to be expanded to rescue squad members, what reason is there for not covering good samaritans?

And last, as we undertake a reexamination of the act, should we consider tightening its coverage to proscribe payment where death results from the gross negligence of the officer or where the officer is voluntarily intoxicated on the job?

We hope to address these questions today and in subsequent hearings.

We begin a reexamination of the Public Safety Officers' Benefits Act with one of the most careful and respected members on the subcommittee in the House, my colleague from Michigan, Mr. Dale Kildee, whose proposal is among those pending before the subcommittee and whose work and care and thoughtfulness has been rather outstanding.

We welcome you to the subcommittee this morning. We will incorporate your prepared remarks, and we invite you to make any additional comments you might choose.

TESTIMONY OF HON. DALE E. KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN, ACCOMPANIED BY DEAN WILKINSON, LEGISLATIVE ASSISTANT

Mr. KILDEE. Thank you.

I appreciate the opportunity to appear before the subcommittee this morning in order to testify on H.R. 1968.

We are all aware that the Public Safety Officers' Benefits Act of 1976 [PSOBA] currently provides a death benefit of \$50,000 to the survivors of State and local firefighters and police who die as a result of injuries sustained in the line of duty. That benefit was created by Congress in recognition of the hazardous conditions under which public safety officers are daily required to perform their duties.

Unlike other hazardous occupations, dangers in these professions cannot be reduced by controlling conditions in the workplace.

Every day on the job presents the firefighter or police officer with the prospect of working in a potentially life-threatening situation. Just this year, a police officer in the city of Detroit died of a heart attack while trying to control a domestic situation.

Mr. CONYERS. I am aware of that.

Mr. KILDEE. There is a stress we cannot control by modifying the workplace for these workers. Public safety officers are asked to expose themselves to this danger in the performance of their duty. We have a responsibility to provide their families with a degree of

security if these officers should lay down their lives in order to protect the rest of us.

As presently administered, PSOBA compensates the families of officers who die as a result of injuries directly caused by an outside physical force such as a gunshot wound or the collapse of a building. Deaths which occur in the line of duty as a result of medical conditions precipitated by hazardous or stressful work situations are not covered, however. This was tragically brought to my attention 5 years ago by one of our local fire chiefs in my district where, within a period of 6 months, two firefighters in my district collapsed and died of heart attacks while fighting fires. In neither case were the survivors eligible to receive the PSOBA death benefit.

Since I first introduced legislation to deal with this problem 5 years ago, people from all over the United States have informed me of similar incidents.

All of us are aware that emergency situations can create conditions of extreme physical stress. In the case of firefighters, there is an additional factor which can precipitate a heart attack. Medical studies have shown that any increase in carbon monoxide levels in the blood can trigger a heart attack. Firefighters and police officers are asked daily to face such risks in order to preserve our safety, the safety of the public. I think that we have a responsibility to the families of these men and women.

I submit, Mr. Chairman, that these line-of-duty deaths are no less a result of hazardous working conditions than deaths which are presently compensated. Persons with a medical propensity for heart attacks are far more likely to encounter the physical stress and adverse environmental conditions which could precipitate an attack than are workers in other occupations.

H.R. 1968 has been drafted in a highly restrictive way that would leave no doubt as to the application or scope of the death benefit. It extends the current benefit to cases in which the police officer or firefighter has been killed while ingesting or inhaling a poisonous substance or while subject to extreme physical stress. In addition, the death must be linked to a single occasion or during a single event in the performance of duty, not the cumulative type of thing that could take place in any profession.

The additional expenditure created by the bill would be modest. My estimate is that it would be a maximum of \$12 million at the outside. That figure is an estimate based on the doubling of current payments under PSOBA. The only comprehensive studies of on-duty public safety officer deaths have been for firefighters. These show that slightly less than half of all firefighters killed in the line of duty die from heart attacks. Since circumstances in fighting fires are more conducive to heart attacks than the working conditions under which a police officer might be killed, it seems safe to assume that half or less of all on-duty deaths for both firefighters and police officers occur as a result of heart attacks.

Since right now we spend about \$12 million for both police and firefighters, who die of direct injury, the addition of the new classification would, at a maximum, result in a doubling of the number of claims. An additional \$7 million would probably be adequate but I put the figure \$12 million in to cover any possible contingencies.

Mr. Chairman, the necessity for this amendment is clear. It has been closely drafted. We can clearly show these deaths are a result of that single incident which has precipitated a heart attack; 53 of my colleagues have lent their support as cosponsors. Every major organization representing the firefighters or police has endorsed the bill.

Again it is my pleasure to have this opportunity to testify before your committee. I will be happy to respond to any questions.

Mr. CONYERS. I want to thank you for your presentation and ask the subcommittee to stand in recess until we have cast our ballot on the floor of the House.

Mr. KILDEE. Thank you, Mr. Chairman.

[Recess.]

Mr. CONYERS. The subcommittee will come to order.

Does the gentleman from Michigan have any additional or concluding remarks he would like to make?

Mr. KILDEE. Mr. Chairman, I think the public policy of this country in this area was set in 1976. My bill does not ask you to change that public policy, but to take into consideration the type of stressful occupation State and local police and firefighters are in, which can lead to a heart attack and bring about their death.

Mr. CONYERS. Thank you very much.

This subject intrigues me; I was a referee for worker compensation cases. In that field, the only compensable injuries were those unrelated to one's work. If you suffered a heart attack, if you suffered from work-connected disabilities like high blood pressure, stroke, emphysema, black lung, asbestosis, diseases that occurred over a continuing span of time, you could not collect compensation.

Later, those ailments were compensable if you could prove that they were work connected. That then became the issue that the lawyers on both sides focused on.

The difficulty arose in trying to prove that the high blood pressure that a worker had contracted over the course of 20 years was related to working in a foundry, and not to the fact that he smoked a pack of Camels every day.

Your proposal deals with this kind of problem. And I think that the time has come when the Federal legislature is prepared to address this.

Mr. KILDEE. Yes, sir. I think our bill is even more conservative than changes now taking place in the area of workmen's compensation at the State level.

We exclude occupational diseases; I know that is included in workmen's compensation in most of the States. We do limit coverage to something that takes place on a single occasion or event, precipitated by the particular situation the worker is involved in. So it is even more conservative than what has taken place over the past few years.

Mr. CONYERS. I want to thank you for raising this question with the Committee on the Judiciary.

I recognize my colleague from California, Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

I have read the testimony of the gentleman from Michigan, Mr. Kildee, and compliment him on it.

I am sorry I was not here for your entire testimony but, echoing the words of my chairman, we are going to examine this with great sympathy. We are not talking about an awful lot of money, as the gentleman from Michigan points out.

I for one appreciate your testimony.

Mr. KILDEE. Thank you very much.

Mr. CONYERS. The gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I have no questions.

Mr. CONYERS. We thank our colleague from Michigan.

Mr. KILDEE. Thank you, Mr. Chairman.

I thank the committee.

[The prepared statement of Mr. Kildee follows:]

PREPARED STATEMENT OF CONGRESSMAN DALE E. KILDEE

Mr. Chairman, I appreciate the opportunity to appear before the subcommittee this morning in order to testify on my bill H.R. 1968.

As we are all aware, the Public Safety Officers Benefits Act of 1976 [PSOBA] currently provides a death benefit of \$50,000 to the survivors of state and local firefighters and police who die as a result of injuries sustained in the line of duty. That benefit was created by Congress in recognition of the hazardous conditions under which public safety officers are daily required to perform their duties. Unlike other hazardous occupations, dangers in these professions cannot be reduced by controlling conditions in the workplace. Every day on the job presents the firefighter or police officer with the prospect of working in a potentially life-threatening situation. Line-of-duty death rates for persons in these occupations reflect this grim fact. Firefighting, for example, is clearly the most dangerous occupation in America, with an average of 61 line-of-duty deaths per 100,000 workers. Job related deaths for law enforcement officers are also higher than in most other occupations. Public safety officers are asked to expose themselves to this danger in the performance of their duty. We have a responsibility to provide their families with a degree of security if they should lay down their lives in order to protect the rest of us.

As presently administered, PSOBA compensates the families of officers who die as a result of injuries directly caused by an outside physical force such as a gunshot wound or the collapse of a building. Deaths which occur in the line of duty as a result of medical conditions precipitated by hazardous or stressful work situations are not covered, however. This was tragically brought to my attention five years ago by one of our local fire chiefs. Within a period of six months, two firefighters in my district collapsed and died of heart attacks while fighting fires. In neither case were the survivors eligible to receive the PSOBA death benefit. One of these brave men was a volunteer who was running to the scene of a fire and carrying a heavy compressor. Certainly, such physical exertion creates atypical stress. The pathologist's report on the second death, that of a captain in the Flint Fire Department, demonstrates the link between the death and the conditions involved in fighting a fire. It said: "It is entirely possible that in the absence of this incident of unusual exertion he may have lived a significantly longer life." Since I first introduced legislation to deal with this problem five years ago, people from all over the United States have informed me of similar incidents.

All of us are aware that emergency situations can create conditions of extreme physical stress. In the case of firefighters, there is an additional factor which can precipitate a heart attack. Medical studies have shown that any increase in carbon monoxide levels in the blood can alone trigger a heart attack. Firefighters and police officers are asked daily to face such risks in order to preserve our safety, of the public. I think that we have a responsibility to the families of these men and women.

I submit, Mr. Chairman, that these line-of-duty deaths are no less a result of hazardous working conditions than deaths which are presently compensated. Persons with a medical propensity for heart attacks are far more likely to encounter the physical stress and adverse environmental conditions which could precipitate an attack than are workers in other occupations.

H.R. 1968 has been drafted in a highly restrictive way that would leave no doubt as to the application or scope of the death benefits. It extends the current benefit to cases in which the police officer or firefighter has been killed while "ingesting or inhaling a poisonous substance or while subject to extreme physical stress." In addi-

tion, the death must be linked to "a single occasion or during a single event, in the performance of duty."

The additional expenditure created by the bill would be modest. My estimate is that it would be a maximum of \$12 million. That figure is an estimate based on the doubling of current payments under PSOBA. The only comprehensive studies of on-duty public safety officer deaths have been for firefighters. These show that slightly less than half of all firefighters killed in the line of duty die from heart attacks. Since circumstances in fighting fires are more conducive to heart attacks than the working conditions under which a police officer might be killed, it seems safe to assume that half or less of all on-duty deaths for both firefighters and police officers occur as a result of heart attacks. Current benefit payments under PSOBA remain fairly constant at about \$12 million per year. Including this new classification of line-of-duty deaths would no more than double the current number of compensated claims, resulting in a maximum additional expenditure of \$12 million. I would emphasize that I feel the actual figure would be much lower.

In conclusion, Mr. Chairman and members of the Subcommittee, the necessity for the amendment I propose seems clear; 53 of my colleagues have lent their support as co-sponsors of H.R. 1968. Every major organization representing firefighters or police has endorsed the bill.

Again, it has been a pleasure to be with you today and I thank you for your attention to and interest in this matter. I would be pleased to answer whatever questions you may have.

Mr. CONYERS. Our next witness is our colleague on the Government Operations Committee, Mr. Robert Walker of Pennsylvania, author of H.R. 4141, who has an additional point to make in this discussion.

Your testimony will be incorporated in the record.

**TESTIMONY OF HON. ROBERT S. WALKER, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. WALKER. Thank you, Mr. Chairman.

I am grateful for the opportunity to testify on behalf of H.R. 4141, a bill which I introduced to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits with respect to members of rescue squads.

I also would like to take this occasion to thank my colleagues for their hard work and contribution to these timely hearings.

Sometimes it takes a tragic event to bring home some simple truths. One of those truths is that we owe a great debt of gratitude in this society to the people who man our volunteer fire departments and our volunteer ambulance crews. Each year 850,000 Americans volunteer countless hours of service without compensation and bravely face life-imperiling situations in order to save the lives of others. These are people who serve us day in and day out. Volunteers are the folks we turn to in an emergency. They are the people who risk their lives every day, often unheralded.

What this bill would do is put these people under the same kinds of coverage that are now included in the Public Safety Officers' Benefits Act. This provides family members of firemen and policemen killed in the line of duty \$50,000. Unfortunately, Federal death benefit coverage is not extended to include ambulance or rescue personnel.

The introduction of H.R. 4141 was prompted in part by a grave tragedy which fell upon the community of Lancaster, Pa., in my district, on June 13, 1981. A young boy, 8-year-old Benjamin Walker, crawled into and became trapped in an abandoned septic tank in his front yard. Responding to what was thought to be a

routine call—a boy trapped in a sewer, no serious injuries—paramedics from St. Joseph Hospital in Lancaster and volunteer fire fighters from the Bausman Fire Company were immediately dispatched to the scene.

Jamie, as he is fondly addressed by his family, was rescued through the heroic efforts of these rescue squads. But in their attempts to retrieve the boy from the 8-foot hole, three brave, selfless young men, Bruce Ditlow, Kevin Weatherlow, and Jeffrey Jones, lost their lives. Another young fireman, Mark Rhinier, was seriously injured.

Bruce Ditlow and Keven Weatherlow were best friends as well as partners on the St. Joseph Hospital rescue squad. They attended Penn Manor High School together, and trained to become paramedics together. Bruce served as best man at Kevin's wedding. When Bruce descended into the hole to bring Jamie Walker to safety, neither he nor anyone else at the scene knew that the pit was completely absent of oxygen. Bruce was immediately overcome by what was thought to be highly combustible methane gas, but was later determined to be a deadly concentration of carbon dioxide.

Kevin, recognizing that his friend was in trouble, equipped himself with breathing apparatus and lifelines and entered the small opening. Finding Bruce unconscious, Kevin removed his oxygen mask to revive his friend, and he too was felled by the gases, but not before he had tied a lifeline around Jamie, who was then pulled to safety.

A third volunteer, fireman Jeff Jones, crawled into the tank opening in an effort to rescue the two paramedics. The three were pulled out after firemen, police, and volunteers smashed through a foot-thick wall of the tank with sledgehammers. Each man was pronounced dead from cardiac arrest due to a lack of oxygen.

This kind of heartrending tragedy could have occurred anywhere in this country, at any time. But only when this kind of routine call does turn into such a devastating calamity are we reminded of the courage and dedication of these men and women who face danger and life-threatening situations daily in the performance of their jobs.

We need not look further than our own communities to find heroes. They are the men and women who commit themselves to learning lifesaving and firefighting techniques, who volunteer to train others, and who fearlessly risk their lives attempting to save the lives of others.

Under present law, the Public Safety Officers' Death Benefits Act, the surviving family members of firemen and police officers killed in the line of duty are awarded \$50,000. Unfortunately, Federal death benefit coverage is not extended to include ambulance and rescue personnel.

The tragedy in Lancaster County clearly demonstrates the risks, seen and unseen, which prehospital emergency medical personnel face every time they respond to a call. The lives of these ambulance and rescue personnel are certainly as important as police and fire personnel and the law should treat them equally. I believe that the families of these committed men and women should not suffer

undue financial hardship in such circumstances, where one life is lost in an effort to preserve another.

My legislation, H.R. 4141, would extend coverage of the Public Safety Officers' Benefits Act of 1976 to provide for a \$50,000 death benefit to the eligible survivors of a rescue squad member who dies as the direct and proximate result of personal injury sustained in the line of duty. Under the original law, the Federal Government had recognized the dedicated service of law enforcement officers and firefighters, who constantly risk their lives in service to the public.

Through my proposed amendment, any individual who functions as part of a legally organized rescue squad or similar prehospital emergency medical unit would also be recognized by the Federal Government for their dedication and covered under the death benefit program.

I hope that each of you will reflect upon the dangerous, self-sacrificing duties of rescue personnel and recognize them for their invaluable service to all Americans throughout this great Nation by expanding the coverage under the Public Safety Officers' Benefits Act of 1976. I believe that after thorough and careful analysis, you will find that the suitable criteria is present to justify a new determination.

In conclusion, I would request the subcommittee's wholehearted support for my bill, H.R. 4141, which I am convinced embodies the proper corrective steps needed to redress the inequity found in the Public Safety Officers' Death Benefits Act in regard to rescue personnel. I trust that these hearings will serve to bring a sense of urgency before the full House in addressing a much needed reform and that the House will expeditiously act on H.R. 4141.

Again, thank you for this opportunity to be a part of this discussion.

Mr. CONYERS. Very good.

May I ask the tired question that is often raised around here: How much?

Mr. WALKER. It amounts to very little money in terms of the program, not more than a few thousand dollars a year, simply because there are not that many people who are directly killed.

I think on the order of a dozen or less people in any year would be covered under this kind of provision. But for those people who are volunteers, this is a particular kind of hardship. That is the reason I think it is an appropriate kind of response to the kind of voluntary contributions of society that we are trying to encourage through a number of programs at the Federal level at the present time.

Mr. CONYERS. Mr. Edwards.

Mr. EDWARDS. I thank the gentleman for his testimony and certainly would agree with him that such a bill, such a law would also encourage the recruitment and training of paramedics. Isn't that part of the intent of the bill?

Mr. WALKER. I certainly would agree with the gentleman on that. This would be one more factor in encouraging people to donate their time voluntarily in premedical or prehospital treatment. Of course that is an important kind of cost savings because the kinds of medical help that we have to have to staff emergency

situations, if you have to pay them a salary, is extremely expensive.

So that insofar as we can get the coverage through volunteers that these rescue squads are able to give us, that is a tremendous cost savings to the medical institutions involved.

Mr. EDWARDS. Would your bill define appropriately a rescue squad member so that there would not be any difficulty about qualification of a victim of an accident or of a tragedy.

Mr. WALKER. I say to the gentleman, we tried to nail that down carefully. I would hope the subcommittee, in revising the legislation, would make certain we did nail it down carefully enough to their satisfaction.

We first of all make certain that the only people covered are those who are killed directly in the line of duty, they were performing something as a part of the function of their job as a volunteer on a rescue squad, and that the rescue squad is a legally organized entity so that we do not have ad hoc kinds of organizations trying to make claims under this particular provision.

Mr. EDWARDS. Would you include licensing?

Mr. WALKER. My understanding, and I am not fully clear on this, but my understanding is that there are standards that these legally organized squads have to meet. In other words, they already comply with a set of standards.

You can pretty much identify those who are organized under a hospital's auspices or are organized as a part of a community-based rescue service. I do not really believe that that is a problem because I think those standards are already clear.

Mr. EDWARDS. Thank you very much. I have enjoyed your testimony.

Mr. WALKER. Thank you.

Mr. CONYERS. Mr. Sensenbrenner.

Mr. SENSENBRENNER. No questions.

Mr. CONYERS. Thank you very much.

Mr. WALKER. Thank you, Mr. Chairman.

[The statement of Mr. Walker follows:]

TESTIMONY OF HON. ROBERT S. WALKER

Mr. Chairman and members of the committee, I am grateful for this opportunity to testify in support of H.R. 4141, a bill which I introduced to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits with respect to members of rescue squads. I also would like to take this occasion to thank my colleagues for their hard work and contribution to these timely hearings.

Sometimes it takes a tragic event to bring home some simple truths. One of those truths is that we owe a great debt of gratitude in this society to the people who man our volunteer fire departments and our volunteer ambulance crews. Each year 850,000 Americans volunteer countless hours of service without compensation and bravely face life-imperiling situations in order to save the lives of others. These are people who serve us day in and day out. Volunteers are the folks we turn to in an emergency. They are people who risk their lives every day, often unheralded.

The introduction of H.R. 4141 was prompted in part by a grave tragedy which fell upon the community of Lancaster, Pa., in my district, on June 13, 1981. A young boy, 8 year old Benjamin Walker, crawled into and became trapped in an abandoned septic tank in his front yard. Responding to what was thought to be a routine call—a boy trapped in a sewer; no serious injuries—paramedics from Saint Joseph Hospital in Lancaster and volunteer firefighters from the Bausman Fire Company were immediately dispatched to the scene. "Jamie", as he is fondly addressed by his family, was rescued through the heroic efforts of these rescue squads. But in their attempts to retrieve the boy from the 8 foot hole, three brave, selfless, young men,

Bruce Ditlow, Kevin Weatherlow, and Jeffrey Jones, lost their lives. Another young fireman, Mark Rhinier, was seriously injured.

Bruce Ditlow and Kevin Weatherlow were best friends as well as partners on the Saint Joseph Hospital rescue squad. They attended Penn Manor High School together and trained to become paramedics together. Bruce served as best man at Kevin's wedding. When Bruce descended into the hole, to bring Jamie Walker to safety, neither he nor anyone else at the scene knew that the pit was completely absent of oxygen. Bruce was immediately overcome by what was thought to be highly combustible methane gas, but was later determined to a deadly concentration of carbon dioxide. Kevin, recognizing that his friend was in trouble, equipped himself with breathing apparatus and lifelines and entered the small opening. Finding Bruce unconscious, Kevin removed his oxygen mask to revive his friend; and he too was felled by the gases, but not before he had tied a lifeline around Jamie, who was then pulled to safety.

A third volunteer, fireman Jeff Jones, crawled into the tank opening in an effort to rescue the two paramedics. The three were pulled out after firemen, police, and volunteers smashed through a foot thick wall of the tank with sledgehammers. Each man was pronounced dead from cardiac arrest, due to a lack of oxygen.

This kind of heart rending tragedy could have occurred anywhere in this country, at any time. But only when this kind of routine call does turn into such a devastating calamity are we reminded of the courage and dedication of these men and women who face danger and life threatening situations daily in the performance of their jobs. We need not look further than our own communities to find heroes. They are the men and women who commit themselves to learning lifesaving and firefighting techniques, who volunteer to train others who fearlessly risk their lives attempting to save the lives of others.

Under present law, the Public Safety Officers Death Benefits Act, the surviving family members of firemen and police officers killed in the line of duty are awarded \$50,000. Unfortunately, federal death benefit coverage is not extended to include ambulance and rescue personnel. The tragedy in Lancaster County clearly demonstrates the risks, seen and unseen, which pre-hospital emergency medical personnel face every time they respond to a call. The lives of these ambulance and rescue personnel are certainly as important as police and fire personnel and the law should treat them equally. I believe that the families of these committed men and women should not suffer undue financial hardship in such circumstances, where one life is lost in an effort to preserve another.

My legislation, H.R. 4141, would extend coverage of the Public Safety Officers' Benefits Act of 1976 to provide for a \$50,000 death benefit to the eligible survivors of a rescue squad member who dies as "the direct and proximate result of personal injury sustained in the line of duty". Under the original law, the federal government had recognized the dedicated service of law enforcement officers and fire fighters, who constantly risk their lives in service to the public. Through my proposed amendment, any individual who functions as part of a legally organized rescue squad or similar pre-hospital emergency medical unit would also be recognized by the federal government for their dedication and covered under the death benefit program.

I hope that each of you will reflect upon the dangerous, self-sacrificing duties of rescue personnel and recognize them for their invaluable service to all Americans throughout this great nation by expanding the coverage under the Public Safety Officers' Benefits Act of 1976. I believe that after thorough and careful analysis you will find that the suitable criteria is present to justify a new determination.

In conclusion, I would request the Subcommittee's wholehearted support for my bill, H.R. 4141, which I am convinced embodies the proper corrective steps needed to redress the inequity found in the Public Safety Officers' Death Benefits Act in regard to rescue personnel. I trust that these hearings will serve to bring a sense of urgency before the full House in addressing a much needed reform and the House will expeditiously act on H.R. 4141. Again, thank you for this opportunity to be a part of this discussion.

Mr. CONYERS. Mr. Harold A. Schaitberger, our next witness, is legislative director of the International Association of Fire Fighters, AFL-CIO, and has been working on public safety officers' legislation for years.

We welcome you to the committee.

TESTIMONY OF HAROLD A. SCHAITBERGER, LEGISLATIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, ACCOMPANIED BY GILMAN G. UDELL, LEGISLATIVE STAFF ASSISTANT

Mr. SCHAITBERGER. Thank you, Mr. Chairman.

I would also like to introduce, accompanying me, Gilman Udell, legislative assistant for our international union, who also spent a number of years working for the House of Representatives in the document room, I believe for about 30 years, probably known by most of you.

I will, because of today's schedule—I know the importance of floor action—summarize my statement.

I would request that the testimony I am submitting be fully printed in the record.

I would like to really go back though to what we consider the original intent. The history of this legislation, which began in the early seventies, really was initiated for two primary reasons:

One was the hardship and inability of many of those in the professions of firefighting and law enforcement to obtain adequate and reasonable life insurance protection for themselves and their families, because of the hazardous nature of their occupation.

Second, and possibly more important, was the moral obligation that the Federal Government began to realize it should have to the surviving dependents of those who, on a daily basis, really subject themselves and give possibly their lives in protecting the citizens of our country and protecting the property therein.

In doing so, the Congress dealt with and passed the Public Safety Officers' Benefits Act. But it clearly wanted to make sure that the act would only cover those deaths that occurred in the line of duty, since experience throughout the State legislature had been to provide several State compensation laws, which you are probably familiar with, heart and lung presumption laws, which attempted to state that any occupational disease incurred due to heart, cardiovascular, respiratory diseases, would be considered job related unless medical evidence would prove otherwise. And the Congress, and we agreed, wanted to make sure that this was not the case with this act, this was not to become a heart and lung law on a national basis, it was not to become an occupational disease act which would presume that such a death, where ever it may occur, was job related.

It was clearly to provide the benefit to the surviving dependents of those who really gave their life in the performance of duty while protecting the citizens of this Nation. And the act was passed.

During the regulatory process, however, and we participated in that process, the administration that had the responsibility struggled with trying to come up with appropriate language and definitions so that on one hand those deaths that truly occurred in the line of duty would be covered, while, on the other hand, not opening up this act to cover those deaths that would be somewhat related or vaguely related to their occupation. And in doing so, experience has shown, the regulations were, we think, too narrowly drawn.

The result has been that there have been numerous occasions where firefighters and police officers who are actually engaged in an emergency situation performing their duty would collapse, die as a result, but the medical condition, if it was medically determined to be a heart attack or some other disease, would deny their dependents from the benefit.

Mr. CONYERS. Was the bill too narrowly drawn or was the act too narrowly interpreted?

Mr. SCHAIBERGER. I think that the act was too narrowly interpreted.

The definition for traumatic injury really set the stage that it had to be a death caused by an outside force, by a blow, so that our members who would die as a result of a wall collapse or a floor caving in from under them, an accident with the apparatus on the way to an alarm were covered. There has been no problem with the administration of the act.

We would applaud the administrations who have had this responsibility. The problem is again—it is narrowly interpreted in those cases where our people are dropping at the scene of an emergency, dying from a heart attack that was obviously induced by the stresses and strains of that situation, but because it was a heart attack or other disease that was the technical cause of death, that benefit has been denied.

For your consideration, I have brought along just a couple of the case histories of some of the rejections that have taken place to show that people are being denied who truly are collapsing while performing their duty.

Mr. CONYERS. Tell me about them.

Mr. SCHAIBERGER. Well, for example, we have a case summary of one where on October 14, 1979, a firefighter was on duty and at the scene of a fire. While engaged in fighting the fire, the firefighter collapsed and shortly thereafter died. His death was caused by occlusive coronary arteriosclerosis with complete occlusion of the right artery. That is a summary of the case.

Then it goes into some detail. The situation though is, had this individual not been engaged in that emergency operation, as was mentioned by Congressman Kildee in his testimony, this individual could have lived many years of a good and complete life.

We have a case here, and I only brought with me two or three—there is a number of them—where a fire lieutenant on February 1980 was on duty, fighting a woods fire; he collapsed and shortly thereafter died. His death was caused by cardiopulmonary arrest.

Mr. CONYERS. The true cause of death may not be readily apparent. Maybe the guy had just been notified by his wife that she was filing for divorce. It is not so simple; we cannot assume that, because he was at a fire and he had a heart attack, the heart attack and death were caused by the fire.

The problem is developing a method of determining which heart attacks were actually caused by the line-of-duty. Actually, I think the question is going to turn on what kind of legal description can we devise that will adequately define that group of cases that we would like to include for compensation.

Mr. SCHAIBERGER. That is where our organization believes that the language that is included or that makes up H.R. 1968 in fact

does that; that it very narrowly draws an extension of these benefits to those who die while engaged in the performance of duty, and that the death had to be caused during a single event on a single occasion. So that we do not try to open this up to the individual at home 3 days later who collapses and dies and then they try to attempt to show that well, 3 days ago he was in a very stressful situation and this must be a cause.

We have tried very hard, working with Congressman Kildee, to cover only those that we believe would be the intent of Congress, and that is those who appear to have actually died in the line of duty.

Mr. CONYERS. What about the same incident in which the fellow unfortunately does not die instantly but dies 3 days later at home or in a hospital, what about him?

Mr. SCHAIBERGER. The act presently would allow that to be proven as long as the history and medical evidence could show that it did occur on an occasion where he received some kind of a blow or a personal injury. The act now would allow that to take place.

Mr. CONYERS. We would like you to tell us what you want.

Mr. SCHAIBERGER. Well, I think what we want and what we would support now and ask the Congress to do is to cover those that would actually die as a result of that incident at the scene.

Our position would be to cover everybody and anybody if we had that choice. Our practical approach on this would be to only broaden it to those individuals who it could clearly be shown really died directly in the course of an emergency operation on a single occasion.

You had mentioned earlier, and certainly the Congress is faced with some very serious questions concerning the budget and moneys available for present programs and certainly expansions of present programs.

I would like to draw your attention to the fact that in fiscal year 1979 there were only 38 claims which were rejected by the Public Safety Officers' Benefit Administration due to job-related disease cases, such as the ones that I have addressed.

Mr. CONYERS. That does not mean anything. As soon as you pass this law, you are going to get thousands of applications.

Mr. SCHAIBERGER. Well, I can only speak for our organization but I can assure the committee that over the last several years we have an organization which has set up the ability and encouraged every claim to be forwarded to the PSOB that could possibly be determined as covered under this act.

Mr. CONYERS. But with the provision that you seek to have added there is no telling how many claims may be filed.

Mr. SCHAIBERGER. No, I understand that. But I was saying in response to your concern that there may be thousands of cases out there which just are not being submitted, that I think really for the most part the cases that are even vaguely thought to possibly be covered are being submitted.

I would suggest that the rejection factors from the PSOB would probably be a fairly accurate description of the amount of additional costs that could possibly be associated with this extension.

I guess what I am trying to say is I do not think there are hundreds of claims out there that just are not coming to the PSOB, so

with the enactment of H.R. 1968 there would be a tremendous onslaught of additional claims.

I know our organization and others that I am familiar with make sure that just about every death that is possibly job-related is forwarded to PSOB and certainly there have been several that have been rejected. But I do not feel there are a lot of others that are not being submitted.

Mr. CONYERS. Had I not been a workers' compensation referee in another life, I might be as optimistic as you.

Mr. SCHAITBERGER. With that experience, that would only amount to a little under \$2 million. So even if you double that factor, we are still talking about substantially less money than even Congressman Kildee had projected in his remarks. We believe that those figures will be realistic in the experience.

I would summarize simply by saying that we believe the Congress intended to provide this benefit to those who died directly in the line of duty. We think this legislation is consistent with that and would hope that the subcommittee in its deliberations would see in its wisdom to forward it through the legislative process.

Also, for your possible help in investigating this issue, I would like to submit just for the subcommittee's use our fire and mortality report, the occupational health and hazard symposia we have held for the last 2 years. They are a little lengthy to be part of the record but your committee staff may find them useful.

Mr. CONYERS. Thank you very much.

Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

I appreciate the testimony of the gentleman.

When plans are made now under the old act, are lawyers employed? Does the family employ a lawyer to facilitate the collection?

Mr. SCHAITBERGER. There is really a mixed experience there. I do not want to give a percentage, but there has been a large number of claims, and I can only speak for those in the professional fire service, which are handled without the use of legal assistance.

The administration has a very good method and operation and our organization has set up the ability to assist the families. That is one of the programs which our organization works with and that is to assist the families in these situations. But there are cases where legal assistance is used.

Mr. EDWARDS. So you do not think there is a big danger in the event the law is changed in the way you want it to be changed, that a whole group of lawyers would be set up who would offer their services on a contingency basis and get half the money.

Mr. SCHAITBERGER. Our hope is, and I think that I am correct, that this legislation that you are considering today would really reduce that situation and not increase it because, again, what is happening is there are many cases that go to PSOB and when they are rejected, these gray area cases that I just highlighted earlier, then is the time legal assistance is usually sought.

I think that this legislation would actually reduce that need rather than increase it.

Mr. EDWARDS. I think the legislation would have to be drawn carefully and narrowly and that the legislative history would have

to be very explicit so that people would not be disappointed or people would not make collections where they should not make collections.

Mr. SCHAITBERGER. It is certainly not our desire to see anyone who is not truly deserving to be entitled to the benefit.

Mr. EDWARDS. Thank you very much.

Thank you, Mr. Chairman.

Mr. CONYERS. Counsel Kammerman.

Ms. KAMMERMAN. Mr. Schaitberger, in the testimony you submitted for the record you attached an article by Mr. Powers and Dr. Thompson, and they set forth pretty clearly that the firefighter's position or line of work is in a sense a setup for a heart attack: arteriosclerotic disease is present in all males, plus intake of carbon monoxide diminishes the ability of the body to get oxygen at the same time it encourages the need for oxygen. In light of this scientific information, what kinds of educational programs are now available for firefighters and what kind of compulsory physical fitness programs are there?

Mr. SCHAITBERGER. During the last 10 years—I was a firefighter for 12 years. In the early 1970's physical fitness became, I guess for want of a better word, very popular. Most of the major fire departments—and when I say major I do not necessarily mean large cities but most of our major—moderate-sized fire departments now are involved in various physical fitness programs and many, many of them, and I mean in the hundreds, have very sophisticated physical fitness programs.

Where weight was at one time not a factor, weight now is regulated, I would suggest, by just about every fire department, at least every paid fire department. So that the risk factors that at one time could add to the situation, we are attempting in-house to try to reduce because we are aware of other hazards associated with the job.

Ms. KAMMERMAN. Would you be amenable to adjusting the program, conditioning any benefits on enrollment in or completion of some physical fitness program?

Mr. SCHAITBERGER. I do not know that we would have a problem with that, except that certainly providing a physical fitness program is at the discretion of the State and local governments which govern the fire departments. I would hate to see a benefit denied because an individual in city A happened to work for a fire department which did not have such a program, where the individual next door whose department happened to provide such a program would be covered.

So I think my sense would be that such a requirement, although it would be helpful if it could be regulated or administered, would really be unworkable and would probably present just as many unfair situations, depending on what fire department you happen to work for.

Ms. KAMMERMAN. Do you think conditioning benefits from the Federal Government in the form of \$50,000 per person would encourage the States and local governments to develop compulsory programs?

Mr. SCHAITBERGER. I would hope that it would, but no, I do not think so. There are considerable costs to such programs; having

helped to initiate one in the outlying suburb of Fairfax County where I served in my firefighting career—it is costly to engage in such a program and I just do not know if that really would motivate all State and local governments to do that.

Ms. KAMMERMAN. How would you feel about diminishing benefits to the extent that a heart attack was caused by factors other than a line of duty incident. For example, if it could be calculated that the fact that the firefighter smoked increased the likelihood that a heart attack would occur on this occasion and did lead to death by 20 percent, would you diminish the award by 20 percent?

Mr. SCHAIBERGER. Again my initial reaction to that would be that that seems to be a proposal that would create the concern or the question that Congressman Edwards was asking. I would see that as setting up a nightmare of possibilities for arguing whether it was 20 percent or 22 percent, and everybody goes to their medical professionals.

Ms. KAMMERMAN. Do they not do that now anyway?

Mr. SCHAIBERGER. I am not aware that they place a percentage of the cause of death during the occasion, as compared to the medical condition of the individual.

Percentages have been placed on levels of carbon monoxide in the blood which can be measured quite clearly, but I am not aware that they take an entire situation and say well, it appears that 32 percent of this death was probably caused by the event or occasion and the other 68 percent was caused by the existing condition of the person.

Ms. KAMMERMAN. Would you object to such a provision if it could be administered properly?

Mr. SCHAIBERGER. Well, we won't object to anything reasonable and workable. Again my initial sense would be that that would set up such a situation for debate and legal action that I do not believe that it would be workable. But we would support anything reasonable that would add to the enactment of this legislation, determining that those entitled would receive the benefit.

Ms. KAMMERMAN. When the act was first proposed in 1968, one of the justifications for it was the disparity among the various State and local jurisdictions. Some of them did not provide for the survivors of a public safety officer. Do you know how many jurisdictions now provide benefits?

Mr. SCHAIBERGER. I can submit to you, we have a workmen's compensation and benefit pension study. I should have brought that. I can submit that to you. It lays out 700 fire departments throughout the country, in every State, the various benefits that those individuals are entitled to. There still exists a considerable disparity though throughout the country, particularly in areas in the southeastern United States and some of the more rural areas.

Ms. KAMMERMAN. Thank you.

Mr. CONYERS. Thank you very much.

Mr. SCHAIBERGER. Thank you.

Mr. CONYERS. We welcome Gilman Udell to the witness table.

Do you want to say anything?

Mr. UDELL. This being my first time here, I will listen this time and talk next time.

[The statement of Mr. Schaitberger follows:]

TESTIMONY OF HAROLD A. SCHAIBERGER, LEGISLATIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, AFL-CIO-CLC

Mr. Chairman, members of the Subcommittee, I would first like to express the sincere appreciation of the International Association of Fire Fighters (IAFF), which is an affiliated Union of the AFL-CIO and which represent in excess of 175,000 professional fire fighters throughout the United States and Canada; for setting these hearings to allow our organization and other interested organizations to express their views on HR 1968, a bill we consider to be of extreme importance to all fire fighters and public safety officers.

In its commitment to improving the lot of fire fighters, the IAFF played a strong role in the passage of the Public Safety Officers Benefits Act in 1976, and in the establishment of its death benefit program. However, since passage of the PSOB, a serious shortcoming in the provision of its death benefit has become apparent—that is, the denial of death benefits to fire fighters who die of various medical conditions, even when death occurs at the scene of a fire and can be traced to specific fire fighting activities performed in the line-of-duty.

Congressman Dale E. Kildee of Michigan, has been joined in his introduction of HR 1968 by dozens of co-sponsors, reflecting support from numerous regions of this country and from both political parties for correcting this unintended inequity in the provision of the PSOB death benefit.

As you are aware, the Public Safety Officers Benefits Act was passed in 1976 in order to provide a \$50,000 Federal payment to the surviving dependents of fire fighters and law enforcement officers who give their lives in the line-of-duty. The justifying rationale for this legislation was twofold:

First, it sought to provide the survivors of these public safety officers with needed financial support, since many of them found it difficult to obtain adequate life insurance coverage as a result of the hazardous nature of their work. While Labor Department surveys have shown fire fighting to be one of the most hazardous of all professions in this country; many States, nonetheless, failed to provide sufficient death benefits for surviving dependents.

Secondly, the PSOB sought to recognize and act on society's moral obligation to help compensate the families of those individuals who daily risk their lives to preserve and protect the lives and property of others.

Although we do not want to spend too much time in discussing the rationale and justification for the original Act, we do believe it essential to reflect on the original intent behind its enactment, in order to demonstrate the necessity for enactment of HR 1968.

During their deliberations on the Public Safety Officers Benefits Act, both Congress and its Committees expressed their strong resistance to making the Act into a national heart and occupational disease-presumption bill. Legislation has been passed in thirty-three States, providing that a fire fighter death or disability involving heart, cardio-vascular or respiratory disease will be considered job or occupationally-related, unless proven otherwise by competent medical evidence; and there was great concern in Congress that the PSOB might become a national version of these measures.

The IAFF agreed with the Congress in this position and supported the measure as one which would only pay the death benefit to the surviving dependents of public safety officers who are actually killed in the line-of-duty—let me stress that again—who are killed in the line-of-duty. That was and we believe, remains the congressional intent.

Today, however, we find that fire fighters who die in the line-of-duty are being denied the PSOB death benefit. This inequity has arisen primarily out of the various definitions that were developed during the regulatory process implementing the PSOB.

The Act's language requires that the death benefit be paid if a public safety officer's death is the "direct and proximate result of a personal injury sustained in the line-of-duty." In its report on the legislation, the House Judiciary Committee defined "personal injury" as "all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact, as well as diseases which are caused or result from injuries, but not diseases that arise merely out of performance of duty."

The Law Enforcement Assistance Administration (LEAA) interpreted this definition of personal injury as limiting coverage to deaths caused by "traumatic injuries" only. The regulations, accordingly, define "traumatic injury" to mean, "a wound, or other condition of the body caused by external force, including the injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows,

chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain." Deaths caused by traumatic injuries do not, therefore, include deaths directly attributable to exertion or stress encountered in the performance of duty, unless that stress resulted in or was caused by a traumatic injury that was substantial in causing the fire fighter's death.

As a result of these regulations and definitions, many fire fighters who die while in the performance of duty from medical conditions, such as heart attack, are denied the \$50,000 death benefit, in spite of the fact that the death occurs at the scene of a fire and is traceable to a single occasion or incident of fire fighting or emergency-related activities. Where, for instance, it is determined that the cause of death was myocardial infarction, resulting from a coronary thrombosis, no benefit is paid unless the claimant can demonstrate a substantial connection between a traumatic injury and the thrombosis.

While these definitions play a primary role in what we perceive to be the unintended denial of death benefits to public safety officers who die in the line-of-duty; they fail to capture the tragic reality of the inequity of those denials. One example of the inequity that we are speaking of, will in a parochial way, help to bring this tragic problem into focus.

If you can picture a blazing apartment fire, where a fire fighter climbs a ladder to a second floor window and enters the building to make a rescue of an individual reported to be trapped. The fire fighter locates the victim, who is unconscious, overtaken by carbon monoxide and smoke, and places them in a proper carry, bringing them out of the window and down the ladder to safety.

After reaching the ground and allowing other emergency personnel to assist the victim to an awaiting ambulance, the fire fighter collapses and is pronounced dead at the scene of the fire. A subsequent coroner's ruling states that the death was caused by a heart attack. The surviving dependents of this fire fighter are denied the \$50,000 death benefit, since the death was caused by heart attack, even though it was obviously caused by and occurred in the line-of-duty.

HR 1968 seeks to remedy the inequity of such situations. In participating with the congressional staff that drafted this legislation, we made every effort to assure that the Public Safety Officers Benefits Act would cover only those claims involving heart attack or other medical conditions, which were sustained directly in the performance of duty on a single occasion or during a single event.

We tried to narrow this amendment of the Act, so that coverage would only be provided to those public safety officers who lose their lives while directly engaging in emergency situations or in the direct performance of duty. We believe that HR 1968 is drafted in such a way as to provide benefits only to those individuals who are truly entitled to the death benefit—that is, to those who give their lives in the line-of-duty while serving their fellow citizens.

We are fully aware of and sensitive to the strains on Congress and the Federal Government during these hard budget times. We would, therefore, like to bring to your attention the fact that, if this legislation had been in force in fiscal year 1981, when only 38 claims were rejected by the PSOB administration due to job-related diseases, and assuming that all 38 would have been covered under the new language, which is not at all certain, the legislation would have cost an additional \$1.9 million in that year. In fiscal year 1982, through April of this year, 32 rejections have been made due to job-related diseases. Again, if all were covered the administration would have expended an additional \$1.6 million. It is clear to us and the recent experience of PSOB supports the fact that this legislation would cost, at most, approximately \$2 to \$4 million per year.

Again, we believe that this bill will simply correct an unintended inequity which was created in trying to insure that only those public safety officers who give their lives in the performance of duty receive the PSOB death benefit. HR 1968 is compatible with and completes that intent and desire.

Our International Union would also like to express its support for HR 385, introduced by Congressman Neil and HR 4141, introduced by Congressman Walker, which would provide the public safety officers death benefit to rescue squad members. Again, we believe a situation has arisen which was not the original intent of Congress. There are many sections of this country, where individuals are hired as or serve as volunteer rescue squad personnel. These individuals have not been trained nor are they required to perform the duties of a fire fighter or law enforcement officer. They are, however, because of the nature of their occupation, required to participate in the same emergency situations.

Because of the definition of fire fighter or law enforcement officer found in the PSOB does not include these individuals, it is appropriate that an amendment to

the Act be made, making it clear that these individuals, who are performing rescue operations, will also be entitled to the death benefit.

In closing, Mr. Chairman, we would again like to draw your attention to the important difference between what HR 1968 is trying to do, and the objections of those who have opposed this legislation will state. Those in opposition to the bill will call your attention to the fact that the scope of the Public Safety Officers Benefits Act was to exclude occupational diseases arising out of the performance of duty. However, such deaths could occur at any time, while the fire fighter is off-duty, at home or at other locations completely unrelated to performance of duty.

HR 1968 attempts to cover those deaths which actually occur in the line-of-duty, during a single event or on a single occasion, whether the death is medically determined to be caused by heart failure of other medical condition. For your information, we have included with our testimony an article written by William F. Powers, Administrator for the PSOB, and by Doctor Robert L. Thompson. The article discusses Federal death benefits for the fire service, the Public Safety Officers Benefits Program, and their relationship to fire fighter heart attack deaths.

We feel that Congress, if allowed, will express its support for correcting the current inequity in the provision of PSOB death benefits by passing HR 1968. We hope that you, Mr. Chairman, and your distinguished Subcommittee will find it in your wisdom to report the bill out, allowing it to proceed through the legislative process and to final enactment.

FEDERAL DEATH BENEFITS FOR THE FIRE SERVICE—A DISCUSSION OF THE PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM AND THE RELATIONSHIP OF FIRE FIGHTER HEART ATTACK DEATHS

(By William F. Powers and Robert L. Thompson, M.D.¹)

The Public Safety Officers' Benefits (PSOB) Act of 1976 is administered by the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice. The Act provides a \$50,000 benefit to eligible survivors of state and local fire fighters whose death is the result of a traumatic injury suffered in the line of duty. Both paid and volunteer fire fighters are covered by the Act. The coverage is not limited to fire-caused deaths but also includes accidental deaths in the line of duty. For example, claims have been awarded in a variety of training and community service accidents. These have included automobile accidents, falls, electrocutions and drownings.

LIMITATIONS

The program is not workmen's compensation. Accordingly, there is no employers' responsibility for state and local fire fighters. Benefits cannot be paid if a fire fighter's death results from intentional misconduct, voluntary intoxication or suicide. No payment will be made when a claimant contributes to a fire fighter's death.

Fire fighter coverage is affected by a requirement that death result from an act obligated or authorized by law, rule, regulation or condition of employment. This could affect the off duty fire fighter who acts to save life or property. On occasion, fire personnel who take such action might be doing so without legal authority. If killed while off duty, they might not be covered by the benefits program. This problem can be prevented with written regulations that authorize fire fighters to take specific actions in fires and other emergencies when they are not on a regular tour of duty.

CARDIAC COVERAGE

In the course of administering the benefits program, the LEAA has encountered several complex issues. Principal among these is the difficulty of evaluating so-called heart attack deaths against a background of the program's statutory criteria and procedural regulations. The purpose of this article is to focus this issue and to suggest procedures designed to enhance the coverage of fire fighters under the PSOB program. In addition, the article highlights what has been observed about heart attacks as they relate to fire fighting.

¹ William F. Powers is the Director of the Public Safety Officers' Benefits Program. Dr. Robert Thompson is the Chairman of the Department of Forensic Sciences, Armed Forces Institute of Pathology, Walter Reed Hospital. He is the Medical Advisor to the PSOB program.

The Public Safety Officers' Benefits does not cover all heart attack deaths that are duty related. Coverage is limited to those deaths where a line-of-duty traumatic injury was a substantial factor in the death. Traumatic injury is defined as:

"A wound or other condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows; electricity, chemicals, climatic conditions, infectious diseases, radiation and bacteria, but excluding stress and strain."

A "substantial factor" means that the traumatic injury contributed to the death to as great a degree as any other factor, such as a pre-existing disease.

The most common traumatic injury suffered by a fire fighter whose death results from a heart attack is carbon monoxide poisoning from smoke inhalation. Recognizing this, the LEAA established a minimum blood carbon monoxide (COhb) level that can be considered a "substantial factor" in a heart attack death. Most medical experts consider lethal COhb levels to be at the 50 percent or higher saturation level. After consulting with qualified physicians in the field, the LEAA determined that COhb levels much less than 50 percent can be fatal under certain unique circumstances. Therefore, the agency has set its COhb "substantial factor" standard at 10 percent saturation for non-smokers, and at 15 percent for smokers.

The COhb standards set by the LEAA enhance the potential for coverage of fire fighters who suffer a fatal heart attack at a fire scene or within a few hours of fighting a fire. However, there is one important impediment to this enhanced coverage. Frequently, when a fire fighter dies of a heart attack, medical examiners and coroners will determine the death to be natural. They often fail to order an autopsy or toxicology analysis. The cause of death on the official certificate is listed as a specific type of heart attack resulting from heart disease. This puts the fire department in the position of attempting to prove that the fire fighter suffered smoke inhalation sufficient for coverage.

Frequently, the only evidence submitted is that there was smoke at the fire. Such a statement cannot be accepted as a basis for coverage. Departments must submit medical evidence of smoke inhalation. Accordingly, if a fire fighter suffers a fatal heart attack, a toxicology analysis must be performed to determine the blood level of all toxic fumes, with particular attention to carbon monoxide levels.

Some laboratories, because they consider low COhb levels to be medically insignificant, will report "CO level less than 10 percent," or "no CO level at all." Such generalized statements diminish the potential for coverage under the Act. Fire departments should order a toxicology analysis with a specific request that exact toxic levels be listed in the report. If the family approves, an autopsy also should be performed.

THE RELATIONSHIP OF HEART ATTACKS AND TOXIC FIRE GASES

One of the shocking facts about line-of-duty death in the fire service is that 46 percent of the deaths are caused by heart attacks. Based on PSOB claims, this is double the heart attack death rate of any other public safety profession. Why are so many fire fighters dying of heart attacks? After a review of 225 fire fighter death claims, the LEAA staff and its medical advisor have concluded that the disproportionate heart attack death rate results from arteriosclerotic heart disease in combination with the fire fighter's exposure to toxic fire gases, particularly carbon monoxide.

Arteriosclerotic heart disease affects virtually every American male from age five on. The rate that the disease progresses in any one individual depends on many factors. Some have yet to be identified by medical scientists. One thing seems certain, however. The disease progresses significantly faster in some than it does in others. The fire fighter is not unusual in that regard.

To understand the effect of the disease upon the fire fighter, it is important to understand how the cardiovascular system works. In very simple terms, blood passes through the lungs where oxygen molecules attach themselves to the hemoglobin molecules of the blood. Oxygenated blood then flows to the heart where it is pumped through blood vessels to feed the various muscles and organs of the body. If the body is emotionally or physically stressed, the muscles and organs require increased oxygen. Demand signals are sent to the heart, causing it to pump faster. This increases the flow of blood and availability of oxygen.

Arteriosclerotic heart disease impedes this simple process by depositing sclerotic plaques on the interior wall of the blood vessels, most critically the vessels that supply the heart muscle itself. These plaques build up over a long period of time slowly cutting down on the volume of blood flow. If the start of life can be compared

to fighting a fire with a 1½" hose, thirty years later you find yourself with a 1" hose and, a few years later, with a ½" hose.

Associated with this reduced blood flow is a concomitant reduction of oxygen flow to the muscles and organs. This gradual reduction in oxygen supply is not noticed by the individual until the disease has progressed to the point where the blood's oxygen supply begins to be exceeded by the body's oxygen demand, usually during stressful situations. When this happens, the individual experiences angina pain. If there is severe stress, a heart attack results.

How does this relate to carbon monoxide and other fire gases? When fire fighters freely breathe in the atmosphere at a fire (do not wear protective breathing apparatus), they are taking both oxygen and carbon monoxide molecules into their lungs. These molecules compete with each other, trying to attach themselves to the hemoglobin molecules of the blood. The carbon monoxide molecule has the advantage. Hemoglobin molecules have a more than 240 times greater affinity for carbon monoxide than they do for oxygen molecules. Thus, carbon monoxide molecules begin to displace oxygen molecules in the blood stream, thereby reducing the body's oxygen supply.

Recently, medical researchers found that a fire fighter's ventilation rate is frequently more important to the uptake of carbon monoxide than is the density of carbon monoxide in the atmosphere, or the length of exposure to it. This is a significant finding considering the level of emotional and physical stress and strain associated with fire fighting. The recent deaths of four volunteer fire fighters in Boston, New York (a Buffalo suburb), illustrate this phenomenon.

The four volunteers were using a pumper to help a farmer pump out a well. After the well was pumped dry, a civilian climbed down a ladder into the well to remove the foot pump which had been tied to the base of the ladder. After doing this, he began to climb up the ladder all the while singing and talking to the men above. When he was halfway up, he passed out and fell back to the bottom of the well.

A volunteer fire fighter went down the well to assist the citizen. He also passed out. Another volunteer fire fighter went down into the well with the same result. The two remaining fire fighters must have known of the toxic fumes danger, but they were not equipped with protective breathing devices and probably feared their call would not bring assistance in time. They too entered the well to rescue the others and also were overcome.

Other units of the fire department arrived. Using protective breathing apparatus, they removed the five men from the well. The four volunteers all had inhaled fatal levels of carbon monoxide. The civilian, the first man to pass out in the well, survived. Why? The civilian's ventilation rate prior to being overcome was normal. He had not been under severe emotional or physical stress. Thus, his uptake of carbon monoxide was just enough to cause him to pass out.

In contrast, all four volunteer fire fighters were under significant emotional and physical stress. This greatly increased their ventilation rates which, in turn, rapidly increased their uptake of carbon monoxide to a fatal level.

To summarize, combine the oxygen reducing effects of carbon monoxide, the oxygen reducing effects of arteriosclerosis, and the stress and strain of fire fighting which not only increases the demand for oxygen but also the uptake of carbon monoxide, and you have created the perfect environment for a heart attack. In the opinion of the LEAA and its medical advisor, this is the reason for the high heart attack death rate in the fire service.

HEART ATTACK REDUCTION

How can the fire service reduce its heart attack death rate? A review of 225 fire fighter line-of-duty deaths seems to indicate several logical steps.

1. There is a need for education. It appears that fire fighters have an inadequate knowledge of fire gases. Many seem not to realize that toxic fire gases can be present in an atmosphere with little or no smoke. Some still tend to consider "smoke eating" as a mark of distinction. Many fail to use protective breathing apparatus until a hostile fire environment forces them to use it. Few fully understand the danger to life posed by low levels of toxic fire gases, particularly carbon monoxide.

2. Departments should adopt rules requiring mandatory use of a protective breathing device when a fire fighter enters a burning structure regardless of the fire's severity. This rule also should extend to overhaul in poorly ventilated structures. A recent fire in Claremont, New Hampshire, illustrates the need for the overhaul rule. Eleven fire fighters were overcome following a fire in the attic of a gymnasium. The attic was poorly ventilated and a low level of carbon monoxide was still

in the air from the fire. The men were overhauling the attic area without protective breathing apparatus. All required hospital treatment. Three were admitted for overnight observation. Fortunately none of the eleven had advanced arteriosclerotic heart disease or fatalities might have resulted.

3. There is a need for regular physical examinations in the fire service, including stress tests. Fire fighters identified as having heart disease, or those who have experienced heart problems, should be assigned to duties where there is minimal exposure to toxic fire gases. Ideally, these would be in support functions such as training, fire prevention or arson investigation.

4. Adoption of a physical fitness program, with fitness standards, would be beneficial. Aerobic exercises are known to reduce cholesterol, triglycerides and other factors thought to contribute to heart disease. A physically fit person's ventilation rate also will not be as affected by stress and strain as would that of a person who is out of shape.

5. Adoption of a rule banning or limiting smoking while on duty would be beneficial. Recent studies indicate that fire fighters who smoke, depending on their habit, can have anywhere from 5 percent to 20 percent blood carbon monoxide levels resulting solely from the use of tobacco. In addition, those who smoke affect the atmosphere breathed by others.

For example, a medical researcher recently measured the blood carbon monoxide levels of a fire commissioner, his deputy and a secretary after a day's work at the office. The commissioner and his deputy, both heavy smokers, had blood carbon monoxide levels of more than 15 percent. The secretary, who did not smoke, had a level of 7 percent from breathing the smoke-filled office atmosphere.

INITIATING A CLAIM

A PSOB claim can be initiated by calling the Public Safety Officers' Benefits Division of the Law Enforcement Assistance Administration, (202) 376-2691. Upon receiving a call, the PSOB Division will supply the claim forms and will advise the fire department of the documentation that will be necessary to support the claim. Claims also can be initiated by writing the PSOB Division. The address is Public Safety Officers' Benefits Program, Office of the Comptroller, Law Enforcement Assistance Administration, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Fire departments are invited to call or write the LEAA for additional information about coverage under the benefits program.

Mr. CONYERS. The testimony of my colleagues, Mr. Neal of North Carolina, Mr. Frank of Massachusetts, and that of the secretary-treasurer of the International Union of Police Associations, Robert Gordon, will be included in the record.

[Statements of Mr. Neal, Mr. Frank and Mr. Gordon follow.]

STATEMENT OF REPRESENTATIVE STEPHEN L. NEAL

Mr. Chairman and Members of the Subcommittee, for the past four years, I have been trying to persuade the Congress to correct a serious inequity in coverage provided under the Public Safety Officers' Benefit (PSOB) program. The problem is the unfair treatment of rescue squad personnel who risk their lives daily to protect the lives and property of American citizens. Under current law, the survivors of these important public servants would not be eligible for the \$50,000 death benefit which is provided for the families of firefighters and police officers killed while performing official duties.

For the last two Congresses, I have introduced legislation to amend the Omnibus Crime and Safe Streets Act of 1968 to provide that rescue squad members be entitled to death benefits under the PSOB program.

Mr. Chairman, I appreciate the opportunity to appear before the subcommittee to discuss the need for this legislation. This has been a long and arduous battle and I hope this hearing is the beginning of the final effort to correct deficiencies in this important program. You are to be commended, Mr. Chairman, for scheduling this hearing to review the program. I hope members of the subcommittee will realize, as I have, the need to revise the current eligibility criteria for PSOB coverage.

Let me give an illustration of how the current program works and how coverage is denied to a very important group of emergency service providers. If a rescue squadman and a police officer, working side-by-side, were killed trying to rescue an injured victim from a burning building, the police officer's family would be eligible for the \$50,000 payment which the federal government has made available through

the PSOB program. Because the activities of rescue squads are not generally covered under the program, there would be no such assistance given to the survivors of the rescue squad member. The same discrepancy would apply in every case where a firefighter or law enforcement officer was working with a rescue squad person and both individuals were killed while performing the same duty.

There is a very real possibility that this situation could occur. Rescue squad members often work directly with police and fire personnel. Consider for a moment just how specialized emergency preparedness has become in our urban areas, and how dependent rural areas are on local and county rescue units. Not only do these individuals work with police and fire units, rescue squad members are exposed to very life-threatening situations. Among the commonly known activities performed by these important public servants are emergency medical treatment and first aid, ambulance service, rescue of persons in wrecked vehicles or burning buildings, and searching for drowning victims. In most emergency calls, these units are the first to arrive on the scene. Squadmen are required to perform in what are commonly known to be very dangerous situations. For instance, rescue squad members are often called to help with violent individuals, such as criminals injured while committing violent crimes, or with patients experiencing violent drug reactions. Rescue squad personnel often respond to the scene of domestic quarrels, situations many police officers call the most dangerous. They will continue to perform these functions and will continue to put their lives in jeopardy. Survivors of these individuals killed in the line of duty will not have the financial protection afforded to other public servants who die in the same or similar circumstances.

Mr. Chairman, there are rescue squads performing essential emergency services in almost every urban and rural area of the country. According to the Department of Transportation, between 25,000 and 30,000 rescue units operate within the United States that employ emergency medical technicians. The National Association of Emergency Medical Technicians estimates that 76,000 EMTs are currently serving within rescue squads and none are covered under the PSOB. In my home state of North Carolina, there are over 7,500 trained rescue personnel operating out of 250 all volunteer units. These squads respond to almost all of the emergency calls within their jurisdiction, particularly those in rural counties. A unit in North Carolina may respond to anywhere between 250 and 3,000 calls a year, depending on the population of the area served.

Let me use an example a little closer to Washington, D.C. The Bethesda-Chevy Chase Rescue Squad in Bethesda, Maryland, is a unit which operates within a metropolitan area. The Bethesda-Chevy Chase unit responded to over 11,335 calls last year. Of those, 2,149 were rescue situations and 9,186 involved ambulance transportation and emergency medical treatment. Despite this heavy utilization of squadmen and their exposure to dangerous situations, families of rescue squad members killed in the line of duty would not be eligible for the \$50,000 death benefit.

Members of rescue squads typically have modest financial resources. Service to the squad, in most instances, is strictly on a voluntary basis. The satisfaction of having an opportunity to serve their neighbors is the only reward they receive. The death of a squadman would pose a significant financial hardship to the survivors since most families have low or moderate incomes. The PSOB was created to ease the financial hardships of survivors of police officers and firefighters. What about the hardships faced by families of rescue squad members killed in the line of duty?

Mr. Chairman, statistics regarding actual number of rescue squad personnel killed in the line of duty are difficult to obtain. To my knowledge, there have only been three cases which received public attention. One case involved the death of two squad members in Pennsylvania who were trying to rescue a child from a tunnel. Just on the scant data available, however, it is clear that expanding the coverage to include rescue squad members would not significantly increase federal expenditures or the deficit.

Mr. Chairman, I believe the exclusion of rescue squad personnel is contrary to congressional intent. The members of the 94th Congress, in Public Law 94-430, expressed a need to provide adequate death benefits for the survivors of public safety officers. It was evident during 1976 that many states and communities failed to provide adequate death benefits for survivors of public safety officers. In states where benefits were provided, there was disparity in the amount of coverage afforded a family. Upon review of the legislative history, it was clear that Congress felt a "moral responsibility" to compensate those who risk their lives daily to protect the public. Although no specific reference was made to "rescue squad personnel", statements delivered on the House floor by the author of the Act indicate an understanding that certain personnel under the definition of "firefighters" may be covered. Representative Joshua Eilberg gave an indication of who should be covered under

the act during his introductory remarks on H.R. 365, the Firefighters Benefits Act of 1965, which was subsequently incorporated as part of the Public Safety Officers' Benefits Act. He said: "Further, Mr. Chairman, the coverage of the bill applies to those firemen actually engaged in firefighting and others who die in the performance of their duty where the activity is determined by the administration to be potentially dangerous."

It is clear from this passage that the LEAA is given great discretion in deciding who, outside of firefighters and police officers, should be allowed coverage. The LEAA has chosen to narrowly define eligibility to exclude many who risk their lives to protect the lives and property of others. According to an LEAA memorandum on the subject of EMT eligibility for death benefits, it was found that "an EMT whose primary job function was something other than firefighting would be covered by PSOB only if his death occurred in the course of firefighting activities he was authorized to perform." According to LEAA's own estimates, coverage for EMT's occurs in less than two percent of the cases.

I find it a bit unfair that the program allows for a broad interpretation of the law enforcement officer to include correction, probation, parole and judicial officers. Yet, rescue squad personnel would only be covered if their primary duty is fire suppression. I am not opposed to the broad definition of a law enforcement officer. All law enforcement personnel should be covered under PSOB. My point, Mr. Chairman, is that Congress should insure that all who daily risk their lives to protect the public are covered. To exclude rescue squad members falls far short of that goal.

Supporters of this proposal came very close to including rescue squad members in the PSOB program. The House of Representatives, by an almost two to one vote, went on record in support of this proposal. I, along with my colleague from California, Wayne Grisham, were successful in amending the Justice System Improvement Act of 1979 to include the language of H.R. 385. The Senate had no comparable provision and the matter was decided in conference. Mr. Chairman, the 180 members in the House who voted for the amendment were quite perturbed by what took place in the conference committee. Despite the Senate's willingness to accept my amendment, most of the House members made no attempt to uphold the House position. This was due to the opposition of some House conferees to the House amendment. I am happy that we once again have an opportunity to consider this important legislation.

Mr. Chairman, I have been in close consultation over the years with organizations representing firefighters, emergency medical technicians, and rescue squads across the country. I have received letters of endorsement from rescue units from as far away as California. All have urged the Congress to include rescue squad members in the PSOB coverage.

Mr. Chairman, I appreciate the opportunity to come before you today to discuss this problem. I look forward to working with the subcommittee in an effort to develop legislation that would address this problem and the issue which was discussed by our colleague from Michigan, Dale Kildee. I am a cosponsor of H.R. 1968 and support efforts to authorize the payment of death benefits to public safety officers who die as a result of certain medical conditions heretofore not covered under the regulations.

There is an increased emphasis being given to the concept of neighbor helping neighbor. With this in mind, it seems to me only fair that we provide benefits to survivors of rescue squad members. Members of volunteer rescue squad units represent the true spirit of volunteerism. It is only fitting that we provide some financial security to the families of those who make the ultimate sacrifice while trying to help their fellowman.

I would be glad to answer any questions that you might have.

STATEMENT OF CONGRESSMAN BARNEY FRANK

Mr. Chairman and Members of the Subcommittee, I appreciate this opportunity to submit this Statement regarding a critically important program—the Public Safety Officers Benefits Act (PSOBA).

I am pleased that with the passage of P.L. 94-430 Congress recognized the obligation that society has for the survivors of those who give their lives ensuring the peace and safety of the public. I have nothing but the greatest respect and admiration for the men and women who, on a daily basis, risk their lives fighting fires and other catastrophies and controlling criminal activity. Without their dedication and courage, all lives would be greatly imperiled. But it is equally true that without the benefits provided by PSOBA, the well-being of their families would, when tragedy

strikes, be imperiled as well. I want the Subcommittee to know that I fully support adequate funding for this program so that the promise made to the survivors of safety officers can be fulfilled. We should not add to the stress already felt by safety officers because of the nature of their jobs by putting in doubt whether their loved ones will receive benefits in the event of a tragedy occurring.

I would like to address briefly the bills before the Subcommittee which would amend PSOBA. H.R. 1968 and 4141 would include in the definition of "public safety officer" rescue squad members. Their contribution to the safety of the public cannot be doubted—their lives are very much on the line in their daily activities. They should be included in the benefits under the Act. I would leave to the discretion of the Subcommittee which definition of "rescue squad member" to utilize.

H.R. 1968, introduced by Congressman Kildee, would redefine physical injury so as to allow benefits in cases where death was caused as a result of extreme stress on a single occasion, e.g. while fighting a fire. Under present law, we are faced with a very unfair situation—a firefighter who dies of a heart attack while fighting a fire may be denied benefits under certain circumstances. Given the tremendous physical stresses placed upon firefighters while in the course of duty, it seems only fair and reasonable to allow benefits in heart attack cases, where the medical condition is brought on by the fire fighting activity. In such a case, the death is clearly employment related to the same degree as if the death were caused by burns. I therefore very strongly support H.R. 1968.

Once again, thank you for this opportunity to present my views on a very important program.

STATEMENT OF ROBERT D. GORDON, SECRETARY-TREASURER, INTERNATIONAL UNION OF POLICE ASSOCIATIONS, AFL-CIO

Mr. Chairman and Members of the Subcommittee, for the record, my name is Robert D. Gordon and I am the Secretary-Treasurer of the International Union of Police Associations, AFL-CIO. This Union is once again pleased to submit testimony on behalf of all law enforcement officers in support of the Public Safety Officers' Benefit Act.

We would like to address our major concern, H.R. 1968, which was introduced by our good friend Congressman Dale Kildee. Unfortunately, when the original legislation was signed into law in September of 1976, it was generally accepted that all deaths in the line of duty were covered. Much to our dismay, we learned that heart attacks were not covered. Police officers, on many occasions, are the first ones on the scene of a fire or drowning or other emergency. These officers who die in a valiant rescue attempt are just as entitled to this benefit as the officer who is shot pursuing a criminal. I do not believe it was the intent of the Congress at that time to exclude death attributed to stress or inhaling a poisonous substance. Congressman Kildee and the Co-sponsors of H.R. 1968 are to be commended for instituting such legislation and we urge this Subcommittee to favorably pass H.R. 1968 which will guarantee peace of mind to our nation's law enforcement officers that their dependents will be cared for.

I would also like to offer our views on H.R. 3089 which would amend Section 703 to eliminate the requirement that parents of deceased public safety officers be financially dependent on such officers in order to qualify for the death benefit. When this legislation was first introduced it was felt then by our International, as we do now, that the program was designed to assist dependent families and parents who were financially dependent upon these officers and in many cases were left destitute. While the intent of H.R. 3089 may be well meaning, we find that unless the parents of a deceased officer are financially dependent on the officer for support, we cannot recommend passage of this proposal.

Mr. CONYERS. The committee stands adjourned.
[Whereupon, at 11 a.m., the subcommittee adjourned.]

NATIONAL FIRE PROTECTION ASSOCIATION,
Quincy, Mass., May 26, 1982.

HON. JOHN CONYERS, JR.,
Chairman, Subcommittee on Criminal Justice of the House Judiciary Committee,
U.S. House of Representatives, Washington, D.C.
(Attention: Barbara Kammerman).

DEAR CHAIRMAN CONYERS: The National Fire Protection Association would like to have made a part of the record the Association's supportive position regarding H.R.

385, H.R. 1968, H.R. 3089, and H.R. 4141, which are designed to amend the Public Safety Officers' Benefits Act, and are scheduled for hearings before your Subcommittee.

The NFPA is a non-profit professional organization, and since its inception before the turn of the century has been looked upon as the nation's public advocate for fire safety. Since many of the 32,000 members of the Association are fire service personnel, we have a direct interest in fire fighter health and safety programs, and survivor benefits for those who fall in the line of duty.

Because of the interest cited above, the NFPA wishes to go on record in support of the following amendments to the Public Safety Officers Benefits Act:

1. Inclusion of rescue squad members under the death benefit provisions of the Act.
2. To eliminate the requirement that parents of deceased public safety officers be financially dependent on such officers in order to qualify for death benefits.
3. To authorize payment of survivors benefits resulting from all deaths that occur in the line of duty. Survivors have been denied benefits in the past, even though a fire fighter died while performing his duty. The language of H.R. 1968 will alleviate this deficiency.

Thank you for allowing the Association this opportunity to have this statement included in the record of the Subcommittee hearings. If I can be of any other assistance in this matter, please don't hesitate to contact me.

Sincerely,

ROBERT W. GRANT, *President.*

AMENDMENTS TO THE PUBLIC SAFETY OFFICERS' BENEFITS ACT

TUESDAY, JUNE 15, 1982

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:05 p.m. in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Conyers and Edwards.

Staff present: Barbara Kammerman, assistant counsel, and Raymond V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Today, the subcommittee will hear testimony on four bills relating to the Public Safety Officers' Benefits Act. The act provides a \$50,000 supplemental death benefit to the survivors of a public safety officer killed in the line of duty.

The act was designed to compensate survivors of firefighters and law-enforcement officers who die as a result of injuries sustained in the line of duty. Since its inception, there have been those who have sought to extend it. The four bills before us now would expand the coverage in three ways.

First, H.R. 1968 would extend coverage by defining physical injury to include a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event.

Second, H.R. 385 and H.R. 4141 would expand the act by expressly covering the survivors of a rescue squad member. The two bills differ, however, in their definition of rescue squad.

Third, H.R. 3089 would extend coverage by eliminating the requirement that surviving parents of covered officers have been dependent upon the deceased in order to recover.

The bills raise certain questions about the act.

First, we must ask whether the proponents of change really object to the administration of the act, as opposed to its contents. Second, we must question how much new money this will cost the Federal Government.

Further, to the extent new money is involved, we who are so keenly aware of budget problems must determine whether this new money should be spent on this program or other existing programs that are currently being cut back.

Third, if we decide to expand the act to include rescue squad members, where do we draw the line? Should we not also include

good samaritans who, like rescue squad members, may be killed while aiding others?

And, last, as we undertake a reexamination of the act, should we not consider refining the law to prevent payment where death results from the gross negligence of the officer?

We hope to address these questions today and in a subsequent hearing.

We continue our hearings today beginning with the executive director of the International Association of Chiefs of Police, one who has had a distinguished career in law enforcement.

We welcome Mr. Norman Darwick, executive director, International Association of Chiefs of Police.

Mr. Darwick, please proceed.

TESTIMONY OF NORMAN DARWICK, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, GAITHERSBURG, MD.

Mr. DARWICK. I appreciate the opportunity to appear before the House Subcommittee on Criminal Justice to express the views of the International Association of Chiefs of Police regarding the public safety officers' benefits program.

We are a professional police organization established in 1893. Our membership comes from the United States and 75 other nations. We represent the police executives in those other countries.

I am not expressing only my own views or a narrow segment of the police, but rather the thinking of the vast majority of the association membership as well as the vast majority of the law enforcement community.

Public safety officers' benefits have been and continue to be a very important program to the law enforcement community. By its very existence, the benefits program reflects the value that our Government places on the work done by law enforcement officers. It is a recognition of police officers' efforts to deter crime and to uphold society's laws. Performing these vital functions is rigorous and stressful work. It means confronting the possibility of danger and even death at every turn. Fortunately for us, police officers continue to perform the task of keeping the peace.

The legislation providing for these benefits was introduced with the idea of providing some type of compensation for the physical risks taken by officers. When an officer dies in service to the community, there is undeniably a great deal of anguish and trauma visited upon his spouse and children. But, as staggering as the death is for the loved ones to accept emotionally, there are still the harsh economic realities of the bills to be paid and the necessities of living to be faced. The day-to-day problems which would have been difficult enough to deal with on the average police officer's salary are now compounded by the loss of the breadwinner. The benefits program helps the family in the transition period—thus usually providing the family the necessary time to determine how they can go forward on their own.

Without this program many families would face financial calamity. Before the passage of the original legislation in 1976, survivors had to rely on a patchwork system of indemnification. Many States

and localities had no death benefits plans. Individual life insurance coverage was difficult to obtain just because police work is considered a hazardous occupation. Even when such insurance coverage is available, the premiums are often too high for a police officer to afford.

The alarming trend of increased crime can only be reversed by professional police officers, who are assured that they and their families will be compensated in a manner commensurate with the risks involved. The benefits program as it now operates only provides for payment when an officer dies as the direct and proximate result of a personal injury sustained in the line of duty. This language limits coverage to deaths involving traumatic injuries, which includes those inflicted by bullets, explosives, sharp instruments, and physical blows. Deaths attributable to exertion or stress encountered in the performance of duty are presently not covered.

Having been subjected to such stress on the job leaves the police officer more prone than the average citizen to heart attack. Often these heart attacks take their toll when the officer gives chase to apprehend a criminal. To deny benefits to the officer's family because he did not instead die from a bullet wound is indeed inequitable.

H.R. 1968 seeks to remedy this situation. The proposed legislation provides for benefits when an officer dies while subject to extreme stress, on a single occasion or during a single event, in the performance of duty.

The IACP supports this legislation. The association also acknowledges the risks inherent in the work of rescue squad members and supports legislation extending death benefits to these individuals. Even though we live in a time of fiscal austerity, it is obvious that the services of rescue squad members, firefighters, and police officers are essential to the well-being of our communities. To continue to attract highly qualified personnel, it is imperative that we provide the best possible program. The IACP believes that these pieces of legislation will very much strengthen the present system.

Thank you. I would be happy to answer any questions you have.

Mr. CONYERS. Well, there is also the problem of the family left without funds to carry on an important consideration when the law was first passed. I still think it is an important consideration.

Also, what would happen if this doesn't pass? Would people quit the police department?

Mr. DARWICK. No, I don't think the police will quit, will give up their work. They did not do it before the legislation existed.

Mr. CONYERS. Is there any legislation like this in the Senate?

Mr. DARWICK. I am not aware of any.

Mr. CONYERS. OK. Thank you very much.

Mr. DARWICK. Thank you.

[The statement of Mr. Darwick follows:]

STATEMENT OF NORMAN DARWICK, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Thank you, Mr. Chairman and members of the committee, I appreciate this opportunity to appear before the House Subcommittee on Criminal Justice to express the views of the International Association of Chiefs of Police (IACP) regarding the public safety officers' benefits program.

The International Association of Chiefs of Police is a voluntary professional organization, established in 1893. It is comprised of chiefs of police and other law enforcement personnel from all sections of the United States and more than 75 nations. Command personnel within the United States constitute more than 70 percent of the more than 13,500 members. Throughout its existence, the IACP has strived to achieve proper, conscientious and resolute law enforcement. This it has done in the interest of community betterment, conservation of the public peace and maintenance of good order. The IACP has always sought to achieve these objectives in full accord with the constitution, and the IACP has been constantly devoted in all its activities to the steady advancement of this Nation's best welfare and well-being.

I would stress at this juncture that I am not expressing here the views of myself or a narrow segment of police, but rather the thinking of the vast majority of the association membership, as well as the vast majority of the law enforcement community.

In turning to the subject at hand, let me begin by assuring you that public safety officers' benefits have been and continue to be a very important program to the law enforcement community. By its very existence, the benefits program reflects the value that our government places on the work done by law enforcement officers. It is a recognition of police officers' efforts to deter crime and to uphold society's laws. Performing these vital functions is rigorous and stressful work. It means confronting the possibility of danger and even death at every turn. Fortunately for us, police officers continue to perform the task of keeping the peace.

The legislation providing for these benefits was introduced with the idea of providing some type of compensation for the physical risks taken by officers. When an officer dies in service to the community, there is undeniably a great deal of anguish and trauma visited upon his spouse and children. But, as staggering as the death is for the loved ones to accept emotionally, there are still the harsh economic realities of the bills to be paid and the necessities of living to be faced. The day-to-day problems which would have been difficult enough to deal with on the average police officer's salary are now compounded by the loss of the breadwinner. The benefits program helps the family in the transition period—thus usually providing the family the necessary time to determine how they can go forward on their own.

Without this program many families would face financial calamity. Before the passage of the original legislation in 1976, survivors had to rely on a patchwork system of indemnification. Many States and localities had no death benefits plans. Individual life insurance coverage was difficult to obtain just because police work is considered a hazardous occupation. Even when such insurance coverage is available, the premiums are often too high for a police officer to afford.

The alarming trend of increased crime can only be reversed by professional police officers, who are assured that they and their families will be compensated in a manner commensurate with the risks involved. The benefits program as it now operates only provides for payment when an officer dies "as the direct and proximate result of a personal injury sustained in the line of duty." This language limits coverage to deaths involving traumatic injuries, which includes those inflicted by bullets, explosives, sharp instruments and physical blows. Deaths attributable to exertion or stress encountered in the performance of duty are presently not covered.

Having been subjected to such stress on the job leaves the police officer more prone than the average citizen to heart attack. Often these heart attacks take their toll when the officer gives chase to apprehend a criminal. To deny benefits to the officer's family because he did not instead die from a bullet wound is indeed inequitable.

H.R. 1968 seeks to remedy this situation. The proposed legislation provides for benefits when an officer dies while subject to extreme stress, on a single occasion or during a single event, in the performance of duty.

The IACP supports this legislation. The association also acknowledges the risks inherent in the work of rescue squad members and supports legislation extending death benefits to these individuals. Even though we live in a time of fiscal austerity, it is obvious that the services of rescue squad members, firefighters, and police officers are essential to the well-being of our communities. To continue to attract highly qualified personnel, it is imperative that we provide the best possible benefits program. The IACP believes that these pieces of legislation will very much strengthen the present system.

Thank you. I would be happy to answer any questions you have.

Mr. CONYERS. I would like to introduce from Detroit, Robert Scully, executive vice president, National Association of Police Organizations, Inc., a dear friend of mine. Welcome.

TESTIMONY OF ROBERT F. SCULLY, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, WASHINGTON, D.C., ACCOMPANIED BY CAREY R. BUTSAVAGE, LECHNER & BUTSAVAGE, LEGISLATIVE COUNSEL

Mr. SCULLY. Thank you, Mr. Chairman. Unfortunately Jack Pearson had a last-minute emergency in his home State of California, in the city of San Francisco. Jack asked me to substitute for him.

As you know, I am the elected vice president of the Detroit Police Officers' Association. Also with the Police Officers' Association of Michigan—we carry those 12,000 members into the National Association of Police Organizations.

Mr. Chairman, I appreciate the opportunity to present our views on H.R. 1968, a matter of extreme importance to police and safety officers who are members of the National Association of Police Organizations.

Our organization represents over 100,000 police and safety officers throughout the United States. Its member organizations are located throughout the United States. Its member organizations are located principally in California, New York, Michigan, Ohio, Texas, Massachusetts, and the District of Columbia.

As an organization dedicated to strengthening the morale and working conditions of people who lay their lives on the line every day protecting the citizens of this country, we are here to express our strong support for the passage of H.R. 1968.

The Public Safety Officers' Benefits Act of 1976 currently provides a death benefit of \$50,000 to the survivors of a State or local police officer or firefighter who dies as a result of a direct physical injury sustained in the line of duty. In its report on the PSOB Act, the Judiciary Committee defined injury as all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact as well as diseases which are caused or result from injury, but not diseases that arise merely out of the performance of duty.

While it seemed to us that this definition covered exactly the type of injuries we are now seeking to include through the legislation being considered today, the LEAA interpreted the bill as only providing death benefits for traumatic injuries. In turn, the regulations so narrowly defined traumatic injuries that, as a practical matter, the only time an officer is now entitled to the death benefit is when he suffers from a traumatic injury of an extreme nature, such as a gunshot wound.

Because of the very narrow interpretation of when the death benefit is applicable, many police officers are now ineligible for it, even though they have indeed, suffered injuries which are a direct and proximate result of in the line-of-duty activity. Thus, under the present interpretation, a police officer, who, while physically apprehending a robbery suspect, has a heart attack and dies, would not be entitled to the \$50,000 death benefit. Mr. Chairman, it seems too clear to us that this officer suffered an injury in the line of duty and that his death was a direct result of his performance of his duties. Unfortunately, his surviving dependents will not be eligible

for the Federal benefit which was provided for in the PSOB Act, as that act is now interpreted and applied.

Without getting into all the medical studies, we all know that situations of extreme danger can cause and do cause extreme stress. It is the position of this organization that a heart attack or other medical condition when it occurs in the line of duty is no less of an injury because there's no blood pouring from an open gunshot wound.

We think that H.R. 1968 is narrowly drafted legislation and legislation which makes clear what the original PSOB Act left unclear. That is, that the death benefit will be provided only to those officers who lose their lives while performing the difficult and dangerous task of protecting the public. The legislation currently before you expressly provides that the PSOB Act will cover only those deaths which were sustained in the line of duty on a single occasion or a single event.

We can say without a doubt that to the families of police officers who die in the performance of their duties, the loss is no less whether it be a heart attack or a gunshot wound. And to the public who we serve, the officer has made the ultimate sacrifice in the performance of his duties in either case. What we are asking through the passage of H.R. 1968, is that the Congress recognize that there is no difference, either.

Again, we trust that this narrow amendment, which means so much to the public safety officers of this country, will receive the endorsement of this subcommittee and we thank you for the opportunity to speak on behalf of the police officers of this Nation.

Mr. CONYERS. Thank you, Mr. Scully. Will you identify the gentleman who is accompanying you?

Mr. SCULLY. This is the legislative advocate for our national organization, Mr. Carey Butsavage. He is with the firm of Lechner & Butsavage.

Mr. CONYERS. Based in Washington?

Mr. SCULLY. Yes.

Mr. CONYERS. If we include occupational diseases, which is what the Kildee proposal does, will this open the door for lawyers to take advantage of the situation?

Mr. SCULLY. I don't think it would open the door for lawyers, if I understand what your question is, sir. I think if the composition of the PSOB committee that is based here in Washington, that makes those decisions, is left intact, and they are allowed to make their judgments as to whether or not it is in fact in the line of duty, I think we can keep the bureaucracy, the lawyers, and everybody else out of this, the big cost items.

Mr. CONYERS. Well, if you don't, I can tell you what the fee is going to be—one-third.

Mr. SCULLY. Workmen's compensation? I don't think we are trying to create a situation such as that, sir.

Mr. CONYERS. Well, when you get into occupational diseases, you get into some fine line distinctions—where was the causal connection, what was the previous health condition of the diseased, how much did smoking have to do with it, how much did anything else have to do with it? Then somebody says, well, you better get a lawyer.

Mr. SCULLY. I think basically what we are talking about here is a narrow and limited benefit to the public safety officers of this country.

We have a benefit that is in existence right now that allows for the \$50,000 for my members that get shot or get stabbed. Basically what I am asking for today, through the passage of 1968, is that my officer that is chasing a robbery suspect down the alley and dies of a heart attack, he is just as much dead, and it is just as much death connected as the officer that received a gunshot wound. A situation that happened in Detroit less than a year ago, in the fifth precinct of the city of Detroit, involving an officer by the name of Trelka where he was dispatched to a family trouble run.

Officer Trelka, upon arrival, there was a pushing and shoving match between the husband and wife of this household, and naturally the husband was winning the match at this time. Officer Trelka, in an attempt to subdue, just put his arms around this individual and wrestled him away from beating his wife, fell to the ground and was dead before he hit the ground, is what the report said. He had a massive heart attack at the age of 32 years old. These are the types of people that I think are deserving of that type of coverage.

Mr. CONYERS. Did his survivors receive benefits?

Mr. SCULLY. Officer Trelka, unfortunately, was just recently divorced and had no children. But those are the types of people, if he did have a spouse or dependents, that I would like to see covered under that act.

Mr. CONYERS. Do you think it may be necessary to develop some health programs for officers? We have some awfully unhealthy looking police officers and firemen in the United States.

Mr. SCULLY. Are you talking a physical fitness type program?

Mr. CONYERS. Suppose, for example, a man has been arm bending after work a lot. So he puts on about 30 pounds. Don't you see where that is going to lead? If he suffers a heart attack on the job, should his survivors recover? Isn't it about time we slimmed down the force, if I may use this language?

Mr. SCULLY. I think you may have a valid point there. I think if police departments around this country—I don't mean to exclude firemen, but I represent strictly police officers—I think police departments throughout this country are following the trend of the Detroit Police Department; that is probably something that is taking place.

You no longer take the alcoholic, or no longer do you take the person smoking marihuana and smoking cocaine, and stick him in the closet and lock the door. You don't try to hide him anymore. There are programs built within the department, that my union helped build, to recognize and treat these problems.

Unfortunately, those individuals that don't respond to the treatment sometimes have to respond to something called discipline. But it is something that is recognized now and it is being dealt with. And I think physical fitness is a thing of now and a thing of the future which it wasn't a thing of the past.

Mr. CONYERS. Well, just as police officers are required to maintain their proficiency in firearms, I don't think it would be exces-

sive to require that they maintain certain minimal health conditions to stay on the job. After all, the latter may be as vital to officers and the public as the former.

Mr. SCULLY. That is the case in Detroit. If the police officer is not physically fit to be a police officer on a full-time basis, he is generally separated from the department, it is on a duty- or non-duty-connected disability. There are a limited number of positions in the city of Detroit which we call restricted duty positions, which you place police officers into those positions that hopefully have a short-term disability, but they are still able to function in some type of capacity. So you keep them there functioning and hopefully 3, 6 months down the road they will become physically fit to perform the full-time duties of a police officer.

Mr. CONYERS. I am talking about being overweight. You don't have a place where you send fat cops, do you?

Mr. SCULLY. There are a lot of farms around Detroit, but we don't have any fat farms yet.

Mr. CONYERS. Do you want to add anything, counsel?

Mr. BUTSAVAGE. No, thank you, Mr. Chairman.

Mr. CONYERS. Glad to see you.

Mr. Scully, thank you for your testimony.

Mr. SCULLY. Thank you.

[The statement of Jack Pearson follows:]

TESTIMONY OF JACK PEARSON ON BEHALF OF THE NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS (NAPO)

Mr. Chairman, members of the subcommittee, we appreciate the opportunity to present our views on H.R. 1968, a matter of extreme importance to the police and safety officers who are members of the National Association of Police Organizations. Our organization represents over 100,000 police and safety officers throughout the United States. Its member organizations are located principally in California, New York, Michigan, Ohio, Texas, Massachusetts and the District of Columbia.

As an organization dedicated to strengthening the morale and working conditions of people who lay their lives on the line every day protecting the citizens of this country, we are here to express our strong support for the passage of H.R. 1968.

The Public Safety Officers Benefits Act of 1976 currently provides a death benefit of \$50,000 to the survivors of a state or local police officer or firefighter who dies as a result of a "direct" physical injury sustained in the line of duty. In its report on the PSOB Act, the Judiciary Committee defined injury as "all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by a physical impact as well as diseases which are caused or result from injury, but not diseases that arise merely out of the performance of duty."

While it seemed to us that this definition covered exactly the type of injuries we are now seeking to include through the legislation being considered today, the LEAA interpreted the bill as only providing death benefits for traumatic injuries. In turn, the regulations so narrowly defined "traumatic injuries" that, as a practical matter, the only time an officer is now entitled to the death benefit is when he suffers from a traumatic injury of an extreme nature, such as a gunshot wound.

Because of the very narrow interpretation of when the death benefit is applicable, many police officers are now ineligible for it, even though they have indeed, suffered injuries which are a "direct and proximate" result of in the line of duty activity. Thus, under the present interpretation, a police officer, who while physically apprehending a robbery suspect has a heart attack and dies, would not be entitled to the \$50,000 death benefit. Mr. Chairman, it seems clear to us that this officer suffered an injury in the line of duty, and that his death was a direct result of his performance of his duties. Unfortunately, his surviving dependents will not be eligible for the federal benefit which was provided for in the PSOB Act, as that Act is now interpreted and applied.

Without getting into all the medical studies, we all know that situations of extreme danger can cause and do cause extreme stress. It is the position of this organization that a heart attack or other medical condition which occurs in the line of

duty is no less of an injury because there's no blood pouring from an open gunshot wound.

We think that H.R. 1968 is narrowly drafted legislation and legislation which makes clear what the original PSOB Act left unclear. That is, that the death benefit will be provided only to those officers who lose their lives while performing the difficult and dangerous task of protecting the public. The legislation currently before you expressly provides that the PSOB Act will cover only those deaths which were sustained in the line of duty on a single occasion or a single event.

We can say without a doubt that to the families of police officers who die in the performance of their duties, the loss is no less whether it be a heart attack or a gunshot wound. And to the public who we serve, the officer has made the ultimate sacrifice in the performance of his duties in either case. What we are asking through the passage of H.R. 1968, is that the Congress recognize that there is no difference either.

Again, we trust that this narrow amendment, which means so much to the public safety officers of this country, will receive the endorsement of this subcommittee and we thank you for the opportunity to speak on behalf of the police officers of this nation.

Mr. CONYERS. Next we have a panel of representatives of the National Legislative Committee, National Fraternal Order of Police. Art Stone will be the lead witness for this group. We welcome you gentlemen.

TESTIMONY OF ART STONE, LARRY DESMOND, ANTHONY MORRIS, ROBERT WALKER, AND VINCENT MCGOLDRICK, MEMBERS OF THE NATIONAL LEGISLATIVE COMMITTEE, VIENNA, VA.

Mr. STONE. Mr. Chairman, I am Art Stone, member of the National Legislative Committee. Accompanying me is Mr. Vince McGoldrick, national chairman from Virginia, Larry Desmond from Maryland, Anthony Morris from Virginia, Mr. Robert Walker from Virginia. All these gentlemen are members of the legislative staff also. We thank you for the opportunity of appearing before your committee to give testimony on behalf of our membership which numbers over 162,000 Federal, State, and local law enforcement officers throughout the Nation who are very much concerned with and unanimously in favor of H.R. 1968 introduced by a very true and honored friend of law enforcement, Hon. Dale Kildee of Michigan. This legislation would amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of their official duties.

In 1976 when the Public Safety Officers' Benefit Act was signed into law it was the general feeling that all deaths that were attributable to the line of duty were covered. However, it was soon learned that this was not the case. We feel that when PSOB was passed that this was not the intent and we are very grateful to Congressman Kildee for introducing legislation on our behalf that would correct what we feel was an inadequacy in the language and intent in 1976.

In many instances law enforcement officers are the first to arrive on the scenes of, fires, accident, explosions, drownings, et cetera, and there have been many of these officers who, without any regard for their own safety, gave their lives that others may live.

We do not know how many have died from heart attacks brought on by that stress of the situation that the officer was confronted with or how many died while inhaling a poisonous substance at a

fire or explosion but we feel that there have been many and we strongly feel that their survivors should be entitled to the same consideration and benefits as the survivor of a law enforcement officer who dies as a result of a gunshot wound sustained in the line of duty.

Once again in closing, the Fraternal Order of Police is unanimously in favor of this legislation and urges this committee to report it out favorably.

Mr. Chairman and members of this committee, I wish to thank you for the opportunity of appearing before you to let you hear our views on this very important piece of legislation.

Thank you.

Mr. CONYERS. You are more than welcome.

Mr. GOLDRICK. Yes; I am Vincent McGoldrick. Mr. Stone has read my comments.

Thank you.

Mr. CONYERS. All right,

Mr. WALKER. Mr. Chairman, I am Bob Walker. I am just here today to present some facts maybe on the stress involved with police officers. I do instruct in our recruit school in stress. I have some statistics that I thought I would make available. I don't want to take the committee's time.

Mr. CONYERS. We will have them admitted into the record. Thank you for coming.

Tell me a little bit about the Fraternal Order of Police.

Mr. STONE. We presently are representing as we stated over 162,000 policemen and policewomen across the country. I believe we are one of the oldest and largest police organizations in the Nation. We are comprised completely of active police officers. All of our elected officers from the national board to the local lodges are active police officers, which is a unique situation for a police group.

Mr. CONYERS. Which States?

Mr. STONE. Forty-one States are represented.

Mr. CONYERS. Are most of the officers members of municipal police forces or members of the State police forces?

Mr. STONE. We represent all phases of police officers, from the Federal level to the local level to the smallest police department in a State.

Mr. CONYERS. Which Federal officers do you represent?

Mr. GOLDRICK. Right here in the District of Columbia, Mr. Chairman, the District Lodge, D.C. 1F, we have members from the Federal Bureau of Investigation, Drug Enforcement Agency, the National Zoo Park Police, National Airport, U.S. Marshall's Office, and just about any Federal agency you can name. We have them from the metro. There are 17 different agencies that make up the membership of the D.C. lodge. These are all Federal agencies.

Mr. CONYERS. Thank you very much. We appreciate your testimony. I am grateful that all of you could come here today. Thank you. [The statement of Vince McGoldrick follows:]

TESTIMONY OF VINCE MCGOLDRICK, CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE,
FRATERNAL ORDER OF POLICE

Mr. Chairman, members of the committee, I am Vince McGoldrick, chairman of the National Legislative Committee, Fraternal Order of Police. Accompanying me here today are Mr. Art Stone from Springfield, Illinois, Mr. Larry Desmond from Gaithersburg, Maryland, Mr. Anthony Morris from Arlington, Virginia and Mr. Robert Ward from Richmond, Virginia all members of the legislative staff. We thank you for the opportunity of appearing before your committee to give testimony on behalf of our membership which numbers over 162,000 Federal, State and local law enforcement officers throughout the nation who are very much concerned with and unanimously in favor of H.R. 1968 introduced by a very true and honored friend of law enforcement, the Honorable Dale Kildee of Michigan. This legislation would amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of their official duties.

In 1976 when the Public Safety Officers Benefits Act was signed into law it was the general feeling that all deaths that were attributable to the line of duty were covered. However, it was soon learned that this was not the case. We feel that when PSOB was passed that this was not the intent and we are very grateful to Congressman Kildee for introducing legislation on our behalf that would correct what we feel was an inadequacy in the language and intent in 1976.

In many instances law enforcement officers are the first to arrive on the scenes of fires, accidents, explosions, drownings, etc., and there have been many of these officers who without any regard for their own safety gave their lives that others may live. We do not know how many have died from heart attacks brought on by that stress of the situation that the officer was confronted with or how many died while inhaling a poisonous substance at a fire or explosion but we feel that there have been many and we strongly feel that their survivors should be entitled to the same consideration and benefits as the survivor of a law enforcement officer who dies as a result of a gunshot wound sustained in the line of duty.

Once again in closing, the Fraternal Order of Police is unanimously in favor of this legislation and urges this committee to report it out favorably.

Mr. Chairman and members of the committee I wish to thank you for the opportunity of appearing before you to let you hear our views on this very important piece of legislation. Thank you.

Mr. CONYERS. Our final witnesses from the Department of Justice: Mr. Robert Diegelman, Acting Director of the Office of Justice Assistance and Research Statistics; Mr. William F. Powers, the Director of the Public Safety Officers' Benefits Office, and Mr. David Tevelin, the Acting Deputy General Counsel. We welcome you gentlemen. You may proceed.

TESTIMONY OF ROBERT F. DIEGELMAN, DIRECTOR, OFFICE OF
JUSTICE ASSISTANCE AND RESEARCH STATISTICS, U.S. DE-
PARTMENT OF JUSTICE, ACCOMPANIED BY WILLIAM F.
POWERS, DIRECTOR, PUBLIC SAFETY OFFICERS' BENEFITS
OFFICE, AND DAVID I. TEVELIN, DEPUTY GENERAL COUNSEL,
OJARS

Mr. DIEGELMAN. Thank you very much, Mr. Chairman. I appreciate the opportunity to appear before the subcommittee this afternoon, to basically comment for the Department of Justice on not just simply H.R. 1968, which you have already talked about this afternoon, but on the full range of amendments being proposed to the subcommittee, since I believe there is no one else in town who has had the opportunity to administer the act since 1976, since that is our responsibility and we have gained considerable experience. That is one of the reasons I brought along with me today the Director of the PSOB program, Mr. Powers, and also our Deputy General Counsel who has had considerable experience with the legal in-

terpretation in some of the court cases that have arisen out of the implementation of the act during its first 6 years.

I will forgo, since I assume you are going to enter in the record my full written statement, giving you a dramatic reading of it. But I would like to emphasize some of the important points of the legislation, particularly in terms of the four pending amendments.

Let me point out one thing from a historical perspective. It is very, very important to realize where this legislation came from. In the process of this hearing—and I heard some of it this afternoon—there were some references to restrictive interpretation of the coverage of the act. One of the things we feel we have done, and I think we can answer your questions on this score and point to some examples, is tried our best to implement what we consider to be a very limited intention on the part of the Congress in the passage of this legislation.

In preparation for these hearings I reviewed not just our own program history, but also the legislative history behind the PSOB Act, particularly the chairman's comments during that time. We should realize that we are dealing with the implementation of a piece of legislation that was proposed in three Congresses before it was passed by the 93d Congress, and that the intention throughout the long legislative history of this act was clearly to direct national concern at public safety officers, law enforcement as well as firemen, who died as a direct and proximate result of personal injury suffered in the line of duty, to insure that they were covered there by a supplemental benefit to the already existing compensation programs.

It was a clear recognition at the national level of the tremendous hardship that is borne by the families of public safety officers. There is also a clear discussion in the legislative history of the intent of the sponsors and the authors of the legislation that it not turn into a health insurance program, a workmen's compensation program, or an occupational disease program. It was specifically intended to clearly be directed toward the type of things that were going on in this country in the late sixties and early seventies, during the time of various civil disturbances, when every day on our television and in our newspapers we would find firemen as well as policemen being shot down in the line of duty. That was the intent.

There is a full range of administrative case history regarding our determination of individual appeals to back up our implementation of the act. Particularly on the heart attack issue, on which you have taken considerable testimony, you will find not only a very strong consistency in our determination in those particular cases and our interpretations of what constitutes a traumatic injury, you will also find very recent court decisions, specifically the cases of *Smykowski v. United States* in April 1981 and *Morrow v. United States*, that clearly indicate that our determination that heart attacks or chronic progressive or congenital cardiac or pulmonary disease are excluded under the act is correct. We have had cases where the courts have clearly ruled in favor of the Government in terms of our interpretation.

Mr. CONYERS. Of course, some are trying to correct that problem.

Mr. DIEGELMAN. By talking about that amendment, as well as some of the others proposed, I would like to give you our position on them and what we think the impact would be on the program were such amendments to be passed.

Let me point out that from the very beginning there has been considerable pressure on the Congress to expand the coverage of the program, not just simply in terms of questions of disease or what constitutes traumatic injury, but coverage in terms of what we mean by public safety officer.

From the very beginning, we have had numerous pressure groups try to articulate their explanations for why the coverage was meant to include themselves. This includes fish and game officers, correctional employees, National Guard, law enforcement officers of Indian tribes, prosecutors, volunteer police officers, rescue squad members, campus police, persons treating the criminally insane, airport crash rescue workers, fire marshals. We have had a full range of interest groups support the expansion of the coverage of the act to cover their particular constituencies.

You will find, and I draw the attention of the committee to this, that we have rendered a whole series of decisions on almost all of these. We have covered everything from town constables to dogcatchers, if they fall within the interpretation of what constitutes a public safety officer, either as their primary function or as their secondary function. So we don't think we have been terribly restrictive, nor do we think we have been insensitive to the impact that it has on families.

I think it is clear from the statute itself, as well as from the legislative history, that Congress was specifically interested in a very important aspect of this benefit program and that is the authority to act as a law enforcement officer or firefighter. Exposure to risk, was a factor cited by several Members of the House and Senate in their remarks supporting the act, but it was repeatedly cited in the context of the risk met in connection with those duties. And the regulations we have issued reflect this intent.

As a practical matter, it should be pointed out that the vast majority of public rescue squads in this country are units operating out of paid and volunteer fire departments. The personnel manning these units are firefighters. A firefighter whose death is the result of a traumatic injury sustained while engaged in rescue squad duties is covered by the act. Further, an officer working under the title of rescue squadman is not automatically precluded from coverage under the act. If he fought fires as a part of his duties, he would be covered if his death occurred in the course of those firefighting duties. Most firefighter deaths related to rescue squad duties occur as a result of an auto accident or a heart attack without an associated traumatic injury. It can be safely assumed that most deaths among rescue squad members who are not covered by the act result from the same causes. This is not the problem of national concern demanding Federal involvement envisioned by the act passed by Congress in 1976.

While rescue squad members certainly provide a valuable public service and may be placed in dangerous situations at times, they were not contemplated for inclusion in the original legislation. The Department objects to establishing new categories of coverage.

As can be seen from the list of candidates for expanded coverage which I read earlier, there are many persons engaged in hazardous occupations who contribute to the safety of society. Opening the legislation to provide payment of death benefits to the survivors of additional individuals solely on the basis of the hazards of their employment would set an undesirable precedent.

It would be impossible in the future to deny coverage to the other groups involved in the same type of public safety concerns. It would be inappropriate to distinguish rescue squad members from the other high risk occupations. Therefore, the Department of Justice opposes the enactment of H.R. 385 or H.R. 4141, on the grounds that they would expand coverage to a new category of individuals and we don't see where you can stop after that point.

Another area that has presented some difficulty has been the meaning of the phrase "direct and proximate result of a personal injury" used in the legislation to indicate when an officer's death is covered. Many public safety officers are prone to heart attacks or chronic lung problems. The legislative history of the act clearly excluded coverage for occupational diseases, and the regulations provide that a traumatic injury or an outside force must be a substantial factor in the officer's death.

Smoke inhalation is recognized as such an outside force, but it is frequently difficult to determine when it is a substantial factor in bringing about death. The difficulty is especially acute in those cases where a firefighter's death is attributable, in some degree, to chronic heart disease.

I know the chairman has considerable experience himself in Michigan in the workmen's compensation area. These are very difficult cases to call.

After the legislation was passed in 1976, I believe it was in the following May that we issued our initial regulations and the following September that we issued some specific guidance and regulations related to smoke inhalation.

LEAA consulted with five leading medical experts on the toxic effects of carbon monoxide in order to determine when carbon monoxide inhalations should be considered a substantial factor.

On the basis of their considerations and also on the basis that we do recognize the fact that smoke inhalation can constitute an outside force within the definition of our concept of traumatic injury, we have set standards for when you can actually consider smoke inhalation to be a substantial factor in the death and therefore make an award.

A normal carbon monoxide saturation level is 3 percent for non-smokers and 7 percent for smokers. On the basis of the group's recommendation, carbon monoxide inhalation was found to be a substantial factor in an officer's death when he had a saturation level of 15 percent or greater at the time of the fatal event, or, if a non-smoker, a saturation level of 10 percent or greater. Furthermore, recognizing that resuscitative efforts will reduce the saturation level, we went so far as to develop a computer generated table so we can determine the saturation level of carbon monoxide at the time of the attack, so we can determine whether at the time the fireman died he did have a saturation level which would have met the substantial standard test.

One of the bills before this subcommittee, H.R. 1968, would amend section 1201(a) of the act to allow payment to the survivors of officers found to have died of a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event, in the performance of duty. The effect of this addition would be to allow coverage of deaths from exposure to poisonous substances, heart attacks, and various other causes which may be the result of preexisting conditions. The Department of Justice strongly recommends against enactment of this amendment.

Under existing law, an officer's death must be the direct and proximate result of a personal injury sustained in the line of duty. The terms "direct and proximate result" and "personal injury" are not defined in the act, but are dealt with in LEAA regulations implementing the legislation (28 C.F.R. part 32), based upon clear legislative history.

The House Judiciary Committee's reports on H.R. 365 and H.R. 366, 94th Congress, noted the committee's intent that the direct and proximate result requirement cover "those cases where the personal injury is a substantial factor in bringing about the officer's death. Personal injury was defined in both reports to include:

... all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not disease which arises merely out of the performance of duty. In other words, deaths from occupational diseases alone are not within the purview of the legislation.

House debate on the issue was confined to a reiteration of the exclusion of occupational diseases which arise out of the performance of duties from the scope of the legislation.

The definition of "personal injury" in the legislative history of the PSOB Act and the exclusion of occupational diseases from its scope, have led to the conclusion that deaths resulting from chronic, congenital, or progressive cardiac and pulmonary diseases are not covered by the act unless a traumatic injury was a substantial factor in the death. H.R. 1968, by expanding coverage to also include deaths from a medical condition arising out of extreme physical stress, would reverse this and represents a significant departure from the purposes of the original act.

While expanding coverage to include deaths brought about by job-related stress but resulting from preexisting medical condition, the proposal fails to take account of the absence of standards of physical fitness for public safety officers.

You mentioned that earlier in your comments.

Although very limited, research into the physical fitness of law enforcement officers has shown that police officers aged 26 to 52 are frequently below average in working capacity, cardiorespiratory fitness, and body composition. A study sponsored by the Law Enforcement Assistance Administration in 1978 reported that a comparison of inmates in correctional institutions to police officers showed that inmates are generally in better physical condition than law enforcement personnel. Therefore, given the possibility of preexisting conditions due to poor physical fitness standards for public safety officers, it is strongly suggested that the coverage con-

templated by H.R. 1968 could be extremely broad and consequently costly.

The impetus for passage of the 1976 act was, in large measure, the increasing number of public safety officers killed as a result of criminal acts which was perceived as a national problem requiring a response from the Federal Government.

Providing a special benefit under H.R. 1968 to a select group of State and local government employees based, not on their exposure to criminal acts or potential hazards, but on their exposure to job-related stress and without regard to preexisting medical conditions would be potentially costly, inequitable, and unfair. It would have the effect of singling out certain categories of State and local employees for special survivor benefits not available to other classes of public employees. It is, moreover, an unwarranted intrusion into matters appropriately within the purview of State and local governments.

Finally, the subcommittee should be aware that LEAA, in its original proposed regulations to implement the act, would have covered deaths arising from extreme stress. The first claims received under the act, however, quickly persuaded the administration that such a standard was so vague as to be almost impossible to administer. The problem arose in determining what constituted extreme stress to a certain individual in a particular set of circumstances. For instance, one of the first claims received arose from a situation where a firefighter died of a heart attack while pulling a hose to a fire. We debated whether that was extreme stress. Should we consider how heavy the hose was? Whether he was pulling it up a grade, across level land, or down a hill? Whether other persons were helping him? What the degree of heart disease was? These questions, in a area of medical knowledge that does not lend itself to specific, objective determinations, convinced us that it would be futile to establish criteria and precedents within which to administer the program under such a standard. We were fortunate that the legislative history of the act provided us with another clear course to pursue: the requirement that a traumatic injury be a substantial factor in the officer's death. That approach was adopted and was upheld by the U.S. Court of Claims in two cases last year.

The last of the four bills under review by the subcommittee, H.R. 3089, would remove the requirement that the parents of a public safety officer must be dependent upon him in order to be eligible for the benefits provided by the act. Parents, it should be remembered, are only eligible in the absence of any surviving spouse or children. The legislative history of the act clearly indicates that it was meant to benefit those dependent on the decedent for their support and who would be severely affected by the loss of the breadwinner.

The Senate Judiciary Committee's report on H.R. 366, 94th Congress, stated the following:

The motivation for this legislation is obvious: The physical risks to public safety officers are great; the financial and fringe benefits are not usually generous; and the officers are generally young with growing families and heavy financial commitments. The economical and emotional burden placed on the survivors . . . is often very heavy. . . . The dedicated public safety officer is concerned about the security of his family and to provide the assurance of a Federal death benefit to his survivors is

a very minor recognition of the value our government places on the work of this dedicated group of public servants.

The House Judiciary Committee's report on H.R. 366 stated that the bill "is designed to meet the immediate financial needs of the surviving dependents of public safety officers who die from a personal injury which is sustained while in the performance of duty."

The intent of Congress to provide for the immediate financial needs of those who had looked to the decedent for their support is further evidenced by the fact that the House bill originally required all eligible recipients to be dependent on the officer for at least one-half of their support. The Department of Justice recommends against enactment of H.R. 3089.

The Public Safety Officer's Benefits Act is not an insurance program. No premiums are paid by the officers or their State or local governments. It is not a workman's compensation law nor a health insurance program for occupational diseases. The administration does not believe the act should be reshaped to become any one of these. Instead, the PSOB program provides a unique benefit from the Federal Government to those families of law enforcement officers and firefighters who, for reasons beyond their control and unique to the officer's profession, have prematurely lost the individual upon whom they had depended for their financial support and upon whom society depends for public safety.

We, therefore, strongly recommend against enactment of the bills presently under consideration by the subcommittee.

I would point out, Mr. Chairman—I don't know that it has been referred to yet, but the administration on June 4 did propose as part of the Justice Research and Statistics Act of 1983 the reauthorization of the public safety officers' benefit program for another 4 years, taking it through 1987. I point it out mainly so that my remarks are interpreted in the context in which they are intended. The administration supports the program, has come forward for its reauthorization. We are proposing some technical changes in the implementation of the act, specifically along the lines of intoxication, and also on the whole issue of gross negligence, because we have had some very serious horror stories that have come up in the implementation of the act which I think points out the need for continued and further definition of the standards that we need to decide upon a particular claim.

I give you just one example of a police chief who was cleaning his pistol with the grips off, with the cleaning fluid all over the gun, with live rounds in every chamber of the gun, and with the gun pointed at his stomach; when the gun accidentally went off and killed him. The claim was sent to a firearms expert who concluded that the chief's actions violated several of the most basic gun safety standards.

We accordingly found his actions were an extreme departure from the required standard of care and denied benefits on the basis of gross negligence. The court of claims reversed the denial because gross negligence is not a statutory basis for denial. There have been several similar cases in which we, because of the absence of a standard of gross negligence, have been put into a position of honoring a claim which we do not clearly think was intended by the original act.

In summary, we have honored about 1,244 claims since the original passage of the act. We reject on an annual basis about 87 claims. Of the 87 claims that we reject annually, only about 16 are appealed on an annual basis. We have had in the implementation of the act only approximately 18 court cases, 9 of which have been decided as of this point, 2 of which I specifically referenced as bearing out our interpretation of the heart attack issue.

One final factor, and then I will fall silent. The economic impact of any one of the amendments.

These are extremely conservative estimates, and they should be viewed as such. Because all we are doing in coming up with these estimates is looking at the claims that we deny under the present act, that would fall under the categories of expanded coverage of any one of the amendments that you are considering.

For example, in the rescue squad members expansion, we, on the average, would expect about 30 additional claims per year if either H.R. 385 or 4141 were to be implemented, which would mean an additional \$1.5 million a year. Under H.R. 1968, expanding basically to heart attack and preexisting physical conditions, our average number of claims that involve a heart attack, with no other substantial factors involved, which are rejected is about 44, 45 claims a year, which means an additional \$2.2 million.

Regarding H.R. 3089, the expansion to include dependent parents, we see very few of these claims, probably about six claims a year. So at \$50,000 a throw, you are talking about \$300,000 here.

We are talking about an addition—and I underscore this, this is an extremely conservative estimate based on the claims we deny—if all 4 of these amendments were to be passed, of 80 claims a year, or \$4 million a year, which in summary would represent almost a one-third increase in the present program.

That is the end of my comments. I have brought along the people who are much more familiar with the details of the implementation of the program to answer any questions.

Mr. CONYERS. You have been very thorough. We appreciate it.

Mr. POWERS, do you have a comment.

Mr. POWERS. No, sir. I think Mr. Diegelman has handled the general comments quite well.

Mr. CONYERS. Counsel.

Mr. TEVELIN. No, Mr. Chairman.

Mr. CONYERS. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

The Department of Justice doesn't want to expand the present bill. That is it in a nutshell, is that right?

Mr. DIEGELMAN. Yes, expand the coverage.

Mr. EDWARDS. It seems to me your estimates are conservative.

Mr. DIEGELMAN. Extremely, from our perspective. This is based only on the claims we deny, not on the ones that don't come in.

Mr. EDWARDS. How did the case where the officer shot himself come to the court of claims?

Mr. DIEGELMAN. We have a three-tiered appeal procedure. First, Mr. Powers, Director of the PSOB, makes a determination of a claim. If the claimant is not satisfied, he can appeal to an independent hearing officer. If the claimant still is not satisfied with the determination, he can appeal to me as the Director of OJARS.

And having failed all those administrative remedies, he can then take it into a court of law. We have our attorney here who can explain that particular case.

Mr. TEVELIN. The way the Department views these claims is that in essence the claimants are seeking in excess of \$10,000 from the Federal Treasury. As such, the Court of Claims has exclusive jurisdiction over these claims under the Tucker Act. We have had a number of problems related to this issue in that people sometimes try to bootstrap under the LEAA grant review and appeal procedures and go directly to the court of appeals and several others go to the district courts under the Administrative Procedure Act. We have argued against jurisdiction there, and tried to get the cases in the Court of Claims just to try to build up a unified body of law in one court.

Mr. EDWARDS. The Court of Claims is more likely to agree with the claimant?

Mr. TEVELIN. I think that is true.

Mr. EDWARDS. Isn't that historically true?

Mr. TEVELIN. Of course, usually they handle contract claims.

Mr. EDWARDS. What kind of cases are turned down? You have quite a number every year.

Mr. DIEGELMAN. Yes, I can give you a breakdown.

What is the typical case?

Mr. DIEGELMAN. In an average year we turn down approximately 87 claims. I would say 70 percent of them are heart attacks. I can give you a more definitive breakdown.

The type of grounds on which a claim can be denied are: no eligible survivors, not a line of duty death, death not caused by traumatic injury, the decedent was not a State or local law enforcement officer, due to suicide, or the death was caused by his own misconduct.

I would say that on an average year, about 70 percent of the claims that we reject are basically heart attacks. Since the beginning of the program, we have denied about 234 claims. About 161 of them were for no traumatic injury. The next leading cause were not line of duty deaths, which were 25.

Mr. EDWARDS. Thank you, Mr. Chairman. That is very helpful testimony.

Mr. CONYERS. It certainly is.

Mr. POWERS, were you a law enforcement officer before this assignment?

Mr. POWERS. Yes, I was, sir. Not immediately before this. I was in the State police from 1949 until 1971.

Mr. CONYERS. Which State?

Mr. POWERS. Massachusetts.

Mr. CONYERS. Now, this legislation came about as a result of the riots, the wave of riots and activity in the 1960's.

Mr. DIEGELMAN. Yes.

Mr. CONYERS. It was a way for the Federal Government to compensate for the increased hazards that law enforcement officers were asked to sustain during that period of time.

Mr. DIEGELMAN. Yes. I might also add, if I may, Mr. Chairman, that it really was not just simply the increased risk that the public safety officers generally were facing at that time, but the clear re-

alization that frequently the public safety officers were young men, with young families that did not have very significant incomes, that as a result of these young men and women putting their lives on the line for society, they were leaving behind dependents that for all intents and purposes were destitute. And it was clearly as a result of the recognition of this unique service that people were providing to society that this program was enacted, clearly intended to be a supplement to existing programs.

As a matter of fact, we have in the act specific language to the effect of how this relates to the whole FECA program, because under the Federal Employees Compensation Act, State and local law enforcement officers are covered if pursuing a Federal felony, preventing a Federal crime. So there is also some coverage under that act.

Mr. CONYERS. Well, the riots of the 1960's are not going on in the 1980's. I mean if we enacted the law because of the particular dangerous circumstances, that overriding consideration no longer exists.

Mr. DIEGELMAN. Well, let's say that it was that situation and the circumstances of those years which brought the problem to attention. I don't think that we have ever testified or the Department has ever assumed the position that since the civil disturbances and the riots of the 1960's are no longer here, that we now look toward the possible repeal of this legislation. We feel that it is still necessary given the unique contribution that public safety officers make to the safety of society.

Mr. CONYERS. Well, I think your interpretation of this act has certainly not allowed you to be accused of being miserly or severe or restrictive from what you have told me here today.

Mr. DIEGELMAN. Thank you, Mr. Chairman.

Let me add one final thing, so that every one understands about how bureaucracy runs a program like this. I would match this up with almost any other compensation program anywhere. We run a \$12½ million claims program with a staff of four, and honor claims within 90 days after they have been found eligible. And even on appeal generally process the claim in 4 to 6 weeks.

Mr. CONYERS. Right. And you keep lawyers out, which is an additional benefit. One-third of the recovery might otherwise go to them.

Mr. DIEGELMAN. I might also point out, what we have done is specifically prohibited by regulation a flat charge or a lawyer taking any one of these cases on a contingency basis. We have a whole series of criteria we lay down on the complexity of cases, the amount of time; we do not allow 10 percent, 20 percent, 30 percent of any particular paid benefit going to an attorney.

Mr. CONYERS. The Department did support the legislation in 1968; is that correct?

Mr. DIEGELMAN. In 1968, I do not believe so.

Mr. CONYERS. The Department opposed it?

Mr. DIEGELMAN. I believe they opposed it up to its enactment.

Mr. CONYERS. Pardon?

Mr. DIEGELMAN. I believe they opposed it every time it was proposed. It was passed by the Congress in 1976. Since then we have at each reauthorization argued for its continuance, however.

Mr. CONYERS. Well, did the Department consider the necessity or need of the survivors?

Mr. DIEGELMAN. Very much so. I think the original motivation, if I can speak for the Congress and also for our implementation of it, was a very human recognition that public safety officers throughout this country, not only make a unique contribution, but also are not terribly well paid, and frequently do not have good life insurance policies. This was offered as a benefit which in some way, not that you can in any way recompense someone for the loss of a loved one, but at least making sure their survivors were not destitute, without a breadwinner. And I think that motive was sincere and I think the motive continues to be sincere.

Mr. CONYERS. Well, you have been very helpful. I commend you on the administration of this particular piece of legislation. I thank you all for your testimony. The committee stands adjourned.

[The statement of Mr. Diegelman follows:]

STATEMENT OF ROBERT F. DIEGELMAN, ACTING DIRECTOR, OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

Mr. Chairman, members of the Subcommittee, I appreciate the opportunity to appear before the Subcommittee to discuss the Public Safety Officers' Benefits Act and several bills that would amend its coverage. In my statement today, I would like to provide some background information which may assist in your consideration of the proposals pending before the Subcommittee, and to discuss the administration of the Public Safety Officers' Benefits (PSOB) program.

The Public Safety Officers' Benefits Act of 1976 authorizes the payment of a benefit of \$50,000 to specified survivors of State and local public safety officers found to have died as the direct and proximate result of a personal injury sustained in the line of duty. "Public Safety Officer" is defined as a "person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman." A law enforcement officer is a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws, including but not limited to police, corrections, probation, parole and judicial officers. A firefighter is a person authorized to engage in the suppression of fires, whether paid or volunteer, by a state or local unit of government.

Survivors eligible for the benefit include the deceased officer's spouse, children under 18 years of age, children over 18 who are incapable of self support, and children over 18 but less than 23 years of age who are full time students. If there is no surviving spouse or child, the benefit may be paid to the dependent parents of the officer.

The Internal Revenue Service has ruled that the \$50,000 benefit is not subject to Federal taxation. In cases of need, an interim payment of \$3,000 can be made to an officer's survivors pending final disposition of a claim. Because of the swiftness with which final benefits are generally paid, however, there has been little need to make interim payments.

The benefit provided by the Act is intended to be in addition to other benefits received by the family of the deceased officer. The sum is reduced only by certain payments authorized by the District of Columbia Code and those provided by Section 8191 of Title 5 of the United States Code. The latter provision covers state and local law enforcement officers under the Federal Employees Compensation Act if they are killed or injured while apprehending a Federal offender or fugitive, attempting to prevent a crime against the United States, or guarding a Federal prisoner or material witness.

OJARS and the staff of the Public Safety Officers' Benefits program work hard to assure that the Public Safety Officers' Benefits program is administered in a manner that both meets the needs of the families of officers who have been killed and is consistent with the legislation and its history. Since the beginning of the program in 1976, a national network has been established to ensure early notification of a public safety officer's death. The help of national and state-level police, fire, corrections, probation, parole, and judicial associations and unions has been enlisted in this effort. In addition, state and local criminal justice planning agencies, FBI field offices, U.S. Marshal field offices, and State Fire Marshal offices notify the

agency in the event of a public safety officer's death. Employing agencies have also been notified of filing procedures through articles in major law enforcement and firefighter journals and by posters and other program materials.

Generally, PSOB program staff receive a death report within one week of the officer's death. Most of these reports are made by the employing agency. Claims are initiated by the PSOB staff when the death report is received. Employing agencies generally take from 75 to 80 days to file a complete claim. Eligible claims are being processed and paid within nine days of their being filed and completely documented. Ineligible claims are being processed within two to three weeks of being completely documented.

When a claim is denied, appeal instructions are provided to the claimant. Appeals are heard within 60 days of the claimant's request, and decisions are rendered within 30 days of the official close of the appeal hearing. Appeals are heard by OJARS employees assigned to other program areas, and who have been delegated hearing officer authority by the Director. Decisions of hearing officers denying benefits may be appealed to the Director of OJARS. Approximately 16 appeals are initiated each year. This is out of an average of 325 filings and 87 denials per year from fiscal year 1979 through fiscal year 1981. A chart listing the number of claims filed, approved and denied by type of public safety officer for fiscal years 1977 through 1981 is attached to my statement for the Subcommittee's use.

There are several principal reasons for denying a claim under the Act: no eligible survivors; not a line of duty death; death not caused by a traumatic injury; the decedent was not a state or local law enforcement officer or firefighter; the decedent's death was due to suicide; and the decedent's death was caused by his own intentional misconduct, or caused by his intoxication. Nearly 70 percent of all claim denials stem from the fact that the officer's death was not due to a traumatic injury sustained in the line of duty: specifically, deaths due to a chronic, progressive or congenital disease or condition.

On May 6, 1977, LEAA issued regulations implementing the Act. Because the regulations dealt with several difficult issues, they were drafted with the assistance of a review committee comprised of representatives from the entire spectrum of criminal justice professions, as well as representatives of firefighting associations and medical and workers' compensation specialists.

One problem faced was determining who, in fact, was covered as a public safety officer for the purposes of the Act. While the legislation includes definitions of "law enforcement officer" and "fireman", there are many individuals who perform these functions only at certain times. Under the regulations, we use a "primary function" test to determine coverage. If an officer's primary function is law enforcement or fire suppression, then he or she is covered by the Act if killed at any time while acting in the line of duty. If these responsibilities are secondary, an officer is covered if killed only while actually enforcing the law or suppressing a fire.

When the regulations were first proposed, many commentators presented arguments for coverage of the members of their particular agency or association should be covered. Comments were received on behalf of, among others, fish and game officers, correctional employees, the National Guard, law enforcement officers of Indian tribes, prosecutors, volunteer police officers, rescue squad members, police reserve officers, campus police, marine resources law enforcement officers, persons treating the criminally insane, airport crash rescue workers, volunteer marine firemen, and fire marshals. Many of these based their argument for inclusion under the Act on the fact that they were frequently exposed to risk while in the line of duty, the same argument posed in support of the two bills which would extend PSOB coverage to rescue squad members, H.R. 385 and H.R. 4141.

It is clear from the statute itself, however, that Congress chose another common denominator of coverage: the authority to act as a law enforcement officer or firefighter. Exposure to risk was a factor cited by several members of the House and Senate in their remarks supporting the Act, but it was repeatedly cited in the context of the risks met in connection with law enforcement and firefighting duties, and the regulations reflect this intent. The rationale for the "primary function" test is essentially the same: the legislative history of the Act emphasizes that its purpose was to benefit the survivors of those persons who died as a result of personal injuries suffered while performing law enforcement or firefighting activities. It was not intended to cover deaths arising from activities unrelated to law enforcement or firefighting.

As a practical matter, it should be pointed out that the vast majority of public rescue squads in this country are units operating out of paid and volunteer fire departments. The personnel manning these units are firefighters. A firefighter whose death is the result of a traumatic injury sustained while engaged in rescue squad

duties is covered by the Act. Further, an officer working under the title of "rescue squadman" is not automatically precluded from coverage under the Act. If he fought fires as a part of his duties, he would be covered if his death occurred in the course of those firefighting duties. Most firefighter deaths related to rescue squad duties occur as a result of an auto accident or a heart attack without an associated traumatic injury. It can be safely assumed that most deaths among rescue squad members who are not covered by the Act result from the same causes. This is not the problem of national concern demanding Federal involvement envisioned by the Act passed by Congress in 1976.

While rescue squad members certainly provide a valuable public service and may be placed in dangerous situations at times, they were not contemplated for inclusion in the original legislation. The Department objects to establishing new categories of coverage. As can be seen from the list of candidates for expanded coverage which I read earlier, there are many persons engaged in hazardous occupations who contribute to the safety of society. Opening the legislation to provide payment of death benefits to the survivors of additional individuals solely on the basis of the hazards of their employment would set an undesirable precedent. It would be inappropriate to distinguish rescue squad members from the other high-risk occupations. The Department, therefore, must oppose enactment of H.R. 385 or H.R. 4141.

Another area that has presented some difficulty has been the meaning of the phrase "direct and proximate result of a personal injury" used in the legislation to indicate when an officer's death is covered. Many public safety officers are prone to heart attacks or chronic lung problems. The legislative history of the Act clearly excluded coverage for occupational diseases, and the regulations provide that a traumatic injury or an outside force must be a substantial factor in the officer's death.

Smoke inhalation is recognized as such an outside force, but it is frequently difficult to determine when it is a substantial factor in bringing about death. The difficulty is especially acute in those cases where a firefighter's death is attributable, in some degree, to chronic heart disease. LEAA consulted with five leading medical experts on the toxic effects of carbon monoxide in order to determine when carbon monoxide inhalations should be considered a substantial factor. In some of the cases reviewed by LEAA, the victims had advanced heart disease but the autopsy also revealed a higher than normal level of carbon monoxide saturation in the blood. It became necessary, therefore, to determine whether the carbon monoxide level was so high as to warrant it being a substantial factor in the victim's death. A review of the medical literature and consultation with the experts revealed that while the relationship between carbon monoxide exposure, heart disease and death is complex and not yet fully understood, it was generally accepted by the experts (on the basis of their research) that inhalation of carbon monoxide did contribute to death from pre-existing heart ailments, and that 15-20 percent blood saturation is the level at which carbon monoxide became a substantial factor in a death also contributed to by heart disease. A normal carbon monoxide saturation level is 3 percent for non-smokers and 7 percent for smokers. On the basis of the group's recommendation, carbon monoxide inhalation was found to be a substantial factor in an officer's death when he had a saturation level of 15 percent or greater at the time of the fatal event, or, if a nonsmoker, a saturation level of 10 percent or greater. Furthermore, recognizing that resuscitative efforts will reduce the saturation level, so that at the time of examination the level will be less than at the time of the fatal event, the PSOB office consults computer generated tables which specify the percentage of carbon monoxide reduction at various intervals and under various methods of resuscitation, allowing us to determine the level at the time of the attack. It is that higher level that is compared to the standard to determine coverage under the Act.

One of the bills before this Subcommittee, H.R. 1968 would amend section 1201(a) of the Act to allow payment to the survivors of officers found to have died "of a medical condition sustained while ingesting or inhaling a poisonous substance or while subject to extreme physical stress, on a single occasion or during a single event, in the performance of duty." The effect of this addition would be to allow coverage of deaths from exposure to poisonous substances, heart attacks and various other causes which may be the result of pre-existing conditions. The Department of Justice strongly recommends against enactment of this amendment.

Under existing law, an officer's death must be the "direct and proximate result of a personal injury sustained in the line of duty." The terms "direct and proximate result" and "personal injury" are not defined in the Act, but are dealt with in LEAA regulations implementing the legislation (28 C.F.R. Part 32), based upon clear legislative history.

The House Judiciary Committee's reports on H.R. 365 and H.R. 366, 94th Congress, noted the Committee's intent that the "direct and proximate result" require-

ment cover "those cases where the personal injury is a substantial factor in bringing about the officer's death." "Personal injury" was defined in both reports to include: "... all injuries to the body which are inflicted by an outside force, whether or not it is accompanied by physical impact, as well as diseases which are caused by or result from such injuries, but not diseases which arise merely out of the performance of duty. In other words, deaths from occupational diseases alone are not within the purview of the legislation."

House debate on the issue was confined to a reiteration of the exclusion of "occupational diseases which arise out of the performance of duties" from the scope of the legislation. The intent of Congress to limit coverage to deaths caused by injuries is clear. Moreover, deaths caused by poisonous chemicals (such as carbon monoxide, as previously discussed) are covered and the language of H.R. 1968 pertaining to "ingesting or inhaling a poisonous substance . . . on a single occasion or during a single event" is duplicative and unnecessary.

The definition of personal injury in the legislative history of the PSOB Act and the exclusion of occupational diseases from its scope, have led to the conclusion that deaths resulting from chronic, congenital, or progressive cardiac and pulmonary diseases are not covered by the Act unless a traumatic injury was a substantial factor in the death. H.R. 1968, by expanding coverage to also include deaths from a medical condition arising out of extreme physical stress, would reverse this and represents a significant departure from the purposes of the original Act.

While expanding coverage to include deaths brought about by job-related stress but resulting from preexisting medical conditions, the proposal fails to take account of the absence of standards of physical fitness for public safety officers. Although very limited, research into the physical fitness of law enforcement officers has shown that police officers aged 26-52 are frequently below average in working capacity, cardiorespiratory fitness, and body composition. A study sponsored by the Law Enforcement Assistance Administration in 1978 reported that a comparison of inmates in correctional institutions to police officers showed that "inmates are generally in better physical condition than law enforcement personnel." Therefore, given the possibility of pre-existing conditions due to poor physical fitness standards for public safety officers, it is strongly suggested that the coverage contemplated by H.R. 1968 could be extremely broad and consequently costly.

The impetus for passage of the 1976 Act was, in large measure, the increasing number of public safety officers killed as a result of criminal acts which was perceived as a national problem requiring a response from the Federal government. Providing a special benefit under H.R. 1968 to the PSOB Act to a select group of state and local government employees based, not on their exposure to criminal acts or potential hazards, but on their exposure to job-related stress and without regard to pre-existing medical conditions would be potentially costly, inequitable and unfair. It would have the effect of singling out certain categories of state and local employees for special survivor benefits not available to other classes of public employees. It is, moreover, an unwarranted intrusion into matters appropriately within the purview of state and local governments.

Finally, the Subcommittee should be aware that LEAA, in its original proposed regulations to implement the Act, would have covered deaths arising from extreme stress. The first claims received under the Act, however, quickly persuaded the Administration that such a standard was so vague as to be almost impossible to administer. The problem arose in determining what constituted "extreme stress" to a certain individual in a particular set of circumstances. For instance, one of the first claims received arose from a situation where a firefighter died of a heart attack while pulling a hose to a fire. We debated whether that was "extreme" stress. Should we consider how heavy the hose was? Whether he was pulling it up a grade, across level land, or down a hill? Whether other persons were helping him? What the degree of heart disease was? These questions, in an area of medical knowledge that does not lend itself to specific, objective determinations, convinced us that it would be futile to establish criteria and precedents within which to administer the program under such a standard. We were fortunate that the legislative history of the Act provided us with another clear course to pursue: the requirement that a traumatic injury be a substantial factor in the officer's death. That approach was adopted and was upheld by the U.S. Court of Claims in two cases last year.

The last of the four bills under review by the Subcommittee, H.R. 3089, would remove the requirement that the parents of a public safety officer must be dependent upon him in order to be eligible for the benefits provided by the Act. Parents, it should be remembered, are only eligible in the absence of any surviving spouse or children. The legislative history of the Act clearly indicated that it was meant to

benefit those dependent on the decedent for their support and who would be severely affected by the loss of the "breadwinner".

The Senate Judiciary Committee's report on H.R. 366, 94th Congress, stated the following: "The motivation for this legislation is obvious: The physical risks to public safety officers are great; the financial and fringe benefits are not usually generous; and the officers are generally young with growing families and heavy financial commitments. The economical and emotional burden placed on the survivors . . . is often very heavy. . . . The dedicated public safety officer is concerned about the security of his family, and to provide the assurance of a Federal death benefit to his survivors is a very minor recognition of the value our government places on the work of this dedicated group of public servants."

The House Judiciary Committee's report on H.R. 366 stated that the bill "is designed to meet the immediate financial needs of the surviving dependents of public safety officers who die from a personal injury which is sustained while in the performance of duty."

The intent of Congress to provide for the immediate financial needs of those who had looked to the decedent for their support is further evidenced by the fact that the House bill originally required all eligible recipients to be dependent on the officer for at least one-half of their support. The Department of Justice recommends against enactment of H.R. 3089.

The Public Safety Officer's Benefits Act is not an insurance program. No "premiums" are paid by the officers or their state or local governments. It is not a workman's compensation law nor a health insurance program for occupational diseases. The Administration does not believe the Act should be reshaped to become any one of these. Instead, the PSOB program provides a unique benefit from the Federal Government to those families of law enforcement officers and firefighters who, for reasons beyond their control and unique to the officer's profession, have prematurely lost the individual upon whom they had depended for their financial support and upon whom society depends for public safety.

We therefore strongly recommend against enactment of these bills.

PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM CLAIM STATISTICS

Fiscal year	Police officers	Firefighters	Court	Corrections	Other	Total
1977:						
Claims initiated.....	192	134	0	14	9	349
Approved.....	78	25	0	4	0	107
Denied.....	21	23	0	1	2	47
1978:						
Claims initiated.....	197	154	1	14	13	379
Approved.....	149	80	1	8	4	242
Denied.....	41	79	0	3	8	131
1979:						
Claims initiated.....	179	109	1	19	14	322
Approved.....	157	79	0	16	6	258
Denied.....	40	53	0	5	10	108
1980:						
Claims initiated.....	178	97	0	8	8	291
Approved.....	153	70	1	6	4	234
Denied.....	34	29	0	6	7	76
1981:						
Claims initiated.....	186	75	0	13	8	282
Approved.....	188	64	0	9	8	269
Denied.....	23	37	0	7	4	71

Note.—Claimants may not complete the filing of a claim in the year that it is initiated. Accordingly, approval/denial statistics only represent the number of completed claims closed during the fiscal year.

[Whereupon, at 3:25 p.m., the subcommittee was adjourned.]

**AMENDMENTS TO THE PUBLIC SAFETY
OFFICERS' BENEFITS ACT**

THURSDAY, SEPTEMBER 30, 1982

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIMINAL JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:40 p.m., in room 2237, Rayburn House Office Building, Hon. John Conyers, Jr. (chairman of the subcommittee) presiding.

Present: Representative Conyers.

Staff present: Thomas W. Hutchison, counsel; Barbara Kammerman, assistant counsel; and Ray V. Smietanka, associate counsel.

Mr. CONYERS. The subcommittee will come to order.

Today is our third hearing on a number of bills that expand coverage under the Public Safety Officers' Benefits Act which provides \$50,000 supplemental death benefits to survivors of public safety officers who die as a result of personal injuries sustained in the line of duty.

Today we will hear from representatives from organizations whose members perform public safety functions and explore whether the proposed changes comport with the legislation and its history, whether the proposals to expand coverage go far enough and, of course, how much the expansion would cost the Federal Government.

Before we begin, I would like to introduce a statement of our colleague, Charlie Rose of North Carolina who is, of course, totally supportive of H.R. 385.

His statement will be included in the record at this point.

[The statement follows:]

STATEMENT OF CONGRESSMAN CHARLIE ROSE

Mr. Chairman and distinguished members of the Subcommittee, I am here today to speak in support of H.R. 385, legislation designed to insure fair treatment of America's rescue squad workers.

The needs of rescue squad workers have been neglected for too long. These individuals work day and night, risking their lives day in and day out, to provide protection and safety for many American citizens. They voluntarily place their lives in jeopardy for the well-being of their fellow human beings.

At present, the Public Safety Officers Benefit Program provides a \$50,000 death benefit for families of police officers and firefighters killed in the line of duty. Like police officers and firefighters, the rescue squad worker is confronted with life threatening situations. Should such a situation result in accidental death, what type of assistance is available to the families of the rescue squad worker?

H.R. 385 is designed to provide a \$50,000 death benefit to the families of rescue squad personnel who are killed in the line of duty. I strongly support this bill and urge my fellow colleagues to do the same.

Mr. Chairman, I appreciate the opportunity to appear before the subcommittee in support of this legislation. I also commend my colleague, Congressman Steve Neal, for his diligent efforts and perseverance to introduce legislation to correct this inequity in current law.

Thank you for allowing me to share my support for H.R. 385 and my thoughts on this subject with you.

Mr. CONYERS. We welcome a number of the members of the State Rescue Association of North Carolina who are here, Mr. Joyner, Mr. Shaw, and Mr. Neal, and a number of others.

We are glad that you are here.

Our first witness is Keith Holtermann of the legislative committee of the National Association of Emergency Medical Technicians, an organization that represents emergency medical technicians or EMT's and paramedics. He is currently director of emergency services at the Jersey City Medical Center.

Welcome to the committee.

TESTIMONY OF KEITH HOLTERMANN, CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS

Mr. HOLTERMANN. I will be speaking on behalf of a certain group of the emergency medical services providers, specifically, as you have said, the emergency medical technician.

I would like to begin by saying the National Association of EMT's represents some 76,000 EMT's and our organization is some 6 years old.

There are some 87 different levels of emergency medical technicians, emergency medical technician intermediate, and emergency medical technician paramedic, currently either licensed, certified, or registered by each individual State or municipal local governmental entity. We use the term EMT as a generic term to cover all of these different levels and different certified personnel.

We are trying to determine the number of EMT's that we presently have in the country today. We came up with what we thought was a rather astronomical number of some 480,000 EMT's, and we began to say, well, we know if we took approximately the number of ambulances that we feel we have in the country from some statistics which we had and multiplied it out, it didn't quite work out.

We said where do these 480,000 people provide their services?

They are employed in various places, not only in ambulances and mobile intensive care units, but in neonatal infant transfer services, fire departments, police departments, stadiums or other large places where people gather, the mining industry, beach patrol. So the term "rescue squad worker" may limit the benefit; 385 and others should include those EMT's who are performing a very vital function.

The term "rescue squad worker," we felt, reflected the act of rescue which may or may not be the case. There are many emergency medical service systems which provide ambulance services that are involved in many other kinds of hazardous incidents which involve hazardous materials, which we provided to, let's say, violent criminals or drug reactions, domestic quarrels, alcohol abuse, seizure victims, where it is a very simple one or one—should

I say two EMT's to the victim in the street, in the apartment, on the top of the tenement complex where they are there by themselves providing this service?

Sometimes they do not have other kinds of support, so I am trying to hopefully strengthen to you the idea that the EMT is put into the same kind of circumstances which the fireman or policeman is put into.

When the fireman falls off the ladder, the chief or captain at the scene says get the EMT up onto that roof. It is the EMT that climbs the ladder, goes up there and renders the aid and with the assistance of the other personnel helps to remove that person off the roof or down to the area of safety. So the EMT is put into the same kind of circumstances as the fireman or policeman. We feel the EMT very similarly parallels fire department or police department personnel in terms of the nature of the job, the demanding nature of the job.

We find that we have many young men and women involved in EMS and many young men and women involved in EMS such as fire and police and that these people are people that have young families and could certainly benefit by such a bill.

As to the number, and I know it is important for you to be able to determine the impact of how many people this would—the bill would impact on. We presently have no mechanism of uniform collection of data from the various States, as fire or police departments do, to be able to substantiate. I wish I could say to you that we had an x number last year, which were killed or seriously injured on the job as EMT's or just prehospital or rescue care personnel, but, like I said, we have no uniform mechanism of reporting this data.

One of the things is that Mr. Leo Schwartz of the DOT did submit documentation as to the number of persons killed in the line of duty while operating the emergency ambulance or emergency mobile intensive care unit.

I think that it is very easy to parallel that of the police car or firetruck responding to the scene. We use the same exact techniques and are therefore open to the same liabilities.

With that, I would like to close and I would like to thank you for having the National Association of EMT's represented here.

Mr. CONYERS. How many are in your organization, Mr. Holtermann?

Mr. HOLTERMANN. Approximately some 76,000.

Mr. CONYERS. And there is potential for many more than that?

Mr. HOLTERMANN. Yes.

Mr. CONYERS. There are several hundred thousand EMT's?

Mr. HOLTERMANN. Correct.

Mr. CONYERS. Well, thank you for your testimony.

Counsel, Ms. Kammerman, will ask questions.

Ms. KAMMERMAN. Are the EMT's that you represent mostly paid employees?

Mr. HOLTERMANN. No. I would not say that the majority are paid by any means, but actually I believe it is kind of the contrary.

I would say the majority are volunteers. That is a very interesting point in terms of volunteerism. I can speak for New Jersey. We

have 95 percent of our services in New Jersey that are volunteer services.

Ms. KAMMERMAN. Are you saying that 95 percent of the EMT's who work in New Jersey are volunteer and not paid?

Mr. HOLTERMANN. Ninety-five percent of the emergency medical services units are volunteer, and only 5 percent of those units are paid units.

As far as a representation of EMT's in paid and voluntary, I am really not sure.

Mr. CONYERS. I would think that unpaid persons who are volunteers might not join an association, whereas those being compensated might be more easily organized.

Mr. HOLTERMANN. In New Jersey—and I will speak for New Jersey because I think it will give us a good perspective, in that in New Jersey we have—anyone can pretty much paint a cross on the side of a van and go out and provide a service.

I am sorry, we are one of four States that is this way—one can go out and provide an emergency medical service without being certified, licensed or anything.

But more across the country, in order to keep up your certification, you must attend so many hours of continuing education. This is where it doesn't matter whether you are volunteer or paid. If you want to keep your EMT certification, you will attend continuing education programs as part of your recertification.

The National Registry of Emergency Medical Technicians has a 2-year certification for both EMT and EMT intermediate and EMT paramedic.

During this 2-year certification you must acquire a certain number of runs which you must participate in and do some kind of clinical care.

You must also attend so many hours of continuing medical education so that is why many people join the organization, because we help to provide that kind of continuing medical education.

Mr. CONYERS. But my question is, when you say a professional organization, isn't this like a union?

Mr. HOLTERMANN. No, not at all.

Mr. CONYERS. What is it?

Mr. HOLTERMANN. It is an organization by which we represent the prehospital care worker, namely, the EMT in cases such as we have here today; also on the State level where we help for funding—

Mr. CONYERS. How much does it cost to join?

Mr. HOLTERMANN. To join our organization? I believe it costs \$14 a year, and an additional \$8 for a subscription to our journal.

Mr. CONYERS. How often do you meet?

Mr. HOLTERMANN. The national association has a—you have to join your State organization and then that also makes you a member of the national.

In our State organization we have quarterly business meetings which are also educational seminars, and the national holds an annual educational seminar and business meeting, plus also regional programs.

So it is various times throughout the year. I would say at least six in your region.

Mr. CONYERS. Does your organization place an emphasis on training and education within the profession?

Mr. HOLTERMANN. Yes. One of our main emphases, as I mentioned before, we have some 87-odd different levels of EMT's.

One State may require a certain level of care to be certified as an EMT. One of the things we are trying to work toward is a unified level of EMT and a standardized definition.

Mr. CONYERS. Are any of the members in unions?

Mr. HOLTERMANN. I would have to say it would be a very small percentage, and I would have to say that percentage would be less than 5.

Mr. CONYERS. Thank you.

Ms. Kammerman.

Ms. KAMMERMAN. Mr. Holtermann, wouldn't the language you suggest be added to H.R. 385 open coverage of the Public Safety Officers Benefits Act to an entirely new class of people?

Mr. HOLTERMANN. No. I think we have always been out there and we have always been working with—I shouldn't say no. We have been out there and working along with the fire departments and the police departments all along. It is not as if we are a new entity, although EMT's and EMS's—the idea of the paramedic is only 11 years old. So, yes, we are something new as far as that is concerned, but as far as persons and personnel being out there with the fire department and being with the police department, rendering medical aid, goes back many, many years.

Ms. KAMMERMAN. But I am asking about whether the original promoters of the act really meant to include EMT's.

Mr. HOLTERMANN. I feel many people closely associate the job of the EMT or rescue squad worker with that of the fire department. I think that many years ago we were part of the fire departments and the fire department—the Federal Emergency Management Agency, as a matter of fact, has a term for it. It was called born out of necessity that this third service, the ambulance service, as such, was created.

We were something that actually began under the fire department, the fire department going back some 20 years ago. We are the only people that ever carried oxygen to the scene of an emergency. Therefore, we became sophisticated that we have actually branched out from underneath that, but we have always been—in other words, we were originally part of that fire department and probably partly covered under there; but now I think we are gaining our own identity.

That is true, we are a new entity, but I think it is the same amount of people that have been providing the care pretty much all along.

Ms. KAMMERMAN. Thank you.

Mr. CONYERS. Thank you very much.

Mr. HOLTERMANN. Thank you.

[The statement of Mr. Holtermann follows:]

STATEMENT OF KEITH HOLTERMANN, R.E.M.T.-P., CHAIRMAN, LEGISLATIVE COMMITTEE, NATIONAL ASSOCIATION OF EMERGENCY MEDICAL TECHNICIANS

Mr. Chairman and Members of the Subcommittee. It has been brought to the attention of the National Association of Emergency Medical Technicians that Con-

gressman Steven L. Neal has submitted legislative proposals to allow rescue squads—Emergency Medical Services personnel to be included in the Omnibus Crime Control and Safe Streets Act of 1968 Public Safety Officers' Benefits Program. It is my purpose to possibly clarify and suggest wording which would benefit prehospital Emergency Medical Care Providers.

I would like to begin by saying that the National Association of Emergency Medical Technicians is the largest prehospital medical care organization of its kind, serving some 76,000 Emergency Medical Technicians.

The definition of Emergency Medical Technician is an all encompassing generic term used for the 87 some different levels of Emergency Medical Technicians, Emergency Medical Technicians-Intermediate, and Emergency Medical Technicians-Paramedic, certified, licensed, or registered by each states' governing body.

The U.S. Department of Transportation, National Highway Traffic and Safety Administration, Emergency Medical Services Bureau has set minimum guidelines for all levels of Emergency Medical Training which are used by all EMT training programs across the country. The basic Emergency Medical Technicians Training Program provides a minimum of 81 hours of education while some of the Emergency Medical Technician-Paramedic Programs provide more than 1,500 hours of education.

It is our recommendation that the current definition of "Rescue Squad Member" be changed to read "Emergency Medical Technician or Rescue Squad Member" and the term "Emergency Medical Technician" should be defined as "a person who minimally successfully completes an Emergency Medical Technician Training Program as outlined by the U.S. Department of Transportation, National Highway Traffic and Safety Administration, Emergency Medical Services Bureau, and is currently certified, licensed and/or registered as an Emergency Medical Technician by their individual state or governing body.

Emergency Medical Technicians should be separated from the term Rescue Squad Member since this specific term would limit the scope of this bill benefit only to those individuals actively participating in fire suppression or disentanglement. More importantly, the term would specifically disable those individuals pursuing life saving activities not necessarily relative to the act of rescue. The primary role of the Emergency Medical Technician is to provide emergency medical care to individuals suffering any medical or traumatic malady, not just those individuals requiring rescue service.

In the case of hazardous materials, family disputes, fire and explosion, natural disaster and other such incidents, the Emergency Medical Technician must provide care to victims prior to and during the extrication, disentanglement or other such crisis situation until the victim can be moved to a safe location.

Almost every system across the country is different with many Emergency Services personnel overlapping in duties especially during times of disaster. Many Emergency Medical Technicians do work out of Fire Rescue or independent Rescue Squads but a large majority do not. It is with this in mind that I hope you see fit to include the title of Emergency Medical Technician into the Public Safety Officers' Benefits Program so that this nation's estimated 480,000 Emergency Medical Technicians are appropriately represented in this legislation.

The National Association of Emergency Medical Technicians would like to go on public record as endorsing legislation such as Congressman Neal's bill H.R. 385, and also we would like to thank you for giving us the opportunity to voice our opinion.

Should you have any further questions about the role and responsibility of the Emergency Medical Technician, I would be happy to answer them.

Mr. CONYERS. Our next witnesses are Fred Williams, legislative counsel and former chairman of the National Volunteer Fire Council, and David Dwyer, chief of Bethesda-Chevy Chase Rescue Squad. Mr. Dwyer is also a member of the Fire and Rescue Commission of Montgomery County in Maryland. In that capacity he formulates fire department policy for the county.

TESTIMONY OF FRED WILLIAMS, ESQ., ACCOMPANIED BY DAVID DWYER, CHIEF OF BETHESDA-CHEVY CHASE RESCUE SQUAD, ON BEHALF OF THE NATIONAL VOLUNTEER FIRE COUNCIL

Mr. WILLIAMS. Thank you, Mr. Chairman. I appreciate the chance to come here to talk to you. I am going to try to shorten up

the statement which I have submitted and try to hit a few high points for you.

I do want to point out that the National Volunteer Fire Council is an organization composed of the volunteer firemen's associations of the various States and we believe as a result of surveys by the U.S. Fire Administration, by the National Fire Protection Association, and by our own organization that there are approximately 1 million volunteer firemen in the country, which is about 80 percent of the total fire force.

First, there are two bills before the committee relating to the coverage of the act concerning emergency medical service personnel.

Under the regulations as adopted, it was determined that the function of the person covered must be firefighting. It could not be only emergency medical service.

If the fireman was performing both, he could be covered; but if he was a fireman only performing emergency medical services, he could not be covered.

The nationwide emphasis on emergency medical services has expanded tremendously in recent years and, as usual, the volunteer fire departments stepped into the community need and the result has been that we have found that the number of emergency medical calls that the fire department emergency squads are responding to are two or three times the number of fire calls; and every time this happens, of course, there is a nonfirefighting vehicle going on the road; the emergency medical people of the fire department, even though they are not assigned to firefighting duties, are frequently responding to incidents where they are needed.

For example, we have one going right now down in Louisiana, the whole pile of freight cars came together; they are burning right now; they have been for a day. When you approach that situation, you don't know what you have got.

You bring fire people, you bring emergency medical people. So the fire department's units will respond, all of them.

Because the demand for emergency medical, the need grew so it became necessary for the fire departments, the volunteer departments, to recruit more people to handle it; just couldn't handle it, both fire, fire training, EMS, EMS training, couldn't handle it, and we recruited people for this purpose and a lot of them are anxious, willing, eager to perform emergency medical service but they are not interested in firefighting.

Some of them, for example, are women. They are doing a wonderful job on the ambulances, on the emergency rescue squads, emergency medical service, but they are not in a position to perform fire duty. They don't want to.

So we have people then who are in the fire department performing a very vital service which the fire departments now provide the community who are not covered at all.

When the act was enacted, it used the word "fireman."

It wasn't "firefighter," but the regulations which LEAA developed used the two words interchangeably and we suggest that this is a mistake, that it means firemen and that there can be more than one emergency community service which the fire department in today's society provides so that when the regulations divided a

fireman's functions into primary functions and secondary and they said firefighting is primary, EMS is secondary, we suggest this was an artificial division and shouldn't have existed and that it can no longer be said that the emergency medical functions of a fireman are secondary.

I point out that in the Judiciary Committee report, when these bills were before the House, when the original bill, back in 1976, was before the House, and the House report and the floor debate, and the conference report, all of those stated that the coverage would extend to firemen when engaged in firefighting or other activities found by LEAA to be potentially dangerous, so that I suggest to you that the House recognized at that time that it was not solely firefighting that would necessarily be covered, but it was emergency services which could be such that the firemen would be in a hazard situation.

So much for that bill, Mr. Chairman. Then there is another bill that relates to extending the coverage for certain circumstances, medical conditions, and I think that bill can really be divided into two parts.

One of them relates to a medical condition by reason of ingesting or inhaling a poisonous substance.

The other one is a medical condition that would result from extreme physical stress.

It has been accepted and the regulations so provide that external forces include conditions of the body resulting from chemical, resulting from severe climatic conditions, resulting from severe smoke conditions; in other words, the condition of the body that regulations permit relate to chemicals and more.

Now, I cannot say whether all poisonous substances that a fireman could ingest or inhale are chemical in nature.

I am not sure, but when you are responding to a thing like this Louisiana wreck right now, you don't know what you have there. You will be responding and have to try to determine what you have, but you may be in contact with some substance that will cause you problems which will result in death.

If, since the regulations do say that a chemical can be considered an external force which will be accepted as a reason leading to death, if the Justice Department would conclude that they could have that term, coverage by the chemical, include what we are talking about here, this could be handled administratively.

If it could, obviously there is no need for an amendment to the law; but if it is something different than the regulations now cover—and we would have to ask the Justice Department about that—then it would need clarification.

The other part of this now is the extreme physical stress. OK. The act says—and we have no argument with this—the act says there is exclusion for occupational diseases alone. It says occupational diseases alone, inferring that other factors which could contribute to the death may be in existence.

We can't assume that because a fellow dies by a heart attack at a fire that it is because of an occupational disease.

On the other hand, we can't assume that because he died on duty it is not an occupational disease. What we say is, it says occupational diseases alone; therefore if some other factor can be shown

to have contributed, that should provide coverage, and we suggest that extreme physical stress can be that other factor.

Last item would be the bill which would remove dependency as a basis for receiving the benefit.

Under the regulations a child, a spouse receives the benefit, a parent of a fireman who does not have a child or spouse would not receive the benefit unless it is shown that there is dependency, and the fireman is living at home, I believe with the family.

We suggest that that fireman living at home is living in a family unit no less than the fireman who has a wife and child in his home. We submit that dependency was not made a concept in the bill because the wife and child receive a benefit regardless of dependency, so there was an arbitrary decision there that dependency was not necessarily a factor in that regard; and yet there is likewise an arbitrary determination that it is a factor when it has to do with a parent who was part of the family unit.

If you have two firemen side by side killed in the line of duty, it could be that one of them receives a benefit and the other doesn't, and this is not based upon the service he is doing, not based on what happens, just based upon what his condition of marriage or not happens to be.

But I think what we consider to be an important consideration which we would ask the subcommittee to consider carefully is that even where there is no coverage because there is no dependency on the part of a parent, no provision to give the death benefit, that very situation may mean that the parent can be burdened with the expense and cost of the last illness of this fireman and his burial.

We suggest that, if nothing else, if you never could see your way to abandon this concept of dependency in this one case and would hold to it, that even if that were so, you should consider that there should be an allowance in any event for the medical—last medical and the funeral.

I think that would about express it, Mr. Chairman.

Mr. CONYERS. Thank you.

Chief Dwyer, welcome.

Mr. DWYER. Mr. Chairman, I have a summarization of the testimony that has been previously submitted. I am, of course, pleased to appear before you today to present views regarding proposals to amend the Public Safety Officers' Benefits Act.

From here on, I will refer to it as the PSOB. In particular, I would like to discuss both H.R. 385 and H.R. 4141 which provide death benefits for rescue squad members killed in the line of duty.

Both H.R. 385 and H.R. 4141 would have the effect of including rescue squad members within the act's coverage. For the thousands of rescue squad personnel throughout the Nation, these bills would correct an inequity which has existed since the program was first implemented.

The central rationale for this legislation is that because rescue squads work so closely with fire and police departments that it is therefore inequitable to exclude them from coverage.

Indeed, in many localities rescue squads are included within the fire department's organization.

Many firefighters are cross trained in rescue squad functions and vice versa.

For example, rescue squad functions may include rescue of persons trapped in a burning building, forcible entry, ventilation, internal and external lighting, and other functions.

If there is no rescue squad to carry on these duties they are assigned to the fire department units. Because of the many instances in which fire departments and rescue squads work so closely together, the present law has considerable inequities.

If, for example, a fireman and rescue squadsman were killed while working together to save a person trapped in a burning building, the survivors of the former would be eligible for a Federal payment while the latter's heirs would be ineligible.

According to a departmental general counsel's opinion, rescue squad personnel would be covered by the act only if the death occurred in the course of firefighting activities.

This same bias would occur if the deaths occurred from a non-fire-related rescue attempt.

The family of a firefighter killed while responding to an automobile accident would be eligible for benefits; but survivors of a rescue squadsman who died alongside the firefighter would receive nothing.

This situation is not an unlikely one since in the modern fire service, fire apparatus frequently is called upon to assist in rescue or emergency medical service type calls.

PSOB benefits are extended to firefighters killed in the line of duty, no matter how far removed from firefighting those activities might be.

The inequities of the Justice Department's interpretation prompted a quick response in Congress. In July 1977, less than a year after the original act was signed into law, and only 2 months after regulations were published, legislation to correct the original statute was introduced by Representatives Steve Neal and Charles W. Whalen, Jr.

Although their bill was not acted upon in the 95th Congress, similar legislation passed the House in the 96th Congress. An amendment to the Justice System Improvement Act of 1979 containing the text of the bill was adopted by an overwhelming margin. Unfortunately, this language was dropped in conference.

On June 15 a Department of Justice representative testified before this subcommittee in opposition to all of the bills which are under consideration.

Their opposition is not surprising in light of the Department's traditional opposition to this program, and especially to the inclusion of rescue squads.

The Department's position opposing H.R. 385 and H.R. 4141 is based on four arguments.

First, it is argued that exposure to high risk is not an appropriate basis for including rescue squad members.

Second, the Department contends that rescue squads were not contemplated for coverage in the original act because their area of concern was not a problem of national concern demanding Federal involvement envisioned by the act.

Third, since many rescue squads operate out of fire departments, using firefighters for personnel, it is argued that the legislation is not necessary.

Fourth, the department objects to establishing new categories of coverage.

Let me take a moment to address each of these arguments.

While it is certainly true that rescue squadsmen are routinely exposed to high risk situations, this is not the basis for our argument for the inclusion of rescue squads.

Rather, we believe that rescue squads should be included because their functions are so similar to those of fire departments as to be inseparable. At the scene of a major incident, both will be working together.

I must dispute the Justice Department's conclusion that rescue squads do not respond to a problem of national concern demanding Federal involvement.

Even a brief review of congressional activity during the mid-1970's indicates that inadequate emergency medical care was of great concern.

In 1973 the Emergency Medical Services Act providing Federal assistance to local EMS systems was enacted.

Likewise, the National Highway Traffic Safety Act of 1966 recognized the national tragedy of auto accidents.

Included in section 402 of the NHTSA program is a strong emergency medical services component which sets standards and provides assistance to local rescue squads.

Clearly there is a strong national interest in rescue squads and their functions.

The final Justice Department objection to H.R. 385 most clearly demonstrates the internal inconsistencies in its testimony.

The Department objects to establishing new categories of coverage.

However, the statement also asserts that:

As a practical matter * * * the vast majority of public rescue squads in this country are units operating out of paid and volunteer fire departments. The personnel manning these units are firefighters.

If this is true, and I believe it is, then it is unreasonable to also argue that rescue squad personnel must be considered a separate group. The more appropriate conclusion is that all rescue squadsmen should be treated in a manner similar to other firefighters.

As the Justice Department statement noted, the common denominator of coverage chosen by Congress is the authority to act as a law enforcement officer or firefighter. In issuing regulations, the department correctly interpreted this by using a primary function test to determine coverage.

However, the regulations fail to accurately reflect conditions in the fire and rescue services by limiting the primary function of firefighters to that of fire suppression.

Fire suppression is only one facet of a firefighter's job. Increasingly, fire prevention and emergency medical care have become important. The primary function of firefighters should be expanded to include these responsibilities.

Such a change would have the effect of including those rescue squad personnel who are now excluded.

However, since it is clear that the Department will not change its position, legislation is required. This is the only way that this inequity can be corrected.

As the subcommittee drafts the final language for this legislation, I urge that you act on the basis of these principles.

First, rescue squads must be specifically addressed. It is clear that the Justice Department will exclude rescue squad members unless specifically directed otherwise.

Second, coverage should be limited to nonprofit, public or quasi-public agencies. More specifically, private ambulance services should be excluded since it is inappropriate for the Government to provide this type of benefit to private business.

Third, unlike fire departments, rescue squads can be found in many different administrative configurations. Rescue squads can be found as part of a hospital, fire department, human resources agency, police department or completely independent. This requires that any definition of "rescue squads" must be broad to accommodate this diversity.

Fourth, rescue squad is a generic term. There are a number of other titles given to organizations which are similar in nature. These include ambulance service, first aid squad, life squad, and many others.

The key is that any organization which provides broadly based ambulance and rescue services, with either a basic or advanced level of life support, should be included.

Fifth, rescue squad members should be accorded the same coverage as other beneficiaries in the definition of line of duty, cause of death, and other terms of the program.

In this regard, it is especially important that both volunteer and paid personnel be covered.

In conclusion, Mr. Chairman, the proposal to include rescue squad personnel within the coverage of the Public Safety Officers' Benefits Act corrects a serious inequity.

I commend Representative Neal for his steadfast effort to make this correction.

The original sponsors of the act never expected that this group would be excluded. Rescue squad personnel work so closely with other firefighters that it is unreasonable to separate them for the purpose of this act.

I urge you and the subcommittee to act promptly to return the law to its original intention.

Thank you for this opportunity to express my views and those of the NVFC to the subcommittee. I would be pleased to answer any questions which you might have.

Mr. CONYERS. Thank you, Chief Dwyer. How large is Bethesda-Chevy Chase Rescue Squad?

Mr. DWYER. We are approximately 150 men and women. We have 14 pieces of apparatus. Statistically we responded to almost 10,000 incidents last year of fire, rescue and ambulance.

Mr. CONYERS. Do you have trucks and cars?

Mr. DWYER. Excuse me? Trucks and cars?

Mr. CONYERS. Do you have trucks and cars?

Mr. DWYER. We have ambulances and heavy rescue trucks, that is correct.

We have no fire suppression apparatus. We go with the fire department automatically.

Mr. CONYERS. Are most of your personnel volunteers?

Mr. DWYER. All but nine.

Mr. CONYERS. Very good.

Let me recognize Counsel Kammerman.

Ms. KAMMERMAN. Mr. Williams, first. Your argument on H.R. 385 seems to be that the Public Safety Officers' Benefits Act should cover all "firemen," but the regulations cover only those who fight fires or, "firefighters"; this unnecessary distinction accounts for the failure to provide benefits to rescue squad members who are actually "firemen." Are you really suggesting there may not be need for the legislation?

Mr. WILLIAMS. I think it could be handled administratively because the LEAA interpretation is really what separated primary and secondary functions and decided that unless there was firefighting, no coverage, whereas I think under the language of the act itself, which uses the word "firemen," an interpretation would therefore fit.

It wouldn't be a violation of that word or that language if the services that a fireman today is providing of an emergency nature are both firefighting and EMS.

Ms. KAMMERMAN. Isn't it possible the use of the term "firefighter" in the language was an attempt to discard sexist language and not an attempt to change the definition? If that is so, then your argument fails because there is no real distinction.

Mr. WILLIAMS. I am not sure I understood what you said, but I think that the LEAA probably thought that they were using the two terms interchangeably, which is not necessarily so.

You see, a fireman is not necessarily a firefighter. He could be an EMS person, not a firefighter, but I think LEAA was using both.

Did I get what you were asking?

Ms. KAMMERMAN. I think you did. I was asking if by using the word "firefighter," LEAA was saying "firemen" in nonsexist terms?

Mr. WILLIAMS. Right. I guess you could say that fireman over the—I was going to say centuries—

Ms. KAMMERMAN. How about fireperson?

Mr. WILLIAMS. No, the fireman over a long time has become a word of art. I agree with you as of recently it better be changed. Fireperson.

Ms. KAMMERMAN. Mr. Dwyer, you say it is unfair to provide benefits to the families of those who fight fires and not to those who fight side by side with them who may be members of rescue squads.

I ask you the question that others have posed to this subcommittee: Where do you draw the line between the rescue squad member who is performing a valid service to the community and someone who is a good samaritan?

Would you provide benefits to the good samaritan as well? If not, how do you distinguish between the two?

Mr. DWYER. A good samaritan, he or she who comes along and acts on it?

Ms. KAMMERMAN. Yes.

Mr. DWYER. That would be hard for me to address, frankly. My position is—when I mentioned inequities, goes back to the original bill. In other words, what I am trying to do is get formal rescue squads included or to correct something that I think was originally intended, or am I missing what you said?

Ms. KAMMERMAN. I am asking about people like Lenny Skutnik, the man who helped in the terrible airplane crash here in the District of Columbia. He was not a member of a rescue squad at the time he volunteered his services. We are all pleased he survived, but had he died, should his survivors have collected under the act, and if not, why not?

Mr. DWYER. I would have no problem with it.

In other words, if you are giving me the fact that the inequity—if the rescue squad would be included—with legislative change, with that given, I would certainly have no problem with that whatsoever.

Ms. KAMMERMAN. How do you answer the Members of Congress who question how much money the Federal Government can spend? Where does it end?

Mr. DWYER. A good point. That is something I think they would have to address subsequent to it.

I understand the point. Therefore, what I do is draw back to my own congressional presentation.

Ms. KAMMERMAN. Do I understand you to say you would draw the line at rescue squad members?

Mr. DWYER. If that was to be amended first, yes.

Then I would let—I would have to look into statistically how many Lenny Skutnicks you have around the United States who have done that sort of thing at great hazard to themselves.

That is something I would have to go out and research and prepare at a subsequent time.

Ms. KAMMERMAN. I have a question for both of you. You both have noted that the bills H.R. 385 and H.R. 4141 differ to the extent that 385 requires State certification, and 4141 does not.

Which is preferable?

Mr. WILLIAMS. I suggested in my written presentation that the one is preferable which relates to local appointment rather than State certification.

I can receive my certification by the State, the health department, after taking the necessary hours of training and get my card; but this doesn't make me a member of anything until I am also designated by the local community to be a member of something such as the fire department, or whatever.

Therefore, it would seem to me that it would be preferable to relate to the local appointment rather than the State certification.

Ms. KAMMERMAN. Mr. Dwyer, if I recall correctly, you suggested that the State ought to be the proper certifying authority. If you require State certification, and if, as Mr. Williams has suggested in his prepared statement, that smaller municipalities are the entities that actually certify the organizations, wouldn't you be causing the Federal Government to interfere with the delicate relationship between State and municipal governments?

Mr. DWYER. That is a hard question to answer. I don't think so.

The Federal Government put themselves into this business by passage of this law. That is what I am here to address.

Mr. CONYERS. Gentlemen, you have been very helpful. Thank you very much.

Mr. WILLIAMS. Thank you.

Mr. DWYER. Thank you very much.

[The statements of Mr. Williams and Mr. Dwyer follow:]

STATEMENT OF FRED A. WILLIAMS, PAST CHAIRMAN, NATIONAL VOLUNTEER FIRE COUNCIL

I appear before the Subcommittee representing the National Volunteer Fire Council. We appreciate the opportunity to present our views regarding bills proposing amendments to the Public Safety Officers' Benefits Act.

The National Volunteer Fire Council is an established organization composed of the volunteer firemen's associations of the various states having as its purpose to provide a focal point and representation nationally for the volunteer firemen and volunteer fire departments of this country. Surveys and reports by the U.S. Fire Administration, the National Fire Protection Association and the National Volunteer Fire Council indicate that there are approximately one million volunteer firemen in this country, comprising about 80 percent of the total fire force of the nation.

Two bills before us are H.R. 385 and H.R. 4141. The death benefit coverage of the PSOB Act, as it relates to volunteer firemen, is limited by the regulations adopted in implementation of the act to firemen whose primary function is fire fighting and thus, the benefit does not extend to firemen who perform only emergency medical services with their fire department rescue squad. Coverage is provided to a rescue squad member only if that fireman also performs fire fighting duties.

As the pressure by the federal, state and local governments has grown for emergency medical services to be provided to the residents of communities, and extensive EMS training programs developed, the volunteer fire service responded as it always does to community needs. We believe that across the country, in the vast majority of instances, the emergency medical services provided to communities is furnished by volunteer fire departments. As time went on, the expansion of EMS has been tremendous and in most cases, the number of emergency medical calls responded to by a volunteer fire department exceeds by several times the number of fire calls. This means that a non-firefighting vehicle is put on the road under emergency conditions much more frequently than are firefighting vehicles. Because of this extensive growth of EMS, the demands upon volunteer firemen have increased tremendously. Not only is fire training and fire fighting requiring its usual consumption of time and hours, but then there was the additional extensive emergency medical training and responding to a greater number of emergency medical calls. In many instances, this extreme time burden became so great that, in order to cope, volunteer fire departments found it necessary to recruit personnel for EMS duty. Many persons recruited, especially women, are willing to become members of volunteer fire departments to perform EMS duty but are not willing, or able, to perform fire fighting duties. Thus, there are many volunteer firemen who are meeting the need for EMS personnel but are not performing fire duty and volunteer fire departments must have such members in order that the fire department rescue squad may continue to function. However, these are the very firemen who are not presently covered under the PSOB Act.

H.R. 385 and H.R. 4141 address this problem. The act itself refers to "firemen", not firefighters". Yet the regulations used the two terms interchangeably, which we submit is mistaken. It has been suggested to the Subcommittee that a "fireman" is one authorized by a governmental entity to engage in the suppression of fires. That is acceptable as far as it goes, but we see a fireman as one appointed to a fire department to render to the community those emergency services which the fire department routinely provides, and in today's society, these include not only fire suppression but also rescue and emergency medical services. Either of such services to the community may be his primary function as a fireman. No longer can it be said that the emergency functions of a fireman is limited to fire fighting.

When the House bills to enact the PSOB Act in 1975 were being considered, and in the Judiciary Committee report in 1976, it was stated that there would be coverage for firemen when engaged in fighting fires or when otherwise engaged in the performance of duties where the activity was determined by the Law Enforcement Assistance Administration to be potentially dangerous to the fireman. The House

report in 1976 stated " * * * firemen are covered when they are actually and directly engaged in fighting fires."

"In addition, benefits will be provided if the firemen sustain a fatal injury while they are engaged in the performance of any activities which are determined by LEAA to be potentially dangerous."

This language was repeated several times during the floor debate on April 30, 1976. The Conference Report also stated that coverage would extend to a fireman when engaged in fighting a fire or other activities found by LEAA to be potentially dangerous. Thus, we submit that the House recognized that firemen would have coverage not only when fighting fires but also when performing other duties which may be potentially dangerous. We submit that LEAA was mistaken in dividing a fireman's duties into primary functions and secondary functions and then declining coverage for the latter. It may justly be said that since there are a greater number of EMS calls than fire calls responded to, the emergency medical personnel of a fire department are now in performance of a primary function of a fire department.

Amending the Act to clearly cover firemen who are providing emergency medical services would thus not be establishing a new category for inclusion under the Act. We therefore submit that the Act should be clarified to cover firemen who perform emergency medical services with the rescue squad of their fire department although they may not also perform fire duties. The two bills before us differ in that H.R. 385 refers to a person certified by the state to provide emergency medical services while H.R. 4141 refers to a person certified by a public agency to perform such services. We submit that it would be preferable to refer to a public agency rather than the state since fire department rescue squad members are appointed as firemen by the governing authorities of local municipalities, and certification by the state would not make the person a member of the fire department.

Another bill for consideration is H.R. 1968. This bill can be separated into two aspects. One relates to a medical condition sustained by ingesting or inhaling a poisonous substance. The other is a medical condition sustained by being subjected to extreme physical stress. The regulations implementing the act consider that a required external force includes a condition of the body inflicted by chemicals. We cannot say for sure that all poisonous substances with which a fireman could come in contact are chemical in nature. We do know that in recent years the proliferation of chemical substances has been enormous, are being used in industry and transported on the rails and highways in ever greater quantity. So much has the problem grown that federal and state governments and the fire service have expended much thought and energy on the subject of hazardous materials, their adequate marking in transport, and the training of fire service personnel in the handling of accidents involving these substances. Sometimes fire fighters and fire department rescue squad personnel responding to these incidents are unknowingly exposed to dangerous chemical and poisonous substances which may be ingested or inhaled.

If the Justice Department were to assure that the regulations, which recognize chemicals as a cause of death, are to be interpreted in such a way that the ingestion or inhalation of poisonous substances is in fact covered, then this part of the bill would be effectively handled administratively. Otherwise a clarifying amendment to the act is needed.

The second aspect of the bill—death resulting from extreme physical stress—is one which requires attention. The PSOB Act excludes coverage for deaths from occupational diseases alone. The regulations have extended this to say that deaths resulting from stress and strain are not covered. This appears to assume that all such cases are related to an occupational disease of the heart. This stretches too far. It cannot be assumed that heart conditions are necessarily an occupational disease of firemen. To be sure firemen do develop heart conditions. In many other professions, some of them are sedentary, persons develop heart conditions as well.

In private industry the workmen's compensation laws, which I am aware of, do not summarily exclude heart conditions but do cover disability and death provided it is shown that the employment function engaged in at the time involved extreme physical stress which was sufficient to precipitate the heart failure. If an employee's death by heart failure occurred on duty but not by reason of extreme physical stress, then it resulted from a chronic condition alone and not by reason of activities at the time and is not covered by workmen's compensation laws. It would not be improper to apply the same rule in the PSOB program. It is no less unfortunate that the fireman dies as a result of extreme physical stress than it is if he dies from a ceiling coming down on him. It is no answer to use difficulty in assessing a claim as an excuse for regulating against coverage. Workmen's compensation tribunals routinely make determinations in private industry on heart failure cases, based upon a showing as to what the person was doing at the time, his medical history,

and medical evidence produced regarding any direct connection between his activities at the time and the heart failure which occurred.

The House reports on the original PSOB bills stated that deaths from occupational diseases alone are not covered. The use of the word "alone" indicates that the presence of an occupational disease does not itself preclude coverage if something else contributes to the death. The regulations accept severe smoke conditions, producing a condition in the body of higher levels of carbon monoxide in the blood. They also accept severe climatic conditions, producing in the body a disease or condition which leads to death. Extreme physical stress can likewise produce in the body a condition contributing to death, whether or not there be a pre-existing heart condition. We emphasize that we do not say that occupational diseases should be covered, or even that all deaths by heart failure occurring while on duty should be covered. We do say that those cases of heart failure ought to be covered which are shown to be directly precipitated by extreme physical stress experienced by the fireman.

Another bill before us is H.R. 3089 which would remove dependency as a basis for receiving the benefit. At present the act provides that the death benefit is payable to the spouse and minor children of the deceased fireman, and if there are none, then to parents if they are dependent upon the fireman.

Generally speaking, a fireman without a spouse or child is most likely to be a young man still living with his parents in the family home. He is no less a part of the family home than is the fireman with a wife and child in his own family home. Dependency is not framed as a vital concept in this law. There is no dependency feature as to a spouse and children. Yet it may well be that there is not in fact dependency. It is arbitrarily concluded that a spouse in a family unit will receive the benefit regardless of dependency. It is just as arbitrarily concluded that in a family unit of a fireman and his parents there must be dependency. There is a basic inequity in this arrangement. It would be more equitable if the benefit were payable to those in close relationship to the fireman without applying a test of dependency.

Consider the situation where firemen are killed fighting a fire side by side. The financial result for close surviving relatives may differ. That difference is not based upon the service rendered but upon the chance of being married or not, or having dependent parents. The financial result favors one over the other.

In the case of the fireman without dependent parents a further inequity surfaces. There is no provision for at least payment for the fireman's burial and the uninsured cost of any last medical and hospital care. His parents may well be burdened with these expenses. If no other consideration were to be given to non-dependent parents, it would in any event be proper that they not have this burden imposed upon them and that provision be made for the payment under this law of such expenses, regardless of parent dependency. We urge the Subcommittee to consider this.

In conclusion, it is submitted that we are not now to necessarily be bound interminably by what may be read as the original contemplation of coverage as expressed at the time of enactment of the PSOB Act. Proposals for amendment present the opportunity to examine into additional concepts and correct and improve legislation. Frequently legislation enacted is later found to warrant amendment and the Congress may well vary its originally expressed intentions.

We ask your serious consideration of these bills and we appreciate the opportunity to present our views to the Subcommittee.

STATEMENT OF CHIEF DAVID S. DWYER, BETHESDA-CHEVY CHASE RESCUE SQUAD

Mr. Chairman, and members of the subcommittee, I am pleased to appear before you today to present the views of the national volunteer fire council regarding proposals to amend the Public Safety Officers' Benefits Act (P.S.O.B.). In particular, I would like to discuss H.R. 385 and H.R. 4141, which would provide death benefits for rescue squad members killed in the line of duty.

I am chief of the Bethesda-Chevy Chase Rescue Squad, and have held that position for the past 13 years. Further, I have been associated with the fire and rescue service in Montgomery County, Maryland for the past 24 years. The Bethesda-Chevy Chase Rescue Squad is a private, non-profit volunteer organization committed to providing free paramedic, ambulance, heavy rescue and firefighting support service to the communities we serve. We are one of the largest, most sophisticated ambulance and rescue services in the country today. The Bethesda-Chevy Chase Rescue Squad is widely recognized as a national leader in the emergency medical services field.

I would like to focus my attention on P.S.C. 3. coverage of rescue squads. H.R. 385 and H.R. 4141 would have the effect of including rescue squad members within the Act's coverage. For the thousands of rescue squad personnel throughout the Nation, these bills would correct an inequity which has existed since the program was first implemented by the Department of Justice in 1977.

RATIONALE FOR RESCUE SQUAD LEGISLATION

The central rationale for this legislation is that rescue squads work so closely with fire and police departments that it is inequitable to exclude them from P.S.O.B. coverage. Indeed, in many localities rescue squads are included within the fire department's organization. Many firefighters are cross-trained in rescue squad functions and vice versa. For example, rescue squad functions at the scene of a fire include search and rescue of persons trapped in the burning building, forcible entry, ventilation, internal and external lighting, salvage, overhaul and cleanup operations. If there is no rescue squad to carry out these duties, they are assigned to fire department units.

Because of the many instances in which fire departments and rescue squads work closely together, the present law could cause serious inequities in its implementation. If, for example, a fireman and rescue squad member were killed while working together to save a person trapped in a burning building, the survivors of the former would be eligible for a Federal payment while the latter's heirs would be ineligible. According to a departmental general council's opinion, rescue squad personnel would be covered by the act only if the death occurred "in the course of firefighting activities".

This same bias would occur if the deaths occurred from a nonfire related rescue attempt. The family of a firefighter killed while responding to an automobile accident would be eligible for benefits; but survivors of a rescue squad member who died alongside the firefighter would receive nothing. This situation is not an unlikely one since in the modern fire service, fire apparatus frequently is called upon to assist in rescue or emergency medical service type calls. P.S.O.B. benefits are extended to firefighters killed in the line of duty, no matter how far removed from firefighting those activities might be.

HISTORY OF RESCUE SQUAD LEGISLATION

The inequities of the Justice Department's interpretation prompted a quick response in Congress. In July 1977, less than a year after the original act was signed into law (and only 2 months after regulations were published) legislation to correct the original statute, was introduced by Representatives Steve Neal and Charles W. Whalen, Jr. Although their bill was not acted upon in the 95th Congress, similar legislation passed the House in the 96th Congress. An amendment to the Justice System Improvement Act of 1979 containing the text of the bill was adopted by an overwhelming margin. Unfortunately, this language was dropped in conference.

Representative Neal and other sponsors of the legislation hold that the exclusion of rescue squads was merely an oversight. This contention was given great credence during the debate on the Neal amendment by Representative Mario Biaggi (D-N.Y.), an original sponsor of the act. Representative Biaggi said, "As one of the original sponsors of the original bill that provided coverage for the survivors of law enforcement officers and firemen, there was an omission, obviously * * *. To deal with that omission, this amendment is timely because * * * they would not be qualified except for this amendment."

I certainly concur in this assessment, since I and other fire service leaders had assumed that rescue squads were covered at the time of the act's original passage. It was only upon reading the Justice Department's interpretation that we learned differently.

RESPONSE TO JUSTICE DEPARTMENT

On June 15 a Department of Justice representative testified before this subcommittee in opposition to all of the bills which are under consideration. Their opposition is not surprising in light of the Department's traditional opposition to this program, and especially to the inclusion of rescue squads. The Department's position opposing H.R. 385 and H.R. 4141 is based on four arguments. First, it is argued that exposure to high risk is not an appropriate basis for including rescue squad members. Second, the Department contends that rescue squads were not contemplated for coverage in the original act because their area of concern was not a "problem of national concern demanding Federal involvement envisioned by the act." Third,

since many rescue squads operate out of fire departments, using firefighters for personnel, it is argued that the legislation is not necessary. Fourth, the Department objects to establishing new categories of coverage. Let me take a moment to address each of these arguments.

While it is certainly true that rescue squad members are routinely exposed to high risk situations, this is not the basis for our argument for the inclusion of rescue squads. Rather, we believe that rescue squads should be included because their functions are so similar to those of fire departments as to be inseparable. At the scene of a major incident, both will be working together.

I must dispute the Justice Department's conclusion that rescue squads do not respond to a "problem of national concern demanding Federal involvement." Even a brief review of congressional activity during the mid-1970's indicates that inadequate emergency medical care was of great concern. In 1973 the Emergency Medical Services Act providing Federal assistance to local EMS systems was enacted. Likewise, the National Highway Traffic Safety Act of 1966 recognized the national tragedy of auto accidents. Included in section 402 of the NHTSA program is a strong emergency medical services component which sets standards and provides assistance to local rescue squads. Clearly, there is a strong national interest in rescue squads and their functions. The final Justice Department objection of H.R. 385 most clearly demonstrates the internal inconsistencies in its testimony. The Department "objects to establishing new categories of coverage." However, the statement also asserts that "as a practical matter * * * the vast majority of public rescue squads in this country are units operating out of paid and volunteer fire departments. The personnel manning these units are firefighters."

If this is true (and I believe it is) then it is unreasonable to also argue that rescue squad personnel must be considered a separate group. The more appropriate conclusion is that all rescue squad members should be treated in a manner similar to other firefighters.

As the Justice Department statement noted, the common denominator of coverage chosen by Congress is the authority to act as a law enforcement officer or firefighter. In issuing regulations, the Department correctly interpreted this by using a "primary function" test to determine coverage. However, the regulations fail to accurately reflect conditions in the fire and rescue services by limiting the primary function of firefighters to that of "fire suppression". Fire suppression is only one facet of a firefighter's job. Increasingly, fire prevention and emergency medical care have become important. The primary function of firefighters should be expanded to include these responsibilities. Such a change would have the effect of including those rescue squad personnel who are now excluded. However, since it is clear that the department will not change its position, legislation is required. This is the only way that this inequity can be corrected.

COST OF LEGISLATION

A final issue which must be addressed is that of cost. Obviously, the program's cost varies according to the number of public safety officers killed in the line of duty. In fiscal year 1981, 269 claims were approved at a cost of about \$13.5 million. The average number of claims during the program's five years has been 222, with an average annual cost of \$11.1 million. The program has an annual authorization of \$12.5 million.

There are no reliable statistics on the number of rescue squad personnel killed in the line of duty. However, it appears unlikely that the change which I am advocating would significantly increase program costs. Many rescue squad personnel already are covered since they are part of a fire department. My experience indicates that the number of new beneficiaries created by this act would be small—the additional cost might be less than \$500,000 per year. Clearly, H.R. 385 or H.R. 4141 would not require a change in authorization or appropriation levels. Therefore, no argument can be made against this legislation on the basis of cost.

H.R. 385 AND H.R. 4141

The two bills providing coverage for rescue squad workers are essentially similar. Both specify that the act shall include rescue squad members. H.R. 385 amends section 703 of the Omnibus Crime Control and Safe Streets Act of 1968, while H.R. 4141 amends section 1203 (which is not a part of P.S.O.B.). Although the bills differ somewhat in their definition of an eligible rescue squad, both appear to have the same intent. H.R. 385 requires State involvement by defining a rescue squad member as one who has been certified by a state to carry out the duties of a legally organized rescue squad. Presumably, this certification would be conferred upon all

who completed emergency medical technician training provided by the State. Virtually all States now offer this training.

H.R. 4141 differs in that it refers only to a legally organized rescue squad. Any person certified by a public agency (often not the State) or any person actually carrying out the functions of a rescue squad (whether certified to do so or not) would be covered by P.S.O.B. This is more inclusive language since there are many situations in which a rescue squad member, such as one who has not completed training, would not be certified by the State.

A State certification requirement would provide two benefits. First, it would provide an incentive for rescue squad members to upgrade their training to statewide standards. Second, it would provide a greater assurance that those applying for benefits were beneficiaries of legitimate rescue squad members. In many areas, local and county governments have little involvement with rescue squads and would not be in a position to certify an individual's proper rescue squad membership.

As the subcommittee drafts the final language for this legislation I urge that you act on the basis of these principles:

1. Rescue squads must be specifically addressed. It is clear that the Justice Department will exclude rescue squad members unless specifically directed otherwise.
2. Coverage should be limited to nonprofit, public or quasi-public agencies. More specifically, private ambulance services should be excluded since it is inappropriate for the Government to provide this type of benefit to private business.
3. Unlike fire departments, rescue squads can be found in many different administrative configurations. Rescue squads can be found as part of a hospital, fire department, human resources agency, police department, or completely independent. This requires that any definition of rescue squad must be broad to accommodate this diversity.
4. Rescue squad is a generic term. There are a number of other titles given to organizations which are similar in nature. These include "ambulance service", "first aid squad", "life squad", and many others. The key is that any organization which provides broadly based ambulance and rescue services (with either a basic or advanced level of life support) should be included.
5. Rescue squad members should be accorded the same coverage as other beneficiaries in the definition of line of duty, cause of death, and other terms of the program. In this regard, it is especially important that both volunteer and paid personnel be covered.

In conclusion, Mr. Chairman, the proposal to include rescue squad personnel within the coverage of the Public Safety Officers Benefits Act corrects a serious inequity. I commend Representative Neal for his steadfast effort to make this correction. The original sponsors of the act never expected that this group would be excluded. Rescue squad personnel work so closely with other firefighters that it is unreasonable to separate them for the purpose of this act. I urge you and the subcommittee to act promptly to return the law to its original intention.

Thank you for this opportunity to express my views and those of the NVFC to the subcommittee. I would be pleased to answer any questions which you might have.

Mr. CONYERS. Our next witness is the executive vice president of the International Brotherhood of Police Officers, Stanley Lyman. He has been working in this area ever since the original Public Safety Officers Benefits Act was passed.

Attorney Ed Murphy is joining Mr. Lyman at the table.

TESTIMONY OF STANLEY Q. LYMAN, EXECUTIVE VICE PRESIDENT, INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS, ACCOMPANIED BY ED MURPHY, GENERAL COUNSEL

Mr. LYMAN. Mr. Chairman, we earlier submitted to you what we think is an extensive statement which I would ask be placed in the record, if we may.

With that, I would try to summarize for you what is in that statement.

Mr. CONYERS. We will do that.

Mr. LYMAN. Thank you.

The IBPO is pleased to be able to appear before you today. We would like to direct your attention to our testimony, particularly to

the piece of legislation that was introduced by Congressman Kildee, H.R. 1968.

The IBPO strongly supports H.R. 1968. The bill corrects a deficiency, we believe, in the Public Safety Officers Benefits Act of 1976 by extending the \$50,000 death benefit to families of policemen and firemen who die while in the performance of duties from medical conditions like a heart attack.

The Public Safety Officers Benefits Act of 1976 authorizes the payment of \$50,000 benefit to specified survivors of State and local safety officers found to have died as the direct and proximate result of personal injuries sustained in the line of duty.

Although the law is very important to public safety officers, it fails to address the important question of whether deaths which result from extreme stress on a single occasion should be covered by the act.

This important issue has been controlled by regulations promulgated by the Law Enforcement Assistance Administration. The LEAA defined the term "personal injury" as a traumatic injury or disease which is caused by an injury. The term "traumatic injury" was further defined in the regulations as a wound or other condition of the body caused by an external force.

Traumatic injuries caused by stress and strain were specifically excluded from coverage by the regulations adopted by the LEAA.

The effects of these regulations were to exclude deaths from a condition like a heart attack even where that death occurred on the job while performing services in an emergency situation.

The LEAA, in its original proposed regulations implementing PSOPA, included coverage for deaths arriving from extreme stress.

Although the LEAA later decided against this provision in their regulations, it does give clear indication as to the ambiguity in the legislation about how to treat deaths which are caused by extreme stress.

A U.S. court of appeals, in the case of *Smykowski v. United States* commented on the lack of guidance in the law on how to treat deaths from a heart type of ailment.

In the *Smykowski* case, a police officer responded to a call for assistance from fellow officers who were in pursuit of two suspects.

Smykowski found the suspects hiding in a closet off a narrow hall. A vigorous struggle ensued. After the struggle ended, Smykowski collapsed and was rushed to a hospital where he was pronounced dead.

In upholding the decision based on the agency's regulations to deny coverage, the court made the following comments:

A survey of the legislative history shows that Congress has not yet focused upon the relative desirability of extending coverage to heart attack situations * * *. We would welcome legislation in which Congress addresses with specificity the applicability of PSOPA to heart ailment situations.

We think with H.R. 1968 this would correct that problem.

The legislation introduced by Congressman Kildee does address with specificity the applicability of PSOPA to heart ailment situations. The legislation would extend coverage only to those deaths which occur in the performance of duty and are attributable to a single incident of emergency conditions.

The bill is very narrowly drawn and within the spirit of the original act. H.R. 1968 allows coverage for deaths which occur as a result of a medical condition sustained while ingesting or inhaling a poisonous substance, or while subject to extreme physical stress, on a single occasion, or during a single event in the performance of duty.

The use of the phrase extreme physical stress excludes illnesses caused by routine job stress which could occur in any job situation, and limits coverage to those line of duty situations which are emergency in nature.

The limitation on coverage to a single occasion or during a single event effectively excludes those conditions which are caused by a series of stressful situations over time and further clarifies the intent to cover only deaths which have a direct causal relationship with an on-the-job emergency situation.

This language should insure that only public safety officers who die while directly engaging in emergency situations in the line of duty are covered by H.R. 1968.

A police officer's job has been characterized as containing days of routine, if not boring, work and hours of sheer terror.

At any time, a police officer may be called on to make a quick response to a life-threatening situation. A sudden response to such an emergency situation is startling and can jolt one's physical and mental state.

This startle phenomena can be caused by a domestic dispute, a violent crime, a high-speed chase, a fight with a prisoner, or any one of a hundred other situations which police officers are called upon to answer without warning.

The potential which these situations have for creating extreme stress needs no further elaboration.

It is commonly accepted in medicine that emotional activity or physical overexertion can cause coronary insufficiency which could prove fatal. Several different heart associations have recognized that these factors can cause heart failure and have published guidelines for determining a causal relationship between overexertion or emotional disturbance and heart disease.

Among the organizations publishing such guidelines include the American Heart Association, the Washington Heart Association, the Oklahoma Heart Association, and the Wisconsin Heart Association.

The IBPO believes that the spirit of the PSOPA is fulfilled by covering deaths which result from extreme stress suffered while directly engaging in an emergency situation.

For purposes of the PSOPA, the police officer who dies as the direct result of extreme stress and exertion in subduing a criminal is as much a victim of criminality as is the officer who dies from a gunshot wound.

In both cases the officer gave his life in direct confrontation with crime. In both cases the officer's death was on the front line of society's battle with crime. It is tragic, we believe, to deny the \$50,000 death benefit to the officer who loses his life in this fashion.

It is equitable, we believe, to extend coverage to the situations outlined in H.R. 1968.

In summary, H.R. 1968 is an equitable, inexpensive bill which is drafted in a strictly limiting fashion extending its \$50,000 death benefit only to those officers who die as a direct result of a medical condition caused by a single occasion of emergency related activity.

We urge the subcommittee to support this effort.

We again would like to thank the chairman and members of the subcommittee for this opportunity to present our views on this important topic. We would be happy to attempt to answer any questions which the subcommittee cares to address to us.

Mr. CONYERS. Ms. Kammerman.

Ms. KAMMERMAN. Are you suggesting that no officers who die of heart attacks suffered while they are on duty are covered?

Mr. LYMAN. No. We are suggesting an officer who goes out in the front line, who goes out in the physical activity of apprehending a bank robber, confronting an individual in the dark, a hallway or alleyway with a gun, who suffers, as a result of that activity, a heart attack that becomes fatal, we believe he should be covered.

Ms. KAMMERMAN. What I am asking is, are any officers who die in those heart attack situations covered?

Doesn't the answer turn on what caused the heart attack? Was the heart attack caused by the situation on duty or was the heart attack caused by years of sloth or smoking or other things?

Mr. LYMAN. We are not suggesting that the smoking, the physical condition that develops over a period of years and the officer sitting behind a desk that dies of a heart attack should be covered, no.

I am not aware counsel—unless Mr. Murphy is—that we have had some coverage of an officer out in an alleyway that has died of a heart attack that has been covered.

Mr. MURPHY. I think—I am not quite certain of the answer. It is my understanding that the LEAA, when they promulgated the regulations, excluded heart attacks which were caused by extreme stress because they figured it was very difficult to determine whether or not a death was caused by smoking, by coronary heart disease, or was caused by extreme stress.

They also said how do you define extreme stress?

It is my understanding that heart attacks that would be caused by stress currently are excluded, so that I don't believe there would be a situation other than if an officer were, for instance, shot or injured by an external force that he would be currently covered under the regulations that the agency administers.

Ms. KAMMERMAN. Let me say it is my understanding and recollection from the testimony we received from the Department of Justice and other information we received that that is not correct.

You may want to follow up with information to the subcommittee to the contrary if that is the case.

Mr. LYMAN. We certainly will.

Again, we have not located any information that indicates that.

Ms. KAMMERMAN. The followup question to that is, if some heart attack victims are compensated, as I am assuming for purposes of this hearing in any event that they are, isn't your real fight with the Department of Justice in its administration and in the regulations and not with Congress?

Mr. MURPHY. That is true, to some extent. It is our understanding the original PSOBA really did not address the question of how do you treat the heart situation, the death caused by a heart situation.

The LEAA has promulgated regulations. So it seems to us it would be within their power to change those regulations to cover the situation that Congressman Kildee's bill addresses.

However, the bill is before the subcommittee. It does make the changes, and, because of that, we support it.

Ms. KAMMERMAN. Just one other question.

In the prepared testimony you state that there were 87 denials per year for each of the last 5 years, that 70 percent of the denials were for things that would be called "occupational diseases" and would not have been covered, which means that what the subcommittee can expect implementation of this bill to cost would be 30 percent of 87 per year or 26 cases at a cost of \$1,300,000 by my calculations.

In any event, I want to know where you came up with the figures.

Mr. MURPHY. I understand the figures on the number of deaths that were denied coverage were from testimony at the last session.

I am not quite sure we make the same interpretation. If there were those number of denials for occupational reasons, that the deaths were caused by occupational diseases which were clearly excluded by the law—within the law, not the regulation—then the most that there could be.

That is the most that would be covered under this act. We think clearly they would not all be situations that would be covered by H.R. 1968.

Ms. KAMMERMAN. You are saying your information then came from the Department of Justice?

Mr. MURPHY. Right.

Mr. LYMAN. That is correct.

Ms. KAMMERMAN. Including the 30-percent figure?

Mr. MURPHY. No. We are saying if the most that could be covered would be 70 percent of 87 denials a year—

Ms. KAMMERMAN. OK.

Thank you, Mr. Chairman.

Mr. CONYERS. Mr. Lyman, how many men and women are in IBPO?

Mr. LYMAN. At the present time, Mr. Chairman, we represent approximately 65,000 law enforcement officers throughout the country.

Mr. CONYERS. And in about how many States?

Mr. LYMAN. A vast majority, California, Utah, Texas, Massachusetts. Just about all except for a few down in the southern tier.

Mr. CONYERS. Are you affiliated with any other unions?

Mr. LYMAN. We are affiliated with a Federal labor organization called the National Association of Government Employees which represents other Federal employees, but IBPO has a division, has autonomy to itself.

Mr. CONYERS. Thank you very much.

You have, I think, raised some questions we are going to be looking at and you will too.

We will keep your support of Dale Kildee's legislation in mind. We know that you are very strongly in support of it.

Mr. LYMAN. Thank you, Mr. Chairman.

Mr. MURPHY. Thank you very much.

[The statement of Mr. Lyman follows:]

STATEMENT OF THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

Mr. Chairman, Members of the Subcommittee, the International Brotherhood of Police Officers (IBPO), is pleased to have this opportunity to testify on H.R. 1968. The IBPO is one of the largest independent police unions in the country. Our organization is dedicated to improving the working conditions and general welfare of police officers. We represent police officers in Federal, State, and municipal organizations from California to Massachusetts.

The IBPO strongly supports H.R. 1968. This bill corrects a deficiency in the Public Safety Officers Benefits Act of 1976 by extending the \$50,000 death benefit to families of policemen and firemen who die while in the performance of duty from medical conditions, like a heart attack, caused by a single occasion of emergency related activity. This extension is clearly consistent with intent of the original law. The legislation is very narrowly drawn and would cost the taxpayers little additional money. While low in cost, H.R. 1968 is large in its positive impact on police officers throughout the country.

The Public Safety Officers Benefits Act of 1976 (PSOBA) authorizes the payment of a \$50,000 benefit to specified survivors of State and local public safety officers found to have died as the direct and proximate result of a personal injury sustained in the line of duty. The purpose of the Act was to provide financial support to the dependents of public safety officers engaged in the hazardous occupations of police and firefighting. The Act also recognized society's obligation to compensate the families of policemen and firefighters who make the ultimate sacrifice in the performance of their duties.

Although the law is very important to public safety officers it fails to address the important question of whether deaths which result from extreme stress on a single occasion should be covered by the Act. This important issue has been controlled by regulations promulgated by the Law Enforcement Assistance Administration.

The LEAA defined the term "personal injury" as a traumatic injury or disease which is caused by an injury. The term traumatic injury was further defined in the regulations as a wound or other condition of the body caused by an external force. Traumatic injuries caused by stress and strain were specifically excluded from coverage by the regulations adopted by the LEAA. The effects of these regulations were to exclude deaths from a condition like a heart attack even where that death occurred on the job while performing services in an emergency situation.

The LEAA in its original proposed regulations implementing PSOBA, included coverage for deaths arising from extreme stress. Although the LEAA later decided against this provision in their regulations, it does give clear indication as to the ambiguity in the legislation about how to treat deaths which are caused by extreme stress. A U.S. Court of Appeals, in the case of *Smykowski v. United States*, commented on the lack of guidance in the law on how to treat deaths from a heart type of ailment. In the *Smykowski* case, a police officer responded to a call for assistance from fellow officers who were in pursuit of two suspects. Smykowski found the suspects hiding in a closet off a narrow hall. A vigorous struggle ensued. After the struggle ended, Smykowski collapsed and was rushed to a hospital where he was pronounced dead. In upholding the decision based on the Agency's regulations to deny coverage, the Court made the following comments:

"A survey of the legislative history shows that Congress has not yet focused upon the relative desirability of extending coverage to heart attack situations. . . . We would welcome legislation in which Congress addresses with specificity the applicability of PSOBA to heart ailment situations."

The legislation introduced by Congressman Kildee does address with specificity the applicability of PSOBA to heart ailment situations. The legislation would extend coverage only to those deaths which occur in the performance of duty and are attributable to a single incident of emergency conditions. The bill is very narrowly drawn and within the spirit of the original act. H.R. 1968 allows coverage for "deaths which occur as a result of a medical condition sustained while ingesting or inhaling a poisonous substance, or while subject to extreme physical stress, on a single occasion, or during a single event in the performance of duty." The use of the phrase extreme physical stress, excludes illnesses caused by routine job stress which

could occur in any job situation, and limits coverage to those line of duty situations which are emergency in nature. The limitation on coverage to a single occasion or during a single event effectively excludes those conditions which are caused by a series of stressful situations over time and further clarifies the intent to cover only deaths which have a direct causal relationship with an on-the-job emergency situation. This language should insure that only public safety officers who die while directly engaging in emergency situations in the line of duty are covered by H.R. 1968.

A police officer's job has been characterized as containing days of routine, if not boring, work and hours of sheer terror. At any time, a police officer may be called on to make a quick response to a life-threatening situation. A sudden response to such an emergency situation is startling and can jolt one's physical and mental state. This "startle" phenomena can be caused by a domestic dispute, a violent crime, a highspeed chase, a fight with a prisoner, or any one of a hundred other situations which police officers are called upon to answer without warning. The potential which these situations have for creating extreme stress needs no further elaboration.

It is commonly accepted in medicine that emotional activity or physical overexertion can cause coronary insufficiency which could prove fatal. Several different heart associations have recognized that these factors can cause heart failure and have published guidelines for determining a causal relationship between overexertion or emotional disturbance and heart disease. Among the organizations publishing such guidelines include the American Heart Association, the Washington Heart Association, the Oklahoma Heart Association and the Wisconsin Heart Association.

The IBPO believes that the spirit of the PSOPA is fulfilled by covering deaths which result from extreme stress suffered while directly engaging in an emergency situation. For purposes of the PSOPA, the police officer who dies as the direct result of extreme stress and exertion in subduing a criminal is as much a victim of criminality as is the officer who dies from a gunshot wound. In both cases, the officer gave his life in direct confrontation with crime. In both cases, the officer's death was on the front line of society's battle with crime. It is tragic, we believe, to deny the \$50,000 death benefit to the officer who loses his life in this fashion. It is equitable, we believe, to extend coverage to the situations outlined in H.R. 1968.

In summary, H.R. 1968 is an equitable, inexpensive bill which is drafted in a strictly limiting fashion extending its \$50,000 death benefit only to those officers who die as a direct result of a medical condition caused by a single occasion of emergency related activity. We urge the Subcommittee to support this effort.

We again would like to thank the Chairman and members of the subcommittee for this opportunity to present our views on this important topic. We would be happy to attempt to answer any questions which the Subcommittee cares to address to us.

Mr. CONYERS. I would like to find out if Gordon Joyner and Howard Shaw from the North Carolina State Rescue Association would care to say anything at the hearing today?

TESTIMONY OF GORDON JOYNER AND HOWARD SHAW, NORTH CAROLINA STATE RESCUE ASSOCIATION

Mr. JOYNER. After we met last week, you requested some additional information and we got on the telephone and we had made contact with every State.

I gave Ms. Kammerman the results of this information that was compiled. We were able to compile information from 43 of our States. We asked the question from the Office of Emergency Medical Services: How many units are authorized to operate in your State, and the figures you see before you are the figures that they gave us.

We asked how many members are certified by you to operate in these units. Those are the figures that you also see.

We asked an additional question: Percentage of volunteers. That information is there too.

One additional question was, To their knowledge did you know of any deaths within the last 5 years? As you can see, we have the figures compiled there.

If you see a zero with a question mark, the persons we spoke with did not know, so they would not make any statement whatsoever.

The ones that are down are confirmed deaths which gives you a total deaths in line of duty of 58 within the last 5 years.

This gives you an average of a little over 11 per year.

As you can see, according to the statistics that are compiled—bear in mind we were unable to get California, Kansas, and Oregon.

Those are the three we were unable to get. The gentleman from California was on vacation. We will probably have this information next week.

Kansas was trying to compile it and get it back to us.

Oregon said they did not have the information available.

As you can see, there was 15,099 units in the United States; 399,490 people are authorized to operate on these units. The total paid members were 133,385; total volunteers, 266,105; in other words, what we are seeing, two-thirds of the emergency rescue service in this country is provided by volunteers. These are men and women that have only one thing in mind, to help a fellow citizen that is in trouble. These, the people that we would like to see covered under this bill also. They have one desire, to help their fellow man. That is all.

Mr. CONYERS. You have probably given us the first hard statistics on this subject. I want to commend you and those members of your organization that worked with you. I know it wasn't easy pulling this together.

Mr. JOYNER. I am going to have a hard time explaining my telephone bill to the executive board.

This information has never existed before. One reason, rescue is basically in infancy. Until 1977 no State had an emergency medical service office. They do now.

Most of them have the facts and figures as to the necessary people that are certified in their State and to the level of training that is there. These people represent AA's, EMT's, paramedics, advanced life support, the whole nine yards. These are people that are actually providing the service to the citizens of the United States of America.

Mr. CONYERS. Well, you have done a great job. I thank you for it.

Mr. Shaw, what would you add?

Mr. SHAW. Mr. Congressman, when the bill was first introduced, there was really hardly any rescue squads per se in the United States. Along about the middle part or early part of 1970, when the EMS units and rescue squads started growing up with fire departments, and over the last 5 or 6 years most of those rescue squads and EMS units have split from the fire service, the fire service being in one block and the rescue service being in the other block.

The EMS advanced life support, first aid unit, in some States they are entirely different.

They respond not only to fire calls, but 1,050 auto accidents; also respond to help a fellow law enforcement in trouble. So, therefore,

they are putting their life in danger and there is probably, for every fire call in a lot of States, the rescue truck will respond 10 times to a fire department going out one time.

So, therefore, there are extreme hazards. They are putting their selves into it. Like the instance the gentleman spoke to a while ago, the railroad derailment, rescue men are down there risking their lives. There have been a lot of shooting sprees, a lot of riots where the rescue man puts his life in danger.

We just feel it was an oversight on the part of Congress several years ago. We would like to address it, no matter how it is worded, rescue, life support units, whatever they want to call it, that we be added to the bill.

We feel that the only way that unit can be added to it is to be a unit that is recognized by that State in which that unit operates in.

Be chartered by the State he is in, be certified by the state affiliation.

So, therefore, you can keep up with the people who are supposed to be operating on that unit and not just anyone who walks the streets to administer services, because each State has a number of required hours to keep their certification up.

This way that person you know is entitled, he has his training, it is not somebody who has been, and we appreciate the people who stop alongside the highway and help us, under the Good Samaritan law, but again, they are not keeping their training up per se.

The gentleman you spoke to about the plane crash, everybody appreciates what he did. I think he probably did it under the spur of the moment, no matter what the circumstances may have been. He was going out there to save that life.

Thank you.

Mr. JOYNER. What he did is what we train for and hope we never have to use.

Mr. CONYERS. Thank you very much.

Mr. JOYNER. Thank you for allowing us to speak.

[The statistics follow:]

Name	Number of units	Number of members	Percent volunteer	Percent paid	Deaths in last 5 years
Alabama.....	254	6,500	75	25	3
Alaska.....	328	11,050	94	6	0
Arizona.....	106	2,650	34	60	0
Arkansas.....	347	3,470	40	60	0
California.....					
Colorado.....	245	3,702	60	40	4
Connecticut.....	356	5,750	88	12	(¹)
Delaware.....	65	6,000	99	1	1
District of Columbia.....	20	200	0	100	0
Florida.....	335	8,600	25	75	(¹)
Georgia.....	291	5,193	40	60	3
Hawaii.....	33	468	0	100	1
Idaho.....	190	5,700	90	10	0
Illinois.....	270	10,000	60	40	0
Indiana.....	336	12,400	45	55	0?
Iowa.....	490	14,700	65	35	0
Kansas.....					
Kentucky.....	220	5,500	35	65	1
Louisiana.....	21	571	51	49	0
Maine.....	187	5,741	58	42	(¹)

Name	Number of units	Number of members	Percent volunteer	Percent paid	Deaths in last 5 years
Maryland.....	313	11,000	80	20	1
Massachusetts.....	331	12,500	10	90	(¹)
Michigan.....	418	17,016	45	55	3
Minnesota.....	285	2,850	75	25	2
Mississippi.....	278	11,119	2	98	0
Missouri.....	265	7,443	46	54	(¹)
Montana.....	112	1,428	90	10	0
Nebraska.....	333	8,325	90	10	4
Nevada.....	84	2,522	80	20	0
New Hampshire.....	62	930	?	?	0
New Jersey.....	464	16,000	99	1	3
New Mexico.....	315	8,505	70	30	1
New York.....	1,194	35,820	85	15	(¹)
North Carolina.....	315	9,153	92	8	3
North Dakota.....	174	2,880	93	7	(¹)
Ohio.....	1,050	30,110	79	30	5
Oklahoma.....	213	1,582	6	94	(¹)
Oregon.....					
Pennsylvania.....	1,079	32,370	86	14	4
Rhode Island.....	83	2,500	70	30	(¹)
South Carolina.....	166	3,514	60	40	(¹)
South Dakota.....	126	1,831	81	19	0
Tennessee.....	150	8,500	99	1	4
Texas.....	942	22,800	50	50	3
Utah.....	95	3,682	50	50	2
Vermont.....	111	2,315	93	7	0
Virginia.....	464	9,500	75	25	2
Washington.....	830	6,000	52	48	1
West Virginia.....	200	6,000	85	15	3
Wisconsin.....	450	12,000	75	25	2
Wyoming.....	103	1,100	86	14	2
Total.....	15,099	399,490			58
Total paid members.....		133,385			
Total volunteers.....		266,105			

¹ Did not know information.

Note: Two-thirds of service is provided by volunteers. Many States express concern at the number of EMT's that are hurt and become disabled from in line of duty injuries; also at the large number of assaults on EMS personnel.

Source: Information compiled from information from State OEMS offices.

Mr. CONYERS. The subcommittee stands adjourned.

[Whereupon, at 3:50 p.m., the subcommittee was adjourned.]

NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES
2139 WISCONSIN AVENUE, N.W., WASHINGTON, D.C. 20007

202/965-4411

Oct. 18, 1982

Honorable John Conyers, Jr.
Chairman Subcommittee on Criminal Justice
H 2-362- HOB Annex 2
U.S. House of Representatives
Washington, D. C. 20515

Attention: Bobby Kammerman
Staff Counsel

Dear Chairman Conyers:

This letter is to serve as an attempt to clarify an issue which was raised at the latest hearing on HR 1968. At that time, the question as to what circumstances, if any, are deaths caused by heart related problems covered under the PSOBA.

The regulations promulgated by the Law Enforcement Assistance Administration excludes coverage for all heart attack deaths caused by job related stress regardless of whether the death was caused by pre-existing disease or extreme job related stress. The regulations (28 CFR 32.2(e)) define the term "personal injury" as that term is used in PSOBA as a traumatic injury. The regulations (28 CFR 32.2F) further define "traumatic injury" as a wound or injury caused by an external force. Deaths caused by stress or strain are specifically excluded by the regulations.

In order for heart related deaths to be compensable there must be evidence of an injury from an external force. Without such injury the question of whether the death was caused by a pre existing condition or a single incident of extreme job related stress is never reached. If, for instance, a criminal were to point a gun at a police officer's face, fire a blank and never touch the officer, his death from extreme stress would be excluded. In order to be covered, there would have to be a showing of an injury from an external force, such as a bullet or a blow.

The IBPO does not believe that the intent of the original PSOBA was to exclude deaths arising from a single incident of job related stress such as was discussed above. The regulations promulgated by the LEAA constitute an unanticipated injustice to the police officer who dies from extreme stress while handling an emergency situation. The provisions of HR1968 address this inequity in the regulations in a very narrow and specific fashion which is within the intent of the original act.

Sincerely,

Ed Murphy
Legislative Counsel

JUL 29 1962

Congressman John Conyers, Jr.
Chairman
Subcommittee on Criminal Justice
Committee on the Judiciary
House of Representatives
Washington, DC 20515

Dear Mr. Conyers:

Recently Congressman Steve Neal of North Carolina transmitted a copy of his statement before your Subcommittee on Criminal Justice regarding as he stated "--a serious inequity in coverage provided under the Public Safety Officers' Benefit (PSOB) program." Specifically he was referring to legislation to amend the Omnibus Crime and Safe Street Act of 1968 to provide that rescue squad members be entitled to death benefits under the PSOB program.

I have been involved with the Emergency Medical Services Program of U. S. DOT and its development of the EMS system and its components. The emergence of the Emergency Medical Technician (EMT) as a significant allied health professional is a direct result of this program. Consequently, this caught my attention so I obtained copies of the proposed amendments. My personal views comments and recommendations follow.

Rescue squads came into being many years ago during the days of the old Office of Civilian Defense (OCD). These were the days of primary concern over the potential of the big bombs and rescue from debris and fall-out. Red Cross first aid, Medical Self Help and Packaged Disaster Hospitals were the thing of the day.

We are now in the era of the Ambulance and Emergency Medical Technician (EMT). Extrication and rescue are still factors but the personal exposure is to the EMT who is involved in the functions. This is because the baseline goal is reduction of death and disability and without the EMTs this goal can be defeated due to time and available competence at the scene.

My recommended changes to the legislation are based not only on the original oversight but to also bring coverage into line with today and the future. I could not add to the rationale contained in the statements by representatives Neal, Walker, and Kildee in behalf of those who now represent a most significant and critical service to all of us. At the same time they encounter the same risks, hazards and exposures as those engaged in fire and police service. What intrigues me most is the opportunity this legislative amendment has in providing recognition, status and stature to this new service of field intervention medicine provided by the EMTs of our nation and their ambulances.

You asked for some data on the number of this category of service personnel who lose their lives or become disabled in the line of duty. I would have to say we are unable to accurately provide such numbers. However, based on anecdotal evidence it appears to be very few! The tragedy, of course, is that when death does occur to these people, young dependents are often left, the same, as with firemen and policemen. I am enclosing a paper which we put together in-house and which gives some insights and order of magnitude purely from the vehicle accident point of view. In my own memory, I know of five EMTs who were killed and one disabled in the line of duty over the past four years. I certainly wish we could provide more detail but I am convinced that the number killed is nominal and would certainly not generate a significant obligation under the Act.

Relative to the bills, I feel that H.R. 3089 should be dropped. This tends to legislate a windfall. I feel that H.R. 385, 1968 and 4141 each have important words in them and perhaps could be rolled into one bill with definitions. I like the part in H.R. 1968 regarding "inhaling a poisonous substance" because of increasing potential of being exposed to hazardous materials, leaks or spills. Likewise EMTs certainly undergo considerable anxiety and stress by virtue of frequent exposure to the critically ill and injured and to death and dying, all under the pressure of time. H.R. 1968 should include ambulance or rescue service personnel in the same manner as H.R. 385 and 4141.

Thank you for your consideration of this matter in behalf of the EMTs. If I can be of further assistance please let me know.

Sincerely,

Leo R. Schwartz
Chief
Emergency Medical Services Division
National Highway Traffic Safety
Administration

Enclosures

FATALITIES IN ACCIDENTS INVOLVING AMBULANCES (U.S.)
1980

	<u>In Emergency Use</u>		<u>Not in Emergency Use</u>		<u>Totals</u>	
	<u>No. of Vehicles</u>	<u>Fatalities</u>	<u>No. of Vehicles</u>	<u>Fatalities</u>	<u>No. of Vehicles</u>	<u>Fatalities</u>
Vehicles Being Used as Ambulances	16	16	12	17	28	33
Ambulances	4	5	9	10	13	15
*Ambulance Occupant Fatalities		(2)		(4)		(6)

* Included in Fatality Totals above

FATALITIES IN ACCIDENTS INVOLVING EMERGENCY VEHICLES

	IN EMERGENCY USE			NOT IN EMERGENCY USE			TOTAL		
	Single Vehicle Accident	Multi-Vehicle Accident	Total	Single Vehicle Accident	Multi-Vehicle Accident	Total	Single Vehicle Accident	Multi-Vehicle Accident	Total
<u>1977</u>									
Ambulance	0	16	16	5	8	13	5	24	29
Fire Truck	8	11	19	3	3	6	11	14	25
Police	7	46	53	24	52	76	31	98	129
Total	15	73	88	32	63	95	47	136	183
<u>1978</u>									
Ambulance	5	11	16	5	8	13	10	19	29
Fire Truck	8	20	28	2	4	6	10	24	34
Police	17	35	52	22	62	84	39	95	134
Total	30	66	96	29	74	103	59	138	197
<u>1979</u>									
Ambulance	6	15	21	6	4	10	12	19	31
Fire Truck	5	14	19	10	10	20	15	24	39
Police	13	50	63	16	35	51	29	85	114
Total	24	79	103	32	49	81	56	128	184
<u>1980</u>									
Ambulance	2	14	16	4	13	17	6	27	33
Fire Truck	6	16	22	5	3	8	11	19	30
Police	7	43	50	23	70	93	30	113	143
Total	15	73	88	32	86	118	47	159	206
<u>EMERGENCY VEHICLES INVOLVED IN FATAL ACCIDENTS</u>									
<u>1980</u>									
Ambulance	2	14	16	4	8	12	6	22	28
Fire Truck	6	17	23	5	3	8	11	20	31
Police	7	39	46	23	68	91	30	107	137
Total	15	70	85	32	79	111	47	149	196

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Appendix B

CONTINUED

1 OF 2

FATALITIES IN ACCIDENTS INVOLVING AMBULANCES

	1980		
	IN EMERGENCY USE	NOT IN EMERGENCY USE	TOTAL
VEHICLES BEING USED AS AMBULANCES	16	12	28
AMBULANCES	4	9	13
FATALITIES IN ACCIDENTS WITH VEHICLES USED AS AMBULANCES	16	17	33
FATALITIES IN ACCIDENTS WITH AMBULANCES	5	10	15
AMBULANCE OCCUPANT FATALITIES	2	4	6

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Appendix B

15-268 0 - 83 - 7

FARS FILE NO.

RELEVANT INFORMATION

0011	This was a single vehicle accident involving an ambulance in service in New Jersey. The ambulance struck and killed a pedestrian at night on a straight stretch of undivided two lane roadway in an urban area. The posted speed limit was 25m.p.h. There was no reported speed violation.
0465	This was a four vehicle collision in which an ambulance struck three other vehicles at a traffic light controlled intersection, at night, in an urban area, on a two lane divided highway in a 50M.P.H. posted area in Alabama. The fatality was one of four occupants, possibly a passenger, in the ambulance. The ambulance driver had a record of 1 previous motor vehicle accident, 2 previous suspensions of driving license, and 1 speeding conviction. The previous accident occurred one month prior to this fatal accident.
0493	This was a three vehicle collision in which an ambulance struck two other vehicles at a traffic light controlled intersection, at night, in an urban area, on a four lane undivided highway, posted for 35 M.P.H. The person killed was a passenger in the right front seat of one of the struck vehicles. This accident occurred in Ohio.
0898	This was a single vehicle accident in which an ambulance struck an obstruction in a maintenance area, at an intersection, on an undivided 2 lane roadway posted for 25 M.P.H., in rural Ohio. The accident occurred during daylight, in rain, on a wet road service, on a hill. There were three occupants in the ambulance. The person killed was riding in the right front seat of the ambulance.
2294	This was a three vehicle accident in which a vehicle struck an ambulance and possibly one other vehicle at a traffic light controlled intersection, on a divided 3 lane roadway posted for 30 M.P.H., during daylight in an urban area in California. Apparently, one of the vehicles struck and killed a pedestrian in the course of the collision. There were two occupants in the ambulance.

89

97TH CONGRESS
1ST SESSION

H. R. 385

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that ~~rescue squad~~ ^{ambulance or rescue service} members are entitled to death benefits made available under such Act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1981

Mr. NEAL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that ~~rescue squad~~ ^{ambulance or rescue services} members are entitled to death benefits made available under such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 703(7) of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (42 U.S.C. 3796b(7)) is amended by
5 striking out the period at the end thereof and inserting in lieu
6 thereof the following: “, or a person serving in an official
7 capacity, with or without compensation, as a ~~rescue squad~~ ^{ambulance or rescue se}
8 member; and”.

2

1 SEC. 2. Section 703 of the Omnibus Crime Control and
2 Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—
3 (1) in paragraph (6) thereof, by striking out “and”
4 at the end thereof; and
5 (2) by adding at the end thereof the following new
6 paragraph:
7 “(8) ~~rescue squad~~ ^{ambulance service} member’ means a person certi-
8 fied by a State to carry out duties and functions as
9 part of a legally organized ~~rescue squad~~ ^{ambulance or rescue service} in such
10 State.”.

For the purposes of this amendment and its coverage of Emergency Medical Service and Rescue personnel the following definitions will apply.

Ambulance Service - A system of pre-hospital care or field medical intervention consisting of equipment, ambulances, standards of care, emergency medical technicians, administration and communications as developed under Standard No. 11, "Emergency Medical Services," of the Highway Safety Act of 1966 (amended). Ambulance service may incorporate all of the extrication/rescue needs but must always be available and capable of providing either basic or advanced care at or near the scene of an emergency and during transit to more definitive care. Extrication/rescue units may operate separate of but in conjunction with ambulance services.

Ambulance - Emergency Care Vehicle (ECV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List as a minimum and two-way communication. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician Ambulance (EMT-A) or Basic Life Support.

Ambulance - Intensive Care Vehicle (ICV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List, two-way communication, and such biomedical equipment as specified by medical authority to support advanced life support functions. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician-Ambulance Advanced (EMT-AA) and Paramedic (EMT-P).

Emergency Medical Technician (EMT) - shall mean persons trained in emergency medical care and extrication in accordance with National Standards of care national curricula developed by the U. S. Department of Transportation for both basic and advance life support. The EMT is also a person either registered by the National Registry of Emergency Medical Technicians or otherwise certified by the State. The EMT may serve on either a surface or air ambulance and with a rescue squad or other extrication/rescue unit. The EMT is trained to provide either basic life support as an Emergency Medical Technician-Ambulance (EMT-A) or advance life support as an Emergency Medical Technician-Ambulance Advanced (EMT-AA) or paramedic (EMT-P).

Extrication is the process of gaining access and releasing a victim(s) from entanglement which poses an almost immediate life threatening condition. Both special training and tools have been identified to achieve extrication without further damage to the victim. Automobile accidents can generate a need for extrication and this capability should always be present or available if needed.

Rescue is gaining access and freeing of a victim(s) from a condition of confinement, exposure or isolation. While immediate injury may or may not be involved there is the ever present danger that without help physical deterioration could take place and eventuate in death.

Rescue Vehicle - Designed and properly equipped vehicles exclusively used for the extrication of persons entrapped in wrecked vehicles or rescue from other hazardous circumstances. Although manned by EMTs this is not an ambulance or other vehicle for carrying emergency victims.

97TH CONGRESS
1ST SESSION **H. R. 1968**

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers who die of certain medical conditions sustained in the performance of duty.

including ambulance and rescue service personnel

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 19, 1981

Mr. KILDEE (for himself, Mr. MURPHY, Mr. BRODHEAD, Mr. COELHO, Mr. BONIOR of Michigan, Mr. DOWNEY, Mr. ZEFERETTI, Mr. ADDABBO, Mr. FORD of Michigan, Mr. VENTO, Mr. ROE, Mr. HYDE, Mr. HOWARD, Mr. CORRADA, Mr. DOUGHERTY, and Mr. YATRON) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to authorize the payment of benefits with respect to public safety officers, including ambulance and rescue service personnel, who die of certain medical conditions sustained in the performance of duty.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 1201(a) of part L of title I of the Omnibus
- 4 Crime Control and Safe Streets Act of 1968 (42 U.S.C
- 5 3797(a)) is amended by inserting "or of a medical condition
- 6 sustained while ingesting or inhaling a poisonous substance

1 or while subject to extreme physical stress, on a single occa-
 2 sion or during a single event, in the performance of duty,"
 3 after "in the line of duty,"

4 SEC. 2. The amendment made by the first section of this
 5 Act shall take effect on the first day of the first fiscal year
 6 beginning after the date of the enactment of this Act.

For the purposes of this amendment and its coverage of Emergency Medical Service and Rescue personnel the following definitions will apply.

Ambulance Service - A system of pre-hospital care or field medical intervention consisting of equipment, ambulances, standards of care, emergency medical technicians, administration and communications as developed under Standard No. 11, "Emergency Medical Services," of the Highway Safety Act of 1966 (amended). Ambulance service may incorporate all of the extrication/rescue needs but must always be available and capable of providing either basic or advanced care at or near the scene of an emergency and during transit to more definitive care. Extrication/rescue units may operate separate of but in conjunction with ambulance services.

Ambulance - Emergency Care Vehicle (ECV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List as a minimum and two-way communication. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician Ambulance (EMT-A) or Basic Life Support.

Ambulance - Intensive Care Vehicle (ICV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List, two-way communication, and such biomedical equipment as specified by medical authority to support advanced life support functions. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician-Ambulance Advanced (EMT-AA) and Paramedic (EMT-P).

Emergency Medical Technician (EMT) - shall mean persons trained in emergency medical care and extrication in accordance with National Standards of care national curricula developed by the U. S. Department of Transportation for both basic and advance life support. The EMT is also a person either registered by the National Registry of Emergency Medical Technicians or otherwise certified by the State. The EMT may serve on either a surface or air ambulance and with a rescue squad or other extrication/rescue unit. The EMT is trained to provide either basic life support as an Emergency Medical Technician-Ambulance (EMT-A) or advance life support as an Emergency Medical Technician-Ambulance Advanced (EMT-AA) or paramedic (EMT-P).

Extrication is the process of gaining access and releasing a victim(s) from entanglement which poses an almost immediate life threatening condition. Both special training and tools have been identified to achieve extrication without further damage to the victim. Automobile accidents can generate a need for extrication and this capability should always be present or available if needed.

Rescue is gaining access and freeing of a victim(s) from a condition of confinement, exposure or isolation. While immediate injury may or may not be involved there is the ever present danger that without help physical deterioration could take place and eventuate in death.

Rescue Vehicle - Designed and properly equipped vehicles exclusively used for the extrication of persons entrapped in wrecked vehicles or rescue from other hazardous circumstances. Although manned by EMTs this is not an ambulance or other vehicle for carrying emergency victims.

97TH CONGRESS
1ST SESSION

H. R. 4141

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits with respect to members of ~~rescue squads~~ ambulance and rescue services.

IN THE HOUSE OF REPRESENTATIVES

JULY 14, 1981

Mr. WALKER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide death benefits with respect to members of ~~rescue squads~~ ambulance and rescue services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 1203 of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (42 U.S.C. 3797b) is amended—
5 (1) in paragraph (6) by striking out “and” at the
6 end thereof,

2

1 (2) in paragraph (7) by striking out “or a fire-
2 man.” and inserting in lieu thereof “, a fireman, ~~or~~ ambulance,
3 or rescue service
~~rescue squad~~ member; and”, and
4 (3) by adding at the end thereof the following new
5 paragraph:
6 ambulance or rescue service
“(8) ~~rescue squad~~ member’ means a person—
7 “(A) certified by a public agency to carry
8 out; or
9 “(B) acting for a nonprofit corporation and
10 carrying out;
11 functions as part of a legally organized ~~rescue squad~~ ambulance
12 rescue service engaged in emergency field rescue or
similar ~~prehospital emergency medical unit~~ and medical intervention.”

For the purposes of this amendment and its coverage of Emergency Medical Service and Rescue personnel the following definitions will apply.

Ambulance Service - A system of pre-hospital care or field medical intervention consisting of equipment, ambulances, standards of care, emergency medical technicians, administration and communications as developed under Standard No. 11, "Emergency Medical Services," of the Highway Safety Act of 1966 (amended). Ambulance service may incorporate all of the extrication/rescue needs but must always be available and capable of providing either basic or advanced care at or near the scene of an emergency and during transit to more definitive care. Extrication/rescue units may operate separate of but in conjunction with ambulance services.

Ambulance - Emergency Care Vehicle (ECV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List as a minimum and two-way communication. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician Ambulance (EMT-A) or Basic Life Support.

Ambulance - Intensive Care Vehicle (ICV) is a vehicle built in accordance with the Federal Specification (KKK-A-1822A), equipped with the American College of Surgeons Essential Equipment List, two-way communication, and such biomedical equipment as specified by medical authority to support advanced life support functions. It may also be equipped with prescribed light extrication equipment. This vehicle supports the Emergency Medical Technician-Ambulance Advanced (EMT-AA) and Paramedic (EMT-P).

Emergency Medical Technician (EMT) - shall mean persons trained in emergency medical care and extrication in accordance with National Standards of care national curricula developed by the U. S. Department of Transportation for both basic and advance life support. The EMT is also a person either registered by the National Registry of Emergency Medical Technicians or otherwise certified by the State. The EMT may serve on either a surface or air ambulance and with a rescue squad or other extrication/rescue unit. The EMT is trained to provide either basic life support as an Emergency Medical Technician-Ambulance (EMT-A) or advance life support as an Emergency Medical Technician-Ambulance Advanced (EMT-AA) or paramedic (EMT-P).

Extrication is the process of gaining access and releasing a victim(s) from entanglement which poses an almost immediate life threatening condition. Both special training and tools have been identified to achieve extrication without further damage to the victim. Automobile accidents can generate a need for extrication and this capability should always be present or available if needed.

Rescue is gaining access and freeing of a victim(s) from a condition of confinement, exposure or isolation. While immediate injury may or may not be involved there is the ever present danger that without help physical deterioration could take place and eventuate in death.

Rescue Vehicle - Designed and properly equipped vehicles exclusively used for the extrication of persons entrapped in wrecked vehicles or rescue from other hazardous circumstances. Although manned by EMTs this is not an ambulance or other vehicle for carrying emergency victims.

97TH CONGRESS
1ST SESSION **H. R. 3089**

To amend the Public Safety Officers' Benefits Act of 1976 to eliminate the requirement that parents of deceased public safety officers be financially dependent on such officers in order to qualify for death benefits.

IN THE HOUSE OF REPRESENTATIVES

APRIL 7, 1981

Mr. LENT introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Public Safety Officers' Benefits Act of 1976 to eliminate the requirement that parents of deceased public safety officers be financially dependent on such officers in order to qualify for death benefits.

- 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) section 701(a)(4) of the Public Safety Officers' Bene-
- 4 fits Act of 1976 (42 U.S.C. 3796; 90 Stat. 1346) is amended
- 5 by striking out "dependent".
- 6 (b) Section 703 of such Act is amended—
- 7 (1) by striking out paragraph (2), and

1 (2) by redesignating paragraphs (3) through (7) as
2 paragraphs (2) through (6), respectively.

3 **SEC. 2.** The amendments made by this Act shall take
4 effect on the date of the enactment of this Act and shall apply
5 only with respect to deaths occurring from injuries sustained
6 on or after the date of the enactment of this Act.



N. C. State Association of Rescue Squads

P. O. BOX 1914
GOLDSBORO, NORTH CAROLINA 27530-0041

July 7, 1982

Rep. John Conyers, Jr.
Chairman, Sub Committee
Criminal Justice
H. 2-362 Office Building
Washington, D.C. 20515

SUBJECT: \$50,000.00 Death Benefit for Rescue Squad Workers

Dear Sir:

In reference to some testimony before your committee Quote, " That the vast majority of Public Rescue Squads in this country are units operating out of paid and volunteer fire departments." I believe if you will research the records you will find that this is not true. In North Carolina for example only about nine (9) percent operate as fire and rescue operation together. This means that ninety one (91) percent of all rescue members in North Carolina are not covered by the present law.

In North Carolina volunteer rescue units provided about ninety two (92) percent of the rescue service to the citizen of this state. All are required by laws to have certified ambulance attendant and emergency medical technician's on board each time they are dispatched.

I realize that police and firemen are in a high risk profession as well as rescue workers, however, if firemen were exposed to as many fire calls as rescue people are exposed to rescue calls this country would be a burning inferno. Many times rescue persons are exposed to ever more danger than police and firemen. Rescue personel, in most cases, do the actual physical rescue work. They must make sure that an area is safe to work in while at the same time attempting to assist victims who would surely die if life threatening emergencies were not corrected and rescue efforts were not started immediately. Therefore they must expose themselves to great danger at times to aid their victims.

In North Carolina for the last five (5) years we have, to my knowledge, had three (3) in line of duty deaths in Rescue.

Goldsboro, N.C.	2 members	1 drown in rescue effort at the base of a Carolina Power and Light dam. Three (3) victims in water reached out to get in boat and overturned boat. All three (3) victims drown as did the rescuer.
		1 killed in traffic accident while responding to a call
Enfield, N.C.	1 member	1 killed in traffic accident responding to call

I ask you, do you not think that the families of the dedicated men and women who place their very lives and security of their families in jeopardy everytime the unit rolls, need the protection that bill H.R. 385 would provide? Your answer should be yes.

I feel that it should be the responsibility of the Federal Government to assist the many men and women in rescue who through their desire to assist their fellow man, place their lives in great danger, and sometime make the supreme sacrifice.

I encourage all elected officials to get behind this effort and correct a very serious oversight, by eliminating the discrimination against one of America's most valuable resources, the men and women who provide rescue service to this great country. Again, I urge you to enact bill H. 385 into law.

Yours in Rescue,



J. Keith Harris
Commander,
N.C. Assoc. of Rescue Squads, Inc.

CC: John East
Jessie Helms
Stephen Neal
Eugene Johnston
Ike Andrews
L.H. Fountain
Walter B. Jones
James Broyhill
James Martin
W.B. (Bill) Hefner
Charles Rose
Charles O. Whitley

END