

**ALLEGED IMPROPER PRACTICES IN CUSTOMS HOUSE
AT DENVER, COLO.**

HEARING
BEFORE THE
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
NINETY-FOURTH CONGRESS
FIRST SESSION

—————
OCTOBER 23, 1975
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ALLEGED IMPROPER PRACTICES IN CUSTOMS HOUSE AT DENVER, COLO.

THURSDAY, OCTOBER 23, 1975

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE
OF THE COMMITTEE ON FINANCE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2221, Dirksen Senate Office Building, Senator Abraham Ribicoff (chairman of the subcommittee) presiding.

Present: Senators Ribicoff and Haskell.

Senator RIBICOFF. The committee will be in order. This meeting has really been called as a result of the deep concern that Senator Haskell has involving a problem in his constituency.

Senator Haskell talked to me about the problems that have been developing in the Denver Customs House. Frankly, I was not aware of it until Senator Haskell called it to my attention.

But, as he went over the problem with me, it became very apparent that this matter should be aired. And this is of course a Senator doing his job and doing it well, especially in a matter involving the Finance Committee's jurisdiction and also the jurisdiction covering the State of Colorado.

[The Committee on Finance press release announcing this hearing follows:]

[Press Release]

For immediate release.

October 21, 1975.

Committee on Finance, Subcommittee on International Trade, U.S. Senate.

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARINGS ON ALLEGED IMPROPER PRACTICES IN CUSTOMS HOUSE AT DENVER, COLO.

Senator Abe Ribicoff (D., Conn.), Chairman, and Senator Floyd Haskell (D., Colo.) of the Subcommittee on International Trade of the Senate Committee on Finance, today announced that the Subcommittee will conduct public hearings on certain practices which have allegedly taken place within the Customs House of Denver, Colorado.

The hearings will be held at 10:00 a.m. on Thursday, October 23, 1975, in Room 2221 of the Dirksen Senate Office Building.

These hearings are concerned with certain practices which have allegedly taken place within the Denver Customs House throughout the last five years including: (1) the alleged acceptance of certain gratuities by Customs employees from importers and brokers utilizing the Denver port, (2) the use of overtime by Customs employees in this port, and (3) certain directives regarding the entry of persons and products from Chile during the period of office of former President Allende.

The following witnesses have been scheduled to testify before the subcommittee on Thursday, October 23, 1975:

Customs officials:

Vernon D. Acree, Commissioner of Customs.
 Cleburne M. Maier, Regional Commissioner of Customs for Houston.
 Jay Bruton, Port Director of Customs for Denver.
 Joseph Grubach, Deputy District Director of Customs for Detroit.
 William A. Magee, Jr., Chief Counsel.
 Roland Raymond, Assistant Commissioner (administration).

Private individuals:

Bruce Brower, Former Regional Import Specialist for Customs.
 Larry Turrill, Employee for Ports of Call (Travel Service).
 Mrs. Francis Sorden, Broker for REA Express.

The Chairman stated that the Subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the Record. Statements submitted for inclusion in the Record should be typewritten, not more than 25 double spaced pages in length, and mailed with five (5) copies by October 31, 1975 to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D.C. 20510.

Senator RIBICOFF. Senator Haskell, did you want to make an opening comment?

Senator HASKELL. I have a brief statement.

Mr. Chairman, I am very pleased to participate in these hearings as they concern the practices and alleged abuses of the U.S. Customs Service, as you mentioned, with particular reference to the Denver Port and Stapleton International Airport.

As you are well aware, for several months my office has been investigating the Denver Customs Port's practices, some of which were detailed in investigative reports prepared by the Customs Service's own Office of Security and Audit.

The abuses reported by Security and Audit covered a period from 1971 through the past summer. Included in the reported abuses were two points we will be discussing today: The alleged acceptance of gratuities by customs employees from importers and brokers and the use of overtime by customs employees in Denver.

Since obtaining the Security and Audit report this summer, after a 6-month effort, we have had further complaints of continued abuses within the Denver Customs.

Charges also have been made that the customs officers were instructed to harass Chilean citizens and delay Chilean goods during the presidency of President Allende of Chile.

Of course, the problem is of particular concern to me because of the reported abuses at the Denver Port. But it is possible that the Denver experience is not an isolated one and abuses may occur throughout the region and the Nation and that, as a matter of fact, from a General Accounting Office report it would seem that this is highly likely.

Therefore it would seem, Mr. Chairman, it is vital that we learn what safeguards, if any, have been instituted to prevent reoccurrence.

Mr. Chairman, serious charges have been made about customs operations, including the fact that the internal investigation failed to correct the abuses in Denver.

I am hopeful that the hearings you have called, with the possibility of hearings later in Denver, will clear up all of our questions concerning Customs Service operations.

If not, we may have to seek further investigative assistance from some other agency.

Thank you, Mr. Chairman.

Senator RIBICOFF. Thank you, Senator Haskell.

Our first witness is Mr. Bruce Brower.

You may be seated there, sir. Mr. Brower, you may proceed as you will. Do you have a prepared statement or would you rather just—

Mr. BROWER. No, sir, I do not have a prepared statement.

Senator RIBICOFF. You may proceed, then, with your position.

STATEMENT OF BRUCE BROWER, FORMER REGIONAL IMPORT SPECIALIST FOR CUSTOMS

Mr. BROWER. I was formerly employed by the Bureau of Customs. I had approximately 11½ years experience with Customs. I worked in various phases. I began in Detroit, Mich., in 1963 under Mr. Grubach, who is in the audience today, as an examiner. Later, I was a customs inspector and for the last 4 years of my service, I was an import specialist at the Port of Denver.

I resigned in September of 1974 from that position due to the pressures, the harassment brought upon me by Customs management.

I resigned for a number of reasons: for the pressure brought upon me and also for my very sincere feelings that a problem existed and, as an employee, I could not fight the problem because of the harassment Customs could give me as an employee. I felt I had to leave the service to continue my efforts against Customs.

In March of 1974 I went to Senator Haskell's office and presented my problem. And his office has investigated it since that time.

The background of the situation in Denver is probably best outlined in the investigative reports that you have in your possession made by Security and Audit Division of Customs.

It was common knowledge to everyone, employees, importing public, brokers, anyone who had any contact with Customs, of the abuses that were occurring. It was common knowledge. The public had to fight and face this problem every day.

In 1971, Customs did begin their investigations in Denver, the internal investigations by Security and Audit. After a period of time, approximately 1 year, I believe, the investigations were completed. The results were never made public; rather, everyone was kept in the dark regarding the matter.

I can only say that subsequent to the investigative reports, the public became very disillusioned with Customs having any real intent to solve their problems at the Port of Denver.

It seemed as if, initially, the whole matter was swept under the carpet, if you know what I mean. Customs had investigated itself. It was an internal investigation. No one outside the Bureau of Customs was supposedly knowledgeable in the results of that investigation.

As an example, one of the persons named in the investigative reports as being the prime instigator of the false overtime and acceptance of gratuities, that man I know personally from an investigator who told me off the record that he, the man so named, was to be dismissed from the Customs Service. That man's name is Perry Martin. He is now, as far as I know, with the U.S. Customs Service, having left the Houston region for reasons that may be very apparent.

The man named in this report as being the instigator of the false overtime was not only retained at the Port of Denver; subsequently, he was promoted from inspector to supervisory inspector. And after that, temporarily as supervisory inspector, and then within a year after the investigation, was made permanent supervisory inspector, thereby controlling all inspectors under him.

This was a man that was a prime target of the investigation in 1971—

Senator RIBICOFF. Did all this come to you by hearsay or from your own personal knowledge?

Mr. BROWER. As an employee at the Port, viewing what transpired daily, yes, it was very evident from personal experience.

Senator RIBICOFF. You have personal knowledge of what you are talking about, the charges?

Mr. BROWER. In regard to this particular gentleman?

Senator RIBICOFF. Yes; and the wrongdoings.

Mr. BROWER. Yes, sir.

This is just one example of how the Customs investigative reports served no purpose. I believe it was just a matter of trying to impress the public that Customs was, in fact, doing something, while it was my opinion that the real intent was only a show for public's sake.

Senator HASKELL. Let me ask you, Mr. Brower, a couple of questions. I have an article here from the Rocky Mountain News. Unfortunately, it is not dated, but I think it is in early July. The article details the findings of the Security and Audit Division of the Customs Office which says the wrongdoings were roughly as follows: "Investigators purposefully delayed examining imported goods until after 5:00 p.m. and in that way they could charge owners overtime."

Now, that is one of the findings, I gather, of the Internal Inspection Division of Customs. Do you have any personal knowledge that that was so?

Mr. BROWER. I have personal knowledge. I have no written records.

Senator HASKELL. I do not care about written records. I mean you were there. Would you or would you not confirm that as a finding of the Security and Audit Division of the Customs Office?

Mr. BROWER. Yes, sir; I would confirm it.

My personal knowledge of the incident came through an inspector working at Stapleton Airport in Denver.

Senator HASKELL. What is his name?

Mr. BROWER. Jack Rowe. He is currently employed as an inspector at Denver. And from my statement that I have just made, I will expect he will receive retaliation from the Bureau of Customs.

Senator HASKELL. What did he tell you?

Mr. BROWER. Mr. Rowe compiled records, he was able to obtain records from the airlines who handled most of the shipments regarding false overtime, obtained records from the airlines showing the time of arrival, et cetera, records from the Customs House brokers who cleared the shipments acting as expeditors.

Mr. Rowe obtained these records and gave them to Security and Audit for conducting their investigation in 1971.

Senator HASKELL. Another allegation mentioned in the newspaper article says, "Customs officers regularly had accepted gratuities from importers, primarily liquor companies who wanted their goods cleared through Customs fast."

Now that is a finding as reported in the report of the Internal Audit Division. Do you have any personal knowledge of that situation, one way or the other?

Mr. BROWER. Not anything I would consider real conclusive. To be perfectly frank, it was rumored, naturally, among the employees that certain inspectors were accepting these gratuities.

Senator HASKELL. Have you seen the report of the Internal Audit of the Customs?

Mr. BROWER. Yes, sir; it was——

Senator HASKELL. Is this newspaper account accurate in that regard?

Mr. BROWER. Yes, sir.

Senator HASKELL. Then you mentioned that there was false overtime. You said somebody originated the false overtime. Can you tell me the name of the man and how it was done?

Mr. BROWER. I can tell you the name of the man, or the men. The two men that were involved in 1971 were the supervisory inspector, Mr. Tim Angelo and Mr. Charles Miller, a subordinate inspector under him. I believe that some of the other inspectors subordinate to Mr. Angelo were forced to participate in the program, if you may call it such, the false overtime program.

Senator HASKELL. All right.

Now, the newspaper report indicates the two gentlemen you have just mentioned were accused of doing the various things that I have read that are contained in this newspaper report. Can you tell me what happened to those people?

Mr. BROWER. The investigation was begun in 1971 with Mr. Angelo as the initial target. At that time, Mr. Rowe, an inspector with the Customs Service, was compiling the records to substantiate false overtime that I mentioned before.

Also, in 1971, there was an inspector by the name of Doug Stanley. Mr. Stanley had worked with the district attorney's office in Adams County. I mention that only in that I think it might have had some effect on how he viewed the situation of false overtime that he saw before him in Customs.

Mr. Stanley decided to participate. Mr. Stanley and then Mr. Rowe went to Security and Audit and asked that they begin this investigation into the alleged mispractices by these inspectors.

Senator HASKELL. Let me ask you this. Were Mr. Miller and Mr. Angelo named in this investigation as having done these improper things?

Mr. BROWER. Yes, I did not answer your question. Mr. Miller and Mr. Angelo were named in that report. To say the report was never made public, Mr. Martin, who was an investigator on that force in 1971 told me personally that both men were to be fired.

You must understand that the Security and Audit Division of Customs reports to no one but the Commissioner. Their findings in the investigative report are not relayed through chain of command through the regional commissioner or anything of this nature. It goes directly to the Commissioner's Office.

It was apparently before the reports arrived in the Commissioner's office that Mr. Martin told me that both Mr. Miller and Mr. Angelo would be taken from the Customs Service.

Mr. Martin told me this off the record. And apparently after the investigative reports reached the Commissioner's office, some other—something else transpired to change that because the actual results of the investigation were this: Mr. Angelo who was supervisory inspector at a Grade GS-11 was demoted two grades to GS-9 inspector.

Senator HASKELL. This is who now?

Mr. BROWER. Mr. Angelo. He remained at the Port of Denver. Mr. Miller was retained at the Port of Denver. He received no demotion. Within 1 year after the investigation, Mr. Miller was promoted from inspector to supervisory inspector.

Senator HASKELL. Okay.

Mr. BROWER. He received a promotion subsequent to the investigation that brought these charges against him.

Senator HASKELL. I understand that. Just one more question. Then I will stop and you may go ahead. Reading from this, again, the newspaper account of the investigation by the Customs Service, it says here, "in one case an irate person berated the supervisory inspector at Stapleton, calling him a name. The inspector grabbed him by the shirt, ripping off a button, threw him against the wall and then physically ejected him from the office.

Do you know who that inspector was?

Mr. BROWER. That was Mr. Angelo.

Senator HASKELL. Thank you. You may go ahead.

Mr. BROWER. The impact on the importing public, and when I say importing public, I mean not only the importers in the Denver area, but the Custom House brokers, the impact on these people after this investigation was quite bad, to say the least.

They had seen these wrongdoings being perpetuated in front of their eyes. They had seen Customs come in with apparent good intent on correcting the situation. The result, which they finally saw was that nothing transpired as a result of the investigation. But rather the men were allowed to remain, even put in positions of control.

Public sentiment, I think, reached a low ebb after that point. I know that personally I tried for 3½ years to reach the bottom of this problem myself and much to the disliking of Customs, I have gone to the importing public in Denver and the brokers trying to seek reasons and the bottom of the problems and support.

And their feeling right now, the importing public in Denver, is that even these subcommittee hearings are useless. They have seen the investigations with no results. They have received retaliation from Customs, after having given evidence and supported the investigations and really they are very reluctant to say anything to become involved. They have been disillusioned by the Bureau of Customs practices.

Senator HASKELL. As I understand it, there is an allegation that a certain directive was given to harass Chilean imports. Are you at all familiar with that situation.

Mr. BROWER. Yes, sir.

Senator HASKELL. Would you please describe what you know about it?

Mr. BROWER. In the summer of 1971, I believe July, I was an import specialist at Denver. The port director at Denver was a man by the name of Mr. Kelly Tipps, now retired. Mr. Tipps summoned Mr.

Al Ehret and myself into an office and said that Mr. Roland Raymond, then district of Customs at El Paso, Tex., wanted to talk with us.

Mr. Raymond came in, the door was closed, four of us were at the meetings: Mr. Tipps, Mr. Ehret, myself, and Mr. Raymond. Basically what happened was that Mr. Raymond gave a very brief background on what was happening in Chile at that time, the Communist takeover of U.S. corporations in Chile, and he gave us a directive, which, he said would be implemented at the Port of Denver and was also to be carried out nationwide.

He said that this directive was not written. There was no written form of it. It would be verbal only. We would discuss it with no one. It was entirely internal. If ever anyone chose to bring this up outside the customs service, the customs service would deny that it existed.

The essence of that directive was clearly stated in a Rocky Mountain news article of July 23, which I am sure you have. The essence of the article was that regarding Chilean citizens and imports from the country of Chile, the U.S. customs service at Denver would harass the people, cause delay in the deliverance of the shipments. We would, in his own words, "stretch the regulations and use our own imaginations, step outside the customs law and regulation if possible in causing inconvenience to these people."

Senator RIBICOFF. Who gave that order?

Mr. BROWER. That was given to me by Mr. Roland Raymond.

Senator RIBICOFF. Who?

Mr. BROWER. Roland Raymond.

Senator RIBICOFF. What was his job?

Mr. BROWER. District director of customs in El Paso, Tex. Denver was under their power so—

Senator RIBICOFF. And he told you to harass and delay passengers and make goods coming from Chile hard and inconvenient for them to get?

Mr. BROWER. Yes, sir.

Senator RIBICOFF. Let me ask you, you say you worked for about 11½ years for the Customs Bureau and you resigned September 1974.

What happened to the workload at the Denver airport during that 11-year period?

Mr. BROWER. Well, sir, I did not spend all 11 years at Denver.

Senator RIBICOFF. How many years did you spend?

When did you come to Denver first?

Mr. BROWER. In 1970.

Senator RIBICOFF. 1970. In the 4 years from 1970 to 1974, had there been a large increase in the workload at Denver?

Mr. BROWER. A substantial increase, yes, sir. Denver is a growing port. There was an increased workload and additional employees put on to, hopefully, meet that workload.

Senator RIBICOFF. In the 4 years that you were there between 1970 and 1974, how many new employees were brought into the Denver customs service?

Mr. BROWER. Speaking of clerical persons, all personnel?

Senator RIBICOFF. All personnel.

Mr. BROWER. Well, it would just be an estimate, a guess. I would say between 1970 and 1974—it is just a guess—I would say probably three or four.

Senator RIBICOFF. Three or four.

And how about the—

Mr. BROWER. The bigger increase in employees came—no, excuse me. There would be more than that. In late 1974, I think some were brought on and then additional employees added within the last year or so. It is just a guess; add two or three more to it. Four, five, or six.

Senator RIBICOFF. How many inspectors? How many more inspectors were brought in during that 4-year period, that you know of?

Mr. BROWER. I am referring to a roster of personnel at Denver now. I think four additional inspectors were added.

Senator RIBICOFF. And what increase in the percentage of business was brought into Denver during that 4-year period?

Mr. BROWER. I do not have the figures in front of me.

Senator RIBICOFF. Substantial?

Senator HASKELL. Just roughly, what would you think?

Mr. BROWER. It is hard to gauge the volume of business. There are so many ways you can judge it, either by dollars collected, revenue brought in.

Senator RIBICOFF. Well, I just happened to notice—

Mr. BROWER. Let me say this. There were numerous additional international flights added with customs clearance necessary in Denver. Usually, this necessitated just the clearance of incoming passengers, not a great increase of customs product. Mexicana Airlines brought in flights from Mexico, Western from Canada. A rough guess would be, say, 25 percent, a quarter to a third increase.

Senator RIBICOFF. What was that again?

Mr. BROWER. One-quarter to one-third increase in man-hours consumed.

Senator RIBICOFF. But there were only four additional men brought in to handle all that?

Mr. BROWER. Yes, sir, to the best of my knowledge, by looking at this roster.

Senator RIBICOFF. I am just curious. I have some figures here submitted by Mr. Acree, indicating that the number of formal entries filed at the Port of Denver has risen dramatically from 2,591 in 1965 to 8,353 in 1975. Customs collections in the same period, from \$3.1 million to \$12.2 million; airport arrivals from 358 to 1,340; passengers cleared from 27,207 to 97,392. And during the period from 1965 to 1975, only seven new, full-time employees have been brought in, an increase of seven to take care of all of that additional work.

Mr. BROWER. That is from 1965.

Senator RIBICOFF. 1965 to 1975, in that decade.

Would that sound correct, those figures, to you?

Mr. BROWER. Yes; I believe so.

Senator RIBICOFF. Thank you.

Senator HASKELL. You were saying that a Mr. Raymond gave you a directive to harass Chilean imports.

Was that directive carried out?

Mr. BROWER. It struck me rather funny at the time of his issuing this directive in Denver. As an import specialist, I handled commercial shipments and was not involved with actual passengers, people coming into the country. But to my recollection, at the time he gave that directive, I think I had handled one, possibly two shipments of goods from

Chile. So as far as carrying out that directive, I had no opportunity to carry it out. I never had a shipment from Chile after that. I thought it strange that it be given at Denver, an internal port.

Senator HASKELL. Do you know whether anybody carried out the directive?

Mr. BROWER. No; I actually do not. I know that—

Senator HASKELL. Let me ask you this: What was the reason given for the directive?

Why did they tell you to harass Chileans, or did they not give you a reason?

Mr. BROWER. Initially, Mr. Raymond gave a background of what was happening in Chile at the time of Allende's takeover, and it was implied that this would be retaliation against the Communist harassment of U.S. corporations.

Senator HASKELL. Thank you.

Go ahead, sir.

Mr. BROWER. The article of July 23, in the Rocky Mountain News, said I had no knowledge whether or not anyone at Stapleton Airport, any of the inspectors, had received this directive. I now know that some of the inspectors at Stapleton received this same information, this same directive. Mr. Rowe has admitted receiving the directive. He was a subordinate at the time to Mr. Angelo, so I can only assume—

Senator RIBICOFF. Mr. Raymond, is he in the room?

Mr. RAYMOND. Yes, Mr. Chairman.

Senator RIBICOFF. Mr. Raymond, would you come forward?

Mr. ACREE. I might also, Mr. Chairman, suggest that you ask our Assistant Commissioner for Internal Affairs, Mr. Magee, who has investigated this matter, to provide testimony on this point, sir. And I might also suggest, sir, if it is deemed relevant, it might be in order that all three of the gentlemen be placed under oath.

Senator RIBICOFF. Gentlemen, will you stand, all three of you.

Do you solemnly swear the testimony you give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MAGEE. I do.

Mr. RAYMOND. I do.

Mr. BROWER. I do.

TESTIMONY OF BRUCE BROWER, FORMER REGIONAL IMPORT SPECIALIST FOR CUSTOMS; ROLAND RAYMOND, ASSISTANT COMMISSIONER FOR OPERATIONS; AND WILLIAM A. MAGEE, JR., ASSISTANT COMMISSIONER FOR INTERNAL AFFAIRS

Senator RIBICOFF. Mr. Raymond, you have heard the charges by Mr. Brower.

Did you give anyone a directive to harass people and goods coming in from Chile?

Mr. RAYMOND. Senator, I have absolutely no recollection of ever issuing such a directive.

Senator RIBICOFF. It is not a question of recollection.

Did you or did you not?

Mr. RAYMOND. I did not.

Senator RIBICOFF. Now, Mr.—what is your name, sir?

What is your name?

Mr. RAYMOND. Raymond.

Mr. MAGEE. William Magee.

Senator RIBICOFF. You investigated this charge?

Mr. MAGEE. Yes, sir, I did.

Senator RIBICOFF. Where are you located, Mr. Magee?

Mr. MAGEE. I am Assistant Commissioner, Internal Affairs, Washington, D.C.

Senator RIBICOFF. Would you tell us what your investigation disclosed?

Mr. MAGEE. All right.

If I may be totally candid with the committee, sir, when this was first brought to our attention, we were at a complete loss to understand the source of such an allegation. During this period of time—we're speaking of some 30 days ago—Chile was very much in the news media. We wanted to be absolutely certain that perhaps we may not have done something in behalf of some other agency.

I personally made an indepth inquiry in those areas, in those departments that may have had a political interest in South America. And I was assured that absolutely no such request had been made to the customs service to assist anyone in any action against any foreign nationals.

I pursued it even further. You must recall that since the period of time that the allegation covers, that U.S. Customs Service has undergone a reorganization and that we lost some of our drug enforcement functions to DEA. We transferred several hundred of our criminal investigators, literally thousands and thousands of our files that contained narcotic information.

We went back through those files. And we now find that in the period, specifically September 16, 1970, all of the Government agencies interested in and involved in the combating of narcotic drugs were tasked to form an interagency task force to investigate a Chilean smuggling operation. This involved customs and other agencies.

Senator RIBICOFF. Were there substantial amounts of smuggling of drugs coming in from Chile during this period?

Mr. MAGEE. There were, sir. There were from 100 to 300 kilograms of cocaine coming directly from a Chilean-based operation. There was a French-based organization routing heroin through South America. Chile was the source of the narcotic system that I am addressing.

At that time the Bureau of Narcotics and Dangerous Drugs was deeply involved in a system of drug enforcement, identifying a given system, such as Corsical or other areas. There was a Chilean system. Customs was tasked by the Bureau of Narcotics and Dangerous Drugs to—and I quote for the record:

Customs shall insure that alerts are placed at all Customs points in the United States regarding the current methods of operations.

Those current methods of operations were body carries of drugs on passengers coming from Chile and concealment in cargo destined from Chile.

Senator RIBICOFF. So during this period you were very careful in combing both the passengers and the cargoes coming from Chile?

Mr. MAGEE. I have no personal knowledge of how this was implemented.

Senator RIBICOFF. But there was a directive to do so, nationally?

Mr. MAGEE. There was a request or alert or lookout for the modus operandi of this Chilean organization. I have not been able to recapture the documentation, which would have been nothing more than a teletype and perhaps—and I am certain, if we had done our job well and had been supportive of this interagency activity, then Denver was most certainly asked to look at Chileans and Chilean cargo, but absolutely for no political motive. It was in furtherance of this established system of drug smuggling.

Senator RIBICOFF. During this period, did you obtain any seizures of drugs in goods or on the person of people coming in from Chile at the Denver Customs Port?

Mr. MAGEE. Mr. Chairman, as I say, we were an interagency participant. The source agency happens to be another agency of the Government, and I do not have available the results of those lookouts or would be most reluctant—some of these systems are still active.

Senator RIBICOFF. I know, they may be still active. But you could relate from the records whether there were actually seizures of drugs coming into Denver. There is nothing in any way that would hurt the system in place now, if you just said or gave us the results of your seizure.

Mr. MAGEE. During the period of time—

Senator RIBICOFF. During the period of time discussed by Mr. Brower.

Mr. MAGEE. We shall attempt to recapture the seizure statistics, if you care, sir.

Senator RIBICOFF. I think it should go in the record. I think it may have a great bearing on whether these people were being harassed or whether they were being treated in the ordinary course of your duties to get drugs coming into the United States, especially at the Denver Customs Port.

Mr. MAGEE. Well, the instructions to go out were as I quoted, to pay particular attention to products, shipments coming from Chile and Chilean passengers. We most certainly did not instruct anyone to harass.

Senator RIBICOFF. Mr. Brower, were you aware, as a customs inspector, that one of your jobs was to try to uncover drugs coming in from any foreign country?

Mr. BROWER. Certainly.

Senator RIBICOFF. Being carried in by person or by cargo.

Was that part of your task?

Mr. BROWER. Yes. But at the time we are speaking of, I was not an inspector. I was an import specialist dealing with the commercial shipments rather than people.

Senator RIBICOFF. Well, an import specialist—sometimes drugs do come in in goods; do they not?

Mr. BROWER. Yes. But the goods are actually inspected by an inspector. He sees the goods on the dock or airport, wherever it may be. And it would be the inspector's job to ferret out these drugs.

Senator RIBICOFF. Well, would there be some basis to the report that what you consider harassment might have been trying to uncover drugs coming in?

Mr. BROWER. The directive as given to me and the other three people I mentioned, did not mention drugs.

To answer your question, as an import specialist, I can see no bearing on the impact of my job on commercial shipments in drugs. I would have no knowledge of the drugs, because the shipment would have been inspected by the inspector.

No; I cannot see the bearing that this would have on an import specialist. If, in fact, drugs were the important issue, why was the order given to an import specialist?

Senator HASKELL. Let me, if I may, Mr. Chairman, ask a question of the gentleman on Mr. Raymond's right. What is his name?

Mr. MAGEE. Mr. Magee.

Senator HASKELL. Mr. Magee, you, I gather, investigated this charge, as you indicate, and found out that Chile was the source of a great many drugs.

Now, do you know whether an order went out to tell inspectors to be on the lookout for drugs?

Mr. MAGEE. I have not been able to find the notice of alert or the bulletin for implementing this.

Senator HASKELL. Even if you have not found anything in writing, have you found out whether or not a directive went out to be on the lookout for drugs coming from Chile?

Everything does not have to be in writing.

Mr. MAGEE. I don't believe I really get the point.

Senator HASKELL. The Customs Service was very concerned about drugs coming from Chile; I gather inspectors were instructed to be on the lookout.

Now, that is my question. Were inspectors told to be on the lookout for drugs coming from Chile?

Mr. MAGEE. If I may confer just a moment.

Normally, our procedure would be to put out an administrative notice on our TECS, which is Treasury enforcement communications service, which is a print out notice to each region. We would be able to recap that; we are able to recap such a lookout today.

Mr. Raymond, Assistant Commissioner for Operations, advises me that was not in effect in the period of time we are talking about. It would have been an FTS.

Senator HASKELL. Mr. Magee, you made an investigation and you say that Customs people were told to be on the lookout for drugs, and I am trying to find out whether the word was disseminated through the Customs Service, either in verbal or written form, to be on the lookout for drugs coming from Chile.

Do you or do you not know whether that was done?

Mr. MAGEE. I do not know. There would be a presumption it was done. I have no documentation to establish that.

In 1971, you remember—this is, again, prior to the reorganization of customs—it would have been handled by the Office of Investigations, in conjunction with the Office of Operations. Today I could answer that question if given such a request; 1971, there is no way to—

Senator HASKELL. So, really, then, you do not know whether or not the personnel of the Customs Service were told to be on the lookout for drugs, I gather.

Mr. BROWER. Sir, may I interrupt?

Senator HASKELL. No, please. Mr. Magee.

Mr. MAGEE. I cannot say that some Customs employee did not, perhaps, infer that we should harass or perhaps look at cargo. I don't know what any employee may have said.

[The following material was subsequently supplied by Mr. Magee:]

MEMORANDUM

Mr. George M. Belk, Chief, Criminal Investigations Division

Mr. Lawrence J. Strickler, Staff Coordinator

Intragency Investigation of Chilean Smuggling Organization T3-70-0005, 73-70-0010, A2-69-0012, M1-70-0051, C1-69-0389, C1-70-0167-AS 00099, C1-70-0211-AS 00105, C1-70-0212, C1-70-0219-AS 00120, C1-70-0243-AS00119.

THE ORGANIZATION AND METHOD OF OPERATIONS

A joint BNDD-Customs investigation of Chilean traffickers has revealed the existence of a well organized, highly sophisticated international narcotics smuggling organization. This organization is responsible for smuggling vast amounts of French heroin and Chilean cocaine to United States recipients. The upper echelon of the organization is made up primarily of a hard-core of Chilean and Argentinean nationals; however, the heroin is furnished to the group by one or more traffickers of French origin.

Based on current intelligence, it is estimated that the organization is smuggling from 100 to 300 plus kilograms of cocaine and heroin into the United States each month. The New York City Police Department's Special Investigative Unit seized approximately 100 kilograms of heroin and cocaine from this group in April 1970, and approximately 200 pounds of cocaine were seized in July, from the same organization, by Region 5 BNDD Agents. During the past 12 months, the arrest of many of the organization's couriers by U.S. Customs Agents has also resulted in seizures of impressive quantities of heroin and cocaine. This same organization is allegedly supplying a single Cuban trafficker in New York, with 40 to 60 kilograms of cocaine each month.

In order to maintain their high level of activity, the organization utilizes three primary means of transporting the narcotics from their Chilean base of activity to the United States. These three methods are:

(1) Smuggling via seamen couriers—Heroin is smuggled in large quantities from Marseilles, France to various port cities in Chile. This heroin allegedly is smuggled via merchant ships of the Italmar line.

Seamen couriers, recruited from among the crew members of several Chilean vessels, are paid to transport the narcotics to various United States port cities. Key cities in the United States include Miami, Savannah, Norfolk, Baltimore, Philadelphia and New York.

(2) Smuggling via commercial Airlines—Individual couriers are recruited to transport cocaine from Chile to major United States, Mexican, or Canadian cities. When deliveries are made to Mexico and Canada, additional couriers are utilized to smuggle the narcotics across the border and into the United States. Couriers are usually paid \$1,500 per kilogram for United States deliveries and \$500 per kilogram for deliveries to Mexican and Canadian cities.

When couriers use commercial airlines to smuggle heroin, they usually fly from various South American cities to Madrid, Spain. From Madrid they travel to Marseilles to pick up the heroin. After securing the heroin in Marseilles, they generally return to Madrid before continuing on to the United States, Mexico, or Canada.

(3) Smuggling via Air Freight—Several air freight lines are used to transport bulk shipments of narcotics from Chile to Miami, via Panama. These same air freight lines are also used by Chilean smugglers to smuggle electronic equipment from Panama's free zone to Chile.

When the narcotics arrive in Miami, they are generally rerouted, via truck, to recipients in the New York area.

This smuggling organization is especially innovative and, although the three smuggling procedures mentioned above are the ones most used, the principals are continually devising and trying new smuggling methods.

IMMOBILIZATION POTENTIAL OF THIS ORGANIZATION

Since this organization is highly developed and structured, and because it continues to operate despite courier arrests and volume seizures, the principals are particularly susceptible to immobilization through the development of a conspiracy. On September 15, ARD Anthony Pohl submitted a proposed plan of action which should be particularly effective in developing this conspiracy. His proposed plan is as follows:

"Pursuant to the various conferences held between Staff Coordinator Strickler and Assistant Regional Director Anthony Pohl, the following suggestions are being submitted for inclusion in the plan of operation in this case.

OVERALL OBJECTIVES

BNDD will, through the most expeditious methods possible immobilize this international drug trafficking organization by striking at the heads of this organization wherever located.

BNDD will jointly develop with U.S. Customs a conspiracy aimed at involving members of this international drug trafficking organization. If these individuals cannot be apprehended within the United States, BNDD will attempt to cause the extradition of the principals of this conspiracy from their foreign country of residence.

AREAS OF OPERATIONAL RESPONSIBILITY, UNITED STATES CUSTOMS

All couriers arrested in the future in connection with this investigation should be thoroughly questioned by a single joint Customs/BNDD team regarding their overseas sources of supply, intended recipients, methods of payment, etc.

All couriers presently incarcerated should be reinterviewed by a single joint Customs/BNDD team regarding their overseas sources of supply, intended recipients, methods of payment, etc.

U.S. Customs should insure that alerts have been placed at all points of entry into the United States regarding the current method of operations used by this international drug trafficking organization in order to stop the flow of narcotics smuggled into the U.S. by this organization.

U.S. Customs should concentrate on identifying all couriers and suspected couriers with the assistance of BNDD foreign offices.

BNDD

Because of the magnitude of the operations of this international drug trafficking organization they are identified as a major system and assigned identifier AM 00010.

BNDD Headquarters will insure that the information available in all regions and other agencies is properly coordinated and will resolve all operational conflicts.

BNDD will set up direct and speedy lines of communications from Buenos Aires, Argentina and other central and South American points to Regions 2 and 17 with information copies of all reports to the Regional Office Region 15, Headquarters and other interested Regions or District Offices.

BNDD will supply selected foreign police officials with the necessary technical equipment and investigative support needed to develop the instant investigation.

All BNDD informants in Domestic and Foreign Regions will be debriefed by a single joint BNDD/Customs team in connection with this investigation, particularly, S-C1-0-0047 whose services will be retained for the furtherance of this investigation outside of Argentina.

BNDD will attempt to identify the sources of supply in foreign countries and/or their representatives, such as John Doe @ Marcel, by interviewing all possible sources of information and reviewing all pertinent files.

All suspected recipients of drugs residing in the United States will be investigated and placed under surveillance by joint BNDD/Customs teams.

BNDD will obtain telephone listing and toll calls on all telephone numbers in the United States which are called from overseas locations, with a view towards the initiation of joint Title III operations with U.S. Customs.

BNDD will obtain telephone listings and toll calls on all telephone numbers in foreign countries which are called from the United States with a view towards the initiation of electronic surveillances by foreign authorities.

As New York is the final destination of drugs handled by this organization, Region 2, Enforcement Division III is designated as the spearhead of this investigation and will centralize all related activities.

All Regional Offices, District Offices and BNDD Strike Force Representatives will supply the spearhead with copies of all reports pertaining to this investigation".

PROBLEMS ENCOUNTERED IN DEVELOPING THIS INVESTIGATION

To date, several specific problems have been encountered which have kept this BNDD-Customs venture from achieving maximum results.

One problem stems from the fact that our Customs counter-parts have not furnished us with complete written reports on their investigational activities and/or informant debriefings. This has placed us at a disadvantage since we are not aware of all of their investigational accomplishments. This problem has been particularly noted by our personnel in Regions 2 and 5.

Another problem relates to two conspiracy investigations conducted by our Strike Force Representative in the Eastern District of New York. Both of these conspiracies involve key principals in our joint investigation with Customs. One conspiracy investigation was initiated in May; however, no written reports were prepared until August 14. The other conspiracy was initiated in July and the first written report was dated August 24. Had written reports been furnished in a more timely fashion, investigative leads would have been uncovered which were important to our joint investigation. Although, BNDD was not aware of the important intelligence uncovered through these investigations; Customs was made aware of the details by their Strike Force Representative.

The most significant problem arises from a lack of agreement, between BNDD and Customs, as to how this investigation should be conducted. An example of this occurred on September 15, when Region 2's Assistant Regional Director Anthony Pohl was discussing the investigation with Senior Special Agent Albert W. Seeley, who is in charge of the Customs Task Force. Agent Seeley advised Assistant Regional Director Pohl that he was recommending to his superiors that Customs send an Agent to Buenos Aires to further this investigation. He was also recommending that Customs Agents be dispatched to France and Spain to identify European principals in the organization. Since BNDD has Agent personnel stationed in these foreign countries, there does not appear to be any valid reason for sending additional personnel to these areas.

Although, this investigation has been conducted as a joint BNDD-Customs effort: operational control has not been delegated to either Bureau. As a result, the total investigation has suffered from a lack of direction, coordination and correlation. In some areas there has been much duplication of effort, while in other areas basic leads have been ignored. In order to effectively immobilize this highly significant international drug trafficking organization, control and direction for the further development of this investigation should be vested in one Bureau. Since the sources of supply and key principals are located abroad, subsequent investigative efforts should be under the direction of BNDD.

THE DEPARTMENT OF THE TREASURY,
BUREAU OF CUSTOMS,
Washington, D.C., March 4, 1970.

Refer to inv. 6-9949 NY

COMMISSIONER OF CUSTOMS,
Office of Investigations, Bureau of Customs,
Washington, D.C.

DEAR SIR: The following report will acquaint the Bureau with the progress of this case since December 1969. The information related is based on the facts developed by extensive investigation which indicates that the members of this international smuggling organization are well entrenched in their narcotic trafficking between Buenos Aires, Argentine; Santiago, Chile; Mexico City, Mexico; Madrid, Spain; Marseille, France; and the United States. Their trafficking is known to be through the ports of New York, Miami, San Ysidro, Laredo and San Juan.

The Chileans involved in this smuggling organization are unique, in that they seemed to have gained access to a steady source of supply for both cocaine from South America and pure heroin from Europe. They are able to dispatch both heroin and cocaine directly into the U.S. from Argentina or Chile. In addition, Mexico City is being utilized in their trafficking as a base to and from Europe,

as well as enabling them to make direct entry into the U.S. through the Mexican Border.

The modis-operandi employed by this organization includes narcotics secreted on the body of a courier; the false bottom suitcase carried by a courier; the concealment of narcotics in cartons of well-known brands of cigarettes carried by a courier; and the use of a five litre wine-jug imported from Argentina or Chile. The couriers used predominantly are Chileans routed from Santiago to Miami; Santiago to New York; Santiago to Mexico City to Tijuana through San Ysidro, where the courier then flies to LaGuardia Airport in New York.

The exposure of this international narcotic trafficking began on December 6, 1969, in New York with the arrest of three Chileans and one Argentine by the New York City Police Narcotic Bureau for possession of a large quantity of heroin and cocaine. This investigation revealed that one of the Chileans had just arrived the same day in New York at the JFK International Airport from Santiago, in possession of two five-litre wine bottles, and that both of these bottles had narcotics concealed in the false bottom. An immediate Customs alert for similar couriers en route brought about the arrest of Arsenio Augusto Arraya-Murchio at JFK Airport on December 8, 1969, in possession of two wine bottles containing a total of 6 kilos of heroin. Subsequent investigation disclosed the trafficking of the above named organization.

Your attention is invited to the enclosed charts. To date, a total of thirty-one (31) kilos of heroin and six (6) kilos of cocaine have been seized from this smuggling group. We have estimated the amount of narcotics smuggled by the persons named, based on their past foreign arrivals, and on amounts seized from known associates. In adding this estimate to the total amount seized, we arrive at a figure of 203 kilos of narcotics, all of which no doubt was destined for the New York City illicit market.

Sincerely yours,

ALBERT W. SEELEY,
Senior Special Agent.

Senator HASKELL. I am getting a little mixed up. I think you testified that Chile was a large source of drugs coming into the United States?

Mr. MAGEE. Yes, sir.

Senator HASKELL. I think you further testified that the customs service was told to be on the lookout.

Now, am I correct so far?

Mr. MAGEE. Exactly.

Senator HASKELL. OK.

Now, tell me what the customs service did to implement the situation?

Mr. MAGEE. I have no way to find out exactly what we did to implement it, sir.

Senator HASKELL. OK.

Thank you.

Mr. MAGEE. I suspect it was FTS-itis during that period of time.

Senator RIBICOFF. I do not understand; if you made this inspection and drugs were involved in the charge of harassment, that in the records of the overall agency, even if it was in another subdivision, you would not be able to get that information to us or for yourself.

Mr. MAGEE. I believe I said I would furnish or do everything to find exactly the quantities of the seizures that were made during that period of time. But in addressing Senator Haskell's question, I cannot say with any certainty how, or if, in fact, indeed, we did carry out our interagency activity.

Senator RIBICOFF. But, Mr. Raymond, you deny giving any order whatsoever to be more careful and meticulous in inspections of Chileans?

Mr. RAYMOND. Mr. Chairman, the reason why my initial response to you was that I could not recall—I now know of this. I cannot recall that I was instructed, even with respect to this lookout for drugs coming from Chile. However, I have been a supervisor of customs officers for 13 of the last 20 years. I have passed on information verbally to groups of employees, probably on the average of once a week in the course of these 13 years, having to do with special lookouts on drugs and other contraband coming from countries, from many countries. So it is very difficult for me to recall, even if I had the information to which Mr. Magee—which Mr. Magee has talked about—that I specifically talked about drugs to any particular group of employees.

Senator RIBICOFF. If you passed on specific directions concerning drugs or contraband, then you could have given orders to your various inspectors in Denver to be on the lookout for Chilean connections for drugs on the persons or in the goods?

Mr. RAYMOND. Yes, sir.

Senator RIBICOFF. And if that were the case, then, the inspection of the person or of the goods would be more thorough and complete and take a much longer time than it would be for the ordinary traveler, the ordinary goods coming from a location which did not concern the interests of our Nation?

Mr. RAYMOND. Yes, sir, I would say that is right.

Senator RIBICOFF. So it could well be, as Mr. Brower says, that orders had gone out to keep a sharp eye on goods and people coming from Chile?

Mr. RAYMOND. Could well be, Mr. Chairman.

Senator RIBICOFF. You do not recall?

Mr. RAYMOND. I don't recall.

Senator RIBICOFF. But you would not deny that you could have given such an order?

Mr. RAYMOND. I would not deny that I would have given an order to be more careful about goods entering the country from Chile and drugs on the persons of people arriving from Chile.

Senator RIBICOFF. I would like you to get the information on the interagency basis throughout the Nation as to how much contraband or drugs have been seized in shipments coming from Chile in the last 5 years.

Mr. MAGEE. I will try to. Very good.

[The information referred to follows:]

CHILEAN ARREST DATA

Between December 1969 and March 1970, at least seven Chilean Nationals were known to be arrested in New York. The arrests resulted in the confiscation of 13.2 pounds of cocaine and 68.2 pounds of heroin.

The number of Chileans arrested between FY 1971 and FY 1975 totalled 48 with the most arrests (16) occurring in FY 1973. Forty arrests or 83 percent of the total were the result of cocaine seizures. Seventy percent (28 arrests) of all cocaine-related arrests were made in either Miami or New York.

48.8 pounds of cocaine were seized from the arrestees in FY 1971. No information by substance is available for FY 1972 to FY 1975. These figures were developed as indicated on the attached chart.

NUMBER OF CHILEANS ARRESTED BY FISCAL YEAR AND TYPE OF DRUG

Drug type	Fiscal year—					Total
	1971 ¹	1972 ²	1973 ³	1974 ³	1975 ³	
Cocaine.....	11	4	14	4	7	40
Heroin.....	0	0	1	0	0	1
Marihuana.....	0	2	1	0	0	3
Other drugs.....	0	4	0	0	0	4
Total.....	11	10	16	4	7	48

¹ Figures taken from "Intelligence Review."

² Figures taken from ASAN reports.

³ Figures from DEA and BNDD (figures not kept before fiscal year 1975).

COCAINE RELATED ARRESTS BY FISCAL YEAR AND SAC

SAC	Fiscal year—					Total
	1972 ¹	1972 ²	1973 ³	1974 ³	1975 ³	
Miami.....	3	2	6	0	1	12
New York.....	1	2	3	4	6	16
Los Angeles.....	0	0	2	0	0	2
San Francisco.....	0	0	1	0	0	1
Norfolk.....	2	0	0	0	0	2
Baltimore.....	5	0	0	0	0	5
Unknown.....	0	0	2	0	0	2
Total.....	11	4	14	4	7	40

¹ Figures taken from "Intelligence Review."

² Figures taken from ASAN Reports.

³ Figures from DEA and BNDD (figures not kept before fiscal year 1975).

Senator HASKELL. Mr. Brower, would you mind repeating what your recollection of the directive from Mr. Raymond was?

Mr. BROWER. Well, as I previously stated, Mr. Raymond gave us a brief background on the political situation in Chile at that time and, mainly, it involved the Communist takeover of the U.S. corporations. The United States was having a very bad time in Chile and pulling out fast. And then the directive that I have stated was issued.

It was said that it was very secret in nature, that it would not be passed on. We would implement it and not make any mention of it to anyone at any time.

Senator HASKELL. Were drugs mentioned?

Mr. BROWER. No, sir.

I wish to add that I recall—it does not come out in the newspaper article—but I also remember that it was stated that this directive would only be given to a few select people.

Now, Mr. Ehret and myself were import specialists, what they call team leaders. We had, theoretically at least, people underneath us, subordinates. It was told to us that we would implement this order ourselves and relay as little information as necessary to our subordinates. We would carry it out without involving more people.

If this were the normal type of drug activity that Mr. Magee speaks of, I am sure that customs would want each and every employee fully aware and alert to do his job. I believe it was in 1968—I stand corrected; it may have been 1967—that customs was involved in a very close scrutiny of drugs coming out of Mexico. There were written directives by the tons at that time regarding the Mexican connection or whatever you wish to call it. At that time, I think it strictly was

a drug-oriented program, hopefully, to stop the flow of marihuana from Mexico.

But the orders and the manner in which those directives were given differ greatly from the secretive nature that was carried out in the Chilean incident in 1971.

Senator HASKELL. Thank you, Mr. Brower.

Perhaps, Mr. Chairman, it would be helpful to have for the record the directives that went out on the Mexican drug situation.

Senator RIBICOFF. Will those be procured for the committee, too?

Mr. RAYMOND. I beg your pardon, sir?

Senator RIBICOFF. Mr. Magee, would you get for the committee directives during this period covering drugs from Mexico?

Mr. MAGEE. Drugs from Mexico?

Senator RIBICOFF. Or drugs from any place?

Let us see how you handled that.

Mr. MAGEE. Very good, sir.

Senator HASKELL. For the decade 1965-75.*

Mr. BROWER. I left the customs service, resigned in September of 1974. It is unsubstantiated, but it has been brought to my attention that after my departure from the customs service, there was a similar directive issued against the Arab nations. I bring to your attention the oil crisis of the past year.

That is only rumor, but that is what I have been led to believe.

Senator RIBICOFF. Do you have anything else that you want to tell us, Mr. Brower?

Mr. BROWER. Very frankly, I could probably take up the entire day speaking of other matters. It would probably be in the best interest of these hearings, if you have any other specific questions you would like to ask me—

Senator HASKELL. Why do you not just stay around?

Would that not be a good idea, Mr. Chairman?

Senator RIBICOFF. Yes; but we do not want to close you off, sir. You have made these charges. I believe that you are the basis for the charges being initiated. I would not in any way want to restrict you in what you would want to tell the committee.

Mr. BROWER. I think that perhaps in the audience we have other people involving the Chilean incident that may be able to give testimony to the fact that they do not believe drugs were involved.

Senator RIBICOFF. Well, while we have this problem, we might as well clear it up.

Is there anybody else in this room that is aware of the Chilean episodes?

Yes, sir. Do you want to come forward?

Is there anybody else who has an awareness of the Chilean—what is your name, sir?

Mr. GRUBACH. Joseph Grubach.

Senator RIBICOFF. And what is your position now?

Mr. GRUBACH. Deputy District Director of Customs for the Detroit District.

Senator RIBICOFF. Would you raise your right hand?

*The information referred to was not provided.

Do you solemnly swear that the evidence you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GRUBACH. I do.

Senator RIBICOFF. You have heard the testimony so far.

Would you want to comment, sir, on the question of Chile, harassment of goods or persons, and the problems of drugs from your own personal knowledge?

**TESTIMONY OF JOSEPH GRUBACH, DEPUTY DISTRICT DIRECTOR
FOR CUSTOMS FOR DETROIT**

Mr. GRUBACH. My knowledge of the question of harassment of Chileans is very limited. At Detroit, we usually hear of these things through the newspaper and so forth. And in order to determine whether there is anything to it or any truth to it, I usually pick up the phone and call somebody that I know.

In this case, I called Harry Kelly, who is district director at Houston. And I talked to Harry, as well as his chief inspector down there, as to whether there is any truth in this, because I am in my 49th year in the Customs Service, and I get pretty concerned when things of this type come up. And I talked to Harry quite a long time.

And in talking about the newspaper clipping that I saw this in, I mentioned that Bruce Brower has charged that he was given instructions to delay the shipments coming from Chile, also to delay passengers, make it as tough as possible. I says, well, is there any truth to this thing.

And he says, yes, sir, I can tell you, I got the same order to do the same thing. And in the conversation I asked him, I said, did you get anything in writing on this thing. And he says, no, it was all verbal, and I passed it down to my chief inspector. And he says this happened about 2 or 3 months before the district director, Roland Raymond, went to New York, was transferred to New York.

And he expressed the opinion that this was deliberately kept verbal, and the order was withdrawn within a week, was his remark. And I asked him specifically, I said, was any narcotics mentioned in the directive. And he said, no, narcotics was not mentioned, but the whole thing was to slow down the clearance of passengers, overquestion them, do everything you can to slow down the release of the passengers, as well as any commercial shipments.

That is more or less the extent. And I got the same story from his chief inspector. He told me to talk to him.

I was just interested, out of the integrity of the Customs Service and its image.

Now, that is really the extent of my knowledge of the Chilean matter. Now, in connection with drugs, at this time—and it was back some time—I participated in a border operation on drugs. We were all indoctrinated on drug interdiction from way back, even the special program that took place on the Mexican border, we had some inspectors that worked there. And when they came back, about a year before the border operation along the Canadian border came into being, we had organized the year before that, how we were going to handle this drug problem.

So actually, it becomes a natural thing with a Customs officer. He didn't need any directives as to whether he should interdict drugs or seize drugs when he sees them and so forth, in giving passengers their examination. And also, if they have any suspicions, they will resort to searches and so forth. They have a lot of border traffic coming through by automobile, in which we follow certain techniques. We are all aware that drugs are something we don't want in the country, and we don't need any special directives to this effect.

Senator RIBICOFF. Are you still in the Service, the Customs Service?

Mr. GRUBACH. I'm still in the Service, my 49th year.

Senator RIBICOFF. Your 49th year. But there was a general directive nationwide at this time to do a slowdown on Chilean—

Mr. GRUBACH. No; we did not receive that directive in Detroit.

Senator RIBICOFF. You did not receive it?

Mr. GRUBACH. We did not.

Senator RIBICOFF. You were told there was such a directive in other sections?

Mr. GRUBACH. That's right, through word of mouth and also the newspaper clippings was the first I was aware that such a directive was issued.

Senator RIBICOFF. This was in 1971?

Mr. GRUBACH. 1971, right.

Senator RIBICOFF. And it lasted for a week, and it was—

Mr. GRUBACH. This is what I understand; lasted for a week, that's what I was told. And I was just curious as to whether such a directive would be issued by our Bureau, because, I can tell you frankly, if an order came to me of that kind, I don't care who issued it, I would not follow it. I would say put it down in writing if you want us to slow down the passengers, slow down the clearance of merchandise, under that condition, I would say I would like to have this in writing.

And I frankly say that if it did come down in writing, we would do it.

Now, I want to make one thing clear on the drugs. We do get a lot of information out of the Bureau on the various methods used in concealing drugs in shipments, on the person and so forth. That is a regular thing; it keeps us alert of the different methods that are used.

But, as to saying that you seize drugs when it comes in from Chile, we don't get any directives like that, because it is a natural thing with a customs officer. That is his duty.

Senator RIBICOFF. And you know from your experience from which countries they are more apt to be coming in than other countries?

Mr. GRUBACH. That's right. We get intelligence information. The communication is under file of intelligence, and we get these regularly. It gives us the full picture of where the drugs are coming from, how they are going to be concealed, and so forth and so on. But customs officers are on the lookout for drugs all the time, constantly, no matter where they come from.

Senator HASKELL. Suppose, sir, it suddenly had been discovered that Chile was a source of drugs. You know, all of a sudden somebody found that there is a ring operating from Chile to bring drugs into the United States. Would the Customs Service alert its personnel, and if so, in what manner?

Mr. GRUBACH. They would alert us in writing, in the form of a letter. They would give us all the details of how it might be concealed, what kind of drugs, where it is coming from, and so forth.

I could not conceive that our Bureau would not issue directives on drugs in any other way than in writing.

Senator RIBICOFF. Did you ever work with Mr. Brower?

Mr. GRUBACH. Yes; I hired Mr. Brower at Detroit.

Senator RIBICOFF. You hired him in Detroit.

Mr. GRUBACH. Yes, sir.

Senator RIBICOFF. And was he a good employee?

Mr. GRUBACH. I would say he is one of the brightest I have run across in the technical line.

Senator RIBICOFF. Mr. Magee, in your investigation, was there any reason that you found that Mr. Brower would be biased in his charges or would be trying to take it out on the Customs Service?

Mr. MAGEE. You mean in the entire investigation?

Senator RIBICOFF. Yes; your investigation as to this incident. Is there any reason why you would believe that Mr. Brower would be out to get the Service?

Mr. MAGEE. Yes; well, Mr. Brower was also the subject of investigation with the Office of Internal Affairs. And before the investigation was completed, Mr. Brower chose to leave the Service.

Senator RIBICOFF. What were the circumstances involved?

Mr. MAGEE. It was reported to Customs through the Office of Investigation. The Office of Investigation is charged with conducting inquiries, both foreign and domestic, on matters involving fraud by importers, attempts to defraud the Government out of duty. There was an investigation underway of such a firm in Denver.

In calling at that firm, the owner or president. I don't have the title exactly, indicated and in fact originally said that Mr. Brower had forewarned him of the investigation by Customs.

Consequently, when our investigators arrived at the firm, the owner of the firm had all of the necessary correct answers.

Senator RIBICOFF. When was this; what was the date?

Mr. MAGEE. May I refer to my notes? This was June of 1974.

Senator RIBICOFF. June of 1974?

Mr. MAGEE. Yes.

Senator RIBICOFF. Was Mr. Brower aware of an investigation underway concerning himself?

Mr. MAGEE. He was shortly thereafter. I do not have the exact day like June the—

Senator RIBICOFF. But in that time frame between June and September, he was aware of an investigation going on concerning himself?

Mr. MAGEE. He was interviewed in connection with this very matter I have been discussing.

Senator RIBICOFF. Do your records show when he was interviewed?

Mr. MAGEE. Just a moment. He was interviewed on July 12, 1974.

Senator RIBICOFF. Mr. Brower, would you want to comment on the connection between the investigation undertaken concerning yourself and your resignation in September of 1974?

Mr. BROWER. Yes. I think that you need a little background, though, to fill you in on the complete matter.

Customs and I had been at odds, I guess you would say, not really customs, Mr. Maier, who is now regional commissioner and was then and myself had been at odds dating back then to early 1972. Immediately following the investigation or I think while it was still in progress, my claim is that employees, the public, people that provided information for that—the 1971 investigation—were the later targets of harassment by customs management. I feel that I was one of those targets.

In February of 1972 I was ordered to make a lateral transfer from Denver to Houston. At the time, I was on sick leave convalescing at home for a period of 4 months. And Mr. Maier and the head of regional personnel, Mr. John Biondi and Mr. Tipps, port director at Denver asked if they could come to my house, which I thought was a social call.

They arrived at my house and Mr. Maier presented me with a letter stating that I would be transferred within a month, I think it was, to Houston. And I asked Mr. Maier for a reason and he said he didn't have to give me a reason, and his word was it, I was going to be in Houston.

And I said well, you see the shape I am in. I am in a leg cast, a cast up to the hip and I don't know when I will be able to travel and furthermore I have no intention of moving to Houston because I believe this is retaliation against my efforts against the targets of this investigation, that I am not happy with what is happening in Denver.

He stormed from my house and said nothing more. Within the next year, approximately a year, customs repeatedly tried to force me to make this lateral move to Houston.

I always fought the move, they subjected me to medical examinations, fitness for duty type thing, which I thought was an extreme harassment, because of my physical condition at the time. I didn't know if I would walk again.

And, so, from that time, 1972, Mr. Maier really didn't care to have me in the Port of Denver. I think he thought I was a troublemaker there. I was trying to get to the bottom of the hornets' nest and it would be best if I was moved elsewhere.

One of the charges that Mr. Maier and Mr. Raymond made against me at the time was that I could not cooperate with the public at Denver. They said this would be a good reason for you to leave Denver.

I know that the Office of Security and Audit has asked me this question numerous times: Why I had the contact that I did with the importing public in Denver.

It began as a result of this charge against me that I could not cooperate with the public. I began asking around if this were the case. And it seems as if, and they were unsolicited, numerous letters came in to the contrary saying that they had no problems with me as far as public relations, you know, that I could get along with them.

From that point, Mr. Maier I think, chose to use any method that he could to get me out of Denver. In January of 1973 it finally reached a head. Mr. Maier agreed to a personal conference with me regarding my transfer. The reason for this was because in all of my communications with our regional personnel office, including Mr. Biondi, who was the head of the division, no one could give me an answer. In fact, Mr.

Biondi told me very frankly, he said, Mr. Maier is handling it personally. He is not going through the personnel division. We have no chance to even make our suggestions or comments on it. I would suggest you have a conference with him.

I traveled to Houston in January of 1973 and presented, essentially, some of the same facts that were brought out in those investigations of 1971 that you now have before you, and told him that I was not happy with the situation, that I intended to continue to push to find the real causes and get the mess cleaned up at Denver.

I talked with Mr. Maier for about 2 or 3 hours in his office. At the conclusion of that meeting he decided that—well he left the office and he came back and told me he had decided due to financial restrictions to temporarily rescind my transfer from Denver to Houston.

This was, like I say, in January of 1973. Approximately a year of peace transpired then until March of 1974 when continued efforts were made to transfer me to Houston.

I believe it was in April of 1974, again attempting to reach the bottom of the problem of customs at Denver that I went to security and audit myself and requested a reopening of the investigation of 1971 in which no conclusive results happened.

I was interviewed extensively, interrogated, put on tapes, my allegations were stated to security and audit people in April of 1974. And then, shortly thereafter a rumor in Denver had it that I was being investigated.

I missed just one thing in the sequence of things here. Shortly after I requested the reopening of the investigation, I had another personal conference with Mr. Maier. I had also, when I asked for the reopening of customs investigations by security and audit, had written a letter to Senator Haskell requesting that his office look into the matter.

I have in front of me a letter addressed March 11, 1974 to Senator Haskell.

Senator RIBICOFF. You wrote to Senator Haskell in March of 1974 and the investigation concerning yourself began in June 1974. Is that right?

Mr. BROWER. June, I believe, yes, sir.

If I may just quote from the letter—

A copy of my complete file for the past 2 years has been made available to your office. It will help explain in more detail that which is only briefly touched upon in this letter. I am available at your convenience to elaborate upon and explain the present customs picture in Denver.

In closing, I believe the entire customs operation in Denver is worthy of your investigation. My case is only one small part of the whole complex problem compounded by improper management.

I went to Senator Haskell. At the time I also went to Senator Dominick and Representative Brotzman of Colorado. That was in March of 1974. In April of 1974, Mr. Maier met with me in the customhouse in Denver behind closed doors, he and I alone. And he immediately set upon me for seeking, as he put it, congressional assistance.

He very frankly tore me apart with four-letter words for about 10 minutes, which I may add, is not like Mr. Maier. He completely tore me apart for going outside the customs service for seeking some sort of solution to this problem.

In that meeting with Mr. Maier he informed me again that I would be transferred to Houston. I informed him I intended to stay in Denver in any capacity necessary and continue to fight this matter and if I may quote Mr. Maier, he said, "Mr. Brower, I will get you one way or another."

OK, then after this meeting, the investigation continued, a rehashing of the 1971 investigation. And, then as you stated, in June of 1971, very ironically, an investigation was opened on me.

Senator HASKELL. Thank you, Mr. Brower.

I think this aspect of the situation is pretty well laid on the record. I would like to ask Mr. Grubach whether you have any knowledge of the type of abuse that your Audit Division, I forget what the name of it is now, the Security and Audit Division of the Customs, mentioned about the findings in Denver.

The findings in Denver, briefly, were improperly confiscating goods and then using them; overtime; accepting of gratuities, primarily gifts of liquor to speed up clearance; and, an incident when an inspector, whom Mr. Brower as identified as a Mr. Miller, grabbed somebody and threw him against the wall.

Now, are you at all familiar with the abuses that your own Internal Security and Audit Division found in Denver? Are you familiar with what happened?

Mr. GRUBACH. At Denver?

Senator HASKELL. Yes.

Mr. GRUBACH. No; I don't.

Senator HASKELL. Have you heard of any abuses of overtime or any other abuses existing within any region of the Customs Service?

Mr. GRUBACH. Any region of the Customs Service?

Senator HASKELL. Yes.

Mr. GRUBACH. No; I haven't. We have a lot of overtime in Detroit, but we have trouble getting men to work, so we haven't got that type of a problem.

Senator HASKELL [presiding]. So you have no knowledge of that?

Now, Mr. Brower, do you have anything further? I think we have covered the Chilean thing back and forth. I think that the investigation of you, particularly the timing, is pretty well established on the record. I think we have covered that aspect of the situation, but do you have anything further you want to add?

I will ask the same thing of the other gentlemen before we go on.

Mr. BROWER. Yes; regarding my investigation, personally I feel it was a method employed by Customs to bring discredit on me because of my actions, because I was trying to get to the bottom of the problem and would not cease.

I think that the—I am sure that the results of that investigation are in front of you.

Senator HASKELL. Yes; we have that investigation.

Mr. BROWER. And I have had a chance, since my resignation, to read that investigation myself, and I think there were no conclusive findings in that investigation, if I am correct.

Senator HASKELL. That is the way I read it.

I would like to ask you, Mr. Magee, is that correct?

Mr. MAGEE. Well, if I may, just for the record, the investigation involving Mr. Brower actually began September of 1972 with a third party, considerably in advance of the 1974 date.

Senator HASKELL. Do you have a copy of that?

Mr. MAGEE. Yes, sir.

Senator HASKELL. Would you submit that for the record?

Mr. MAGEE. I don't know if this is one that we ordinarily furnished under the Freedom of Information Act or not.

Senator HASKELL. I am just asking if you could submit that one.

Mr. MAGEE. I would like to first check with U.S. attorney in Denver, Colo., who has an interest in this particular matter, before submitting it.

Senator HASKELL. I am asking you. I will ask the chairman when he gets back. We are investigating a rather serious matter concerning the Customs Service. I am asking you, you can refuse if you wish, but I am asking you to submit that investigation for the record. Do you see? I would like to verify the dates.

Mr. MAGEE. Well, there are two 1974 investigations, one initiated at Mr. Brower's request, that has been furnished. Now are you now speaking of the one that involved, perhaps, the question of his own personal involvement.

Senator HASKELL. That's right. I think you just said that began in 1972.

Mr. MAGEE. The investigation leading to that of the third party importer began in 1972. In June of 1974, the importer volunteered Mr. Brower's name.

Senator HASKELL. So the investigation of Mr. Brower commenced in June 1974?

Mr. MAGEE. That is correct.

Senator HASKELL. That is all that is material for this record.

Mr. MAGEE. Very good.

Senator HASKELL. Mr. Raymond, do you have anything further that you would like to add?

Mr. RAYMOND. No; I have no further statements.

Senator HASKELL. Mr. Grubach, do you have anything further?

Mr. GRUBACH. Well, I have some information here that may not relate strictly to Denver, but it will depict conditions that we have in the Detroit district that may respond to your request in a clipping that I found that out of the Denver Post and one out of the Rocky Mountain News dated July 23.

I noted that you were interested in knowing if a national investigation of the Customs Service should be initiated to see whether similar activities are going on throughout the Customs Service.

Now, in line with your wishes, I would like to give a cross-section account of improprieties and illegal activities of various nature that took place and is taking place in the Detroit district with the full backing of the regional commissioner in Chicago and the district director in Detroit, and I believe with some knowledge of the Commissioner of Customs, although I am not certain of that.

Senator HASKELL. I think that would be very material to this hearing, and I would appreciate it if you would proceed.

Mr. GRUBACH. We have a port at the Port of Muskegon. We have a port director there by the name of Fred Peterson, a professional cus-

...toms officer that has many years of Government service, I think about 25, 16 of which was at Muskegon.

Now, I am very concerned about the manner in which professional customs officers are being treated. Mr. Lacy, the regional commissioner, saw fit to divest the port director of his authority and reduce him to an inspector, based on some allegations that were made against his office.

Now, to give you the full run of events and how it happened, I have a whole list of letters, the series of letters which were issued, which I think will point the matter up and show exactly what happened.

The matter started out on a letter from the regional commissioner on August 7 to Mr. Fred Peterson, port director. And he says:

In view of the serious nature of the allegations recently made against your office involving improprieties in the clearance of goods through the Port of Muskegon, I believe it is in your best interest as well as that of the Customs Service to be temporarily relieved of your port director's authority.

This action is being taken only for the time necessary to determine if there is any basis to the allegations and will not involve any loss of your pay or leave.

Effective Monday, August 11, 1975, Mr. Thomas Blanchard is being detailed to serve as acting Port Director. Until an investigation by the Office of the Director of Internal Affairs of these allegations can substantiate the facts involved, you will serve as Port Inspector, under Mr. Blanchard's direction.

Now, Mr. Peterson was quite shocked at this and wanted to protect himself in every way possible. He had to engage an attorney because this was serious. And I can readily appreciate his plight.

So immediately, he wrote a letter to Congressman Vander Jagt explaining this in this manner. He had a conversation with him. He said:

This is, to add further to our conversation on August the 8th. Thank you very much for your consideration and interest in my case.

I have been advised that effective Monday, August 11th, 1975, I have been suspended as United States Customs Service Port Director for the Port of Muskegon, Michigan, for alleged improprieties in the clearance of goods through the Port.

The alleged impropriety involves a three hour delay in releasing sample shipment of steel tubing for the Steel Case Corporation of Grand Rapids, Michigan.

Actually, the real issue is that I refused to carry out an improper order from one of my superiors at regional headquarters.

The shipment in question was an insignificant routine inspection and was to be examined sometime during the afternoon of August 7th.

The officer who was to make the examination had had a conversation with representatives of the Case Corporation late the previous afternoon and had advised him exactly what was required and when the examination would be made.

Either intentionally or otherwise, disregarding our instructions, dispatched a man early on August 8th to journey to Muskegon to pay the duty and pick up the shipment.

At 9:04 a.m., our office received a call from Steel Case stating a man was on his way to pick up the shipment and had it been examined yet. Naturally it had not been. At approximately 10:15 a.m. a man identifying himself as a Steel Case employee appeared at our office. Our examining officer had long since departed for Grand Rapids. There was now no way that we could accommodate Steel Case. I explained the situation and he apparently was satisfied.

However, he no doubt had had instructions from someone at Steel Case, if you don't get the shipment, call me, because at approximately 10:35 a.m., I received a call from the aforementioned individual at our regional headquarters.

He stated, I have just had a call from service headquarters regarding a shipment for Steel Case Corporation, Grand Rapids. What is the deal?

I explained that I know about the circumstances. Actually, I had not been involved in the transaction to this point, except for explaining to the individual who had come to our office.

My superior then said, someone from Steel Case called Congressman Vander Veen and in turn called the commissioner, that is Commissioner Acree's office, who called us. And they want the shipment released.

He then directed me to dispatch another inspector to make the examination. I told him that I could not do that because all of the paper work was with the Inspector in Grand Rapids. Certain papers, invoices and packing lists are vital to making a proper examination of imported merchandise. In this case they were particularly so because we suspected possible underevaluation.

After a heated discussion where I emphasized the routineness and insignificance of the transaction and the impropriety involved in circumventing our regulations, my superior ordered me to send a man to examine and release this shipment because service headquarters said so. I refused.

This suspension is harassment of the highest order and an attempt to get me in line: namely, follow orders whether they are right or wrong. Isn't this what Watergate was all about?

I respectfully ask that you intervene on my behalf and have my suspension set aside until a proper investigation of this matter can be made.

Thank you very much. Thanks also for my appointment with you on August 19th.

Now, Mr. Peterson went to an attorney to protect himself and the attorney wrote a letter to Mr. Jack T. Lacy, Regional Commissioner at Chicago. He said:

Dear Mr. Lacy, Mr. Peterson conferred with this office today regarding your communication of August 7th, 1975. Inasmuch as the communication does not explain the allegations involving improprieties, a request is herewith made for specific and detailed statements thereof.

Also, be advised that we view your procedure as a violation of Mr. Peterson's rights and of such a nature as to create in him a right of action:

It is our contention that any charges made must follow the established grievance procedures. Further, we question the attempt to divest Mr. Peterson of the duties and responsibilities granted to him by the Commissioner of Customs and the Civil Service Commission.

The course of relief which we will recommend to Mr. Peterson will be dependent upon the promptness with which these matters may be resolved.

Since Mr. Peterson has been relieved of his position as Port Director, prior to investigation and without proper charge, he considers himself suspended and unable to serve in an inferior capacity.

The statement of allegations and improprieties, therefore, should issue by return mail. In the interim, request is made to set aside the order of August 7th until the Director of Internal Affairs makes an appropriate investigation.

Mr. Peterson holds himself ready to report for duty daily resuming the position of Port Director and with full authority.

Then Mr. Peterson found that there was an organization, or rather a unit in the Secretary's office which is headed by Mr. Wilbur R. Dezerne, Director of the Office of Audit. This was set up pursuant to the President's concern about the abuse of the merit system.

So, Mr. Peterson directed a letter to him, which is very vital and very poignant. He said:

Dear Mr. Dezerne. Enclosed is a copy of a letter from Mr. Jack T. Lacy, Regional Commissioner of Customs in Chicago to me wherein I am relieved of my authority as Port Director of Customs in the Port of Muskegon and demoted to the rank of Inspector.

Suspension and demotion are a result of alleged improprieties in clearing merchandise through my Port. Through the present moment I have not been advised of what the specific improprieties are. There has been no investigation. There have been no specific charges filed, no hearing, and yet I am apparently guilty of something and the punishment has been meted out.

I feel this is a gross violation of my rights and due process and violates all of the principles of the merit system. The normal chain of command for our service is, Port Director, District Director, Regional Commissioner, Commissioner of customs. The proper procedure would seem to be that alleged violations reported to the region are relayed through the District Director to the Port Director, then an investigation should be conducted.

If the allegations are substantiated, charges are then filed and punishment determined. The offender then has access to appeal procedure.

Regional Commissioner Lacy has violated all proper chains of command and procedures in this instance. I have been denied my constitutional right of being presumed innocent until proven guilty, also I have been deprived of my rights under the merit system.

My authority as Port Director is derived jointly through the Civil Service Commission and the United States Customs Service as described in my position description.

Mr. Lacy has illegally removed that authority from me. I am holding myself available for immediate resumption of my duties as Port Director. I refuse to accept a demotion to the inferior position of Inspector before I have been properly charged, tried and convicted.

The Acting Port Director, with instructions from the Regional Commissioner has classified me as absent without leave. This means that I will not be in a pay status during that time. Loss of my salary will soon become an extreme hardship on me and my family.

In addition, Mr. Lacy's action is a defamation of my character. It is destroying my reputation, my integrity and my career. I have nearly 25 years of honorable government service with an exemplary record.

Ten years ago I was awarded the first outstanding performance award ever given to a Customs employee in the Michigan district. Since then I have received a sustained superior performance award.

I respectfully ask you initiate any action necessary to immediately restore me to my proper position pending results of a proper investigation by your office.

I welcome an impartial investigation. The facts will readily establish that the action taken by the Regional Commissioner was improper and illegal and will prove my innocence beyond a doubt.

Then the attorney took upon himself to protect Mr. Peterson's interests and he also wrote a letter to Mr. DeZerue. He said:

This office has been retained by Fred A. Peterson regarding the suspension of his status as Port Director of Customs for the Port of Muskegon. We have reviewed the matter carefully with Mr. Peterson and we are convinced that he has been denied due process of law not only in the manner in which his job performance has been challenged, but also in the procedure employed.

There has been no definite charges and no investigation of any alleged improprieties. To more fully explain this situation, Mr. Peterson has written the enclosed letter to you with the attached letter from the Regional Commissioner which advises Mr. Peterson of his suspension.

I am also enclosing a copy of the letter which I have addressed to the Regional Commissioner in response to his order. We deem it imperative that the matter be resolved with all promptness and dispatch.

It is highly probable that Mr. Lacy will forestall an investigation of the claimed improprieties because there is no foundation to this claim.

Therefore, we urgently request that Mr. Peterson be reinstated to his position as Port Director and that the matter be investigated to its conclusion following his reinstatement.

We will be pleased to furnish you with any further comments or information you may desire.

Then he received a telegram from Mr. DeZerue.

Senator HASKELL. Mr. Grubach, I wonder, is this all going to be involving Mr. Peterson, all of these letters you have there?

Mr. GRUBACH. Yes, well, no, I have another preparation of general matters.

Senator HASKELL. I wonder if you couldn't submit those letters for the record involving Mr. Peterson. And then if you would go to your description of general matters, I think that would be more appropriate for the hearing.

[The information referred to follows:]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Chicago, Ill., August 7, 1975.

Refer to PER-2-18-RO JTL.

Mr. FREDERICK A. PETERSON,
Port Director, U.S. Customs Service,
Federal Building, Muskegon, Mich.

DEAR MR. PETERSON: In view of the serious nature of the allegations recently made against your office involving improprieties in the clearance of goods through the Port of Muskegon, I believe it is in your own best interest as well as that of the Customs Service to be temporarily relieved of your Port Director's authority.

This action is being taken only for the time necessary to determine if there is any basis to the allegations and will not involve any loss of your pay or leave. Effective Monday, August 11, 1975, Mr. Thomas Blanchard, is being detailed to serve as Acting Port Director. Until investigation by the office of the Director of Internal Affairs of these allegations can substantiate the facts involved, you will serve as a port inspector under Mr. Blanchard's direction.

Sincerely yours,

JACK T. LACY,
Regional Commissioner.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Muskegon, Mich., August 9, 1975.

Congressman GUY A. VANDER JAOT,
Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN VANDER JAOT: This is further to our conversation of August 8th. Thank you very much for your consideration and interest in my case.

I have been advised that, effective Monday, August 11, 1975, I have been suspended as the United States Customs Service Director for the Port of Muskegon, Michigan, for alleged improprieties in the clearance of goods through the port. The alleged impropriety involves a three hour delay in releasing a sample shipment of steel tubing for the Steelcase Corporation of Grand Rapids, Michigan. Actually, the real issue is that I refused to carry out an improper order from one of my superiors at Regional Headquarters.

The shipment in question was an insignificant, routine transaction and was to be examined sometime during the afternoon of August 7th. The officer who was to make the examination had had a conversation with a representative of the Steelcase Corporation late the previous afternoon and had advised him exactly what was required and when the examination would be made. Either intentionally or otherwise, disregarding our instructions, Steelcase dispatched a man early on August 8th to journey to Muskegon to pay the duty and pick up the shipment. At 9:04 a.m., our office received a call from Steelcase stating, "a man was on his way to pick up the shipment and had it been examined yet?" Naturally, it had not been.

At approximately 10:15 a.m., a man identifying himself as a Steelcase employee appeared at our office. Our examining officer had long since departed for Grand Rapids. There was now no way that we could accommodate Steelcase. I explained the situation and he apparently was satisfied. However, he no doubt had had instructions from someone at Steelcase, "if you don't get the shipment, call me", Rajda. What's the deal?" I explained what I knew about the circumstances. Individual at our Regional Headquarters. He stated, "I've just had a call from Service Headquarters regarding a shipment for Steelcase Corporation of Grand Rapids. That's the deal?" I explained what I knew about the circumstances. Actually, I had not been involved in the transaction to this point except for explaining to the individual who had come to our office. My superior then said, "Well, someone from Steelcase called Congressman Vander Veen, who in turn called the Commissioner (Commissioner Acres's office), who called us and they want the shipment released." He then directed me to dispatch another inspector to make the examination. I told him that I could not do that because all the paperwork was with the inspector in Grand Rapids. Certain papers, invoices and packing lists, are vital to making a proper examination of imported merchandise. In this case, they were particularly so because we suspected possible undervaluation.

After a heated discussion, where I emphasized the routineness and insignificance of this transaction and the impropriety involved in circumventing our Regulations, my superior ordered me to send a man to examine and release the shipment, because Service Headquarters said so. I refused.

This suspension is harassment of the highest order and an attempt to "get me in line", i.e. follow orders whether they are right or wrong. Isn't this what Watergate was all about?

I respectfully ask that you intervene on my behalf and have my suspension set aside until a proper investigation of this matter can be made. Thank you very much. Thanks also for my appointment with you on August 19th.

Sincerely yours,

FREDERICK A. PETERSON,
Port Director of Customs.

COCHRAN, VANDER PLOEG, COLLINGE, SILKY & COLE,
ATTORNEYS AT LAW,
Muskegon, Mich., August 12, 1975.

Re: Frederick A. Peterson, PER-2-18-RC JTL

Mr. JACK T. LACY,
Regional Commissioner, U.S. Customs Service, Department of the Treasury,
Chicago, Ill.

DEAR MR. LACY: Mr. Peterson conferred with this office today regarding your communication of August 7, 1975. Inasmuch as the communication does not explain the "allegations . . . involving improprieties", request is herewith made for specific and detailed statements thereof.

Also be advised that we view your procedure as a violation of Mr. Peterson's rights and of such a nature as to create in him a right of action. It is our contention that any charges made must follow the established grievance procedures. Further, we question the attempt to divest Mr. Peterson of the duties and responsibilities granted to him by the Commissioner of Customs and the Civil Service Commission. The course of relief which we will recommend to Mr. Peterson will be dependent upon the promptness with which these matters may be resolved.

Since Mr. Peterson has been relieved of his position as Port Director prior to investigation and without proper charge, he considers himself suspended and unable to serve in an inferior capacity. The statement of allegations and improprieties, therefore, should issue by return mail.

In the interim, request is made to set aside the Order of August 7, 1975, until the Director of Internal Affairs makes an appropriate investigation. Mr. Peterson holds himself ready to report for duty daily to assume the position of Port Director and with full authority.

Sincerely yours,

ALLAN E. VANDER PLOEG,

August 13, 1975.

Mr. WILBUR R. DEZERNE,
Director, Office of Audit,
Department of Treasury,
Washington, D.C.

DEAR MR. DEZERNE: Enclosed is a copy of a letter from Mr. Jack T. Lacy, Regional Commissioner of Customs, Region IX, Chicago, to me wherein I am relieved of my authority as Port Director of Customs for the Port of Muskegon, Michigan, and demoted to the rank of an Inspector. The suspension and demotion are a result of alleged improprieties in clearing merchandise through my port.

To the present moment, I have not been apprised of what the specific improprieties are. There has been no investigation. There has been no specific charges filed, no hearing and yet I am apparently guilty of something and a punishment has been meted out. I feel this is a gross violation of my rights of due process and violates all principles of the merit system.

The normal chain of command for our service is Port Director, District Director, Regional Commissioner, Commissioner of Customs. The proper procedure would seem to be that alleged violations reported to the Region are relayed through the District Director to the Port Director. Then an investigation should

be conducted. If the allegations are substantiated, charges are then filed and punishment determined. The offender then has access to the appeal procedure. Regional Commissioner Lacy has violated all proper chains of command and procedures in this instance. I have been denied my constitutional right of being presumed innocent until proven guilty. Also, I have been deprived of my rights under the merit system.

My authority as Port Director is derived jointly through the Civil Service Commission and the United States Custom Service as described in my position description. Mr. Lacy has illegally removed that authority from me.

I am holding myself available for immediate resumption of my duties as Port Director. I refuse to accept demotion to the inferior position of Inspector before I have been properly charged, tried and convicted. The acting Port Director, with instructions from the Regional Commissioner, has classified me as AWOL (absent without leave). This means that I will not be in a pay status during that time. Loss of my salary will soon become an extreme hardship on me and my family.

In addition, Mr. Lacy's action is a defamation of my character, it is destroying my reputation, my integrity and my career. I have nearly 25 years of honorable government service with an exemplary record. Ten years ago, I was awarded the first Outstanding Performance Award ever given to a customs employee in the Michigan District. Since then, I have received a Sustained Superior Performance Award.

I respectfully ask that you initiate whatever action necessary to immediately restore me to my proper position pending results of a proper investigation by your office.

I welcome an impartial investigation. The facts will readily establish that the action taken by the Regional Commissioner was improper and illegal and will prove my innocence beyond any doubt.

Sincerely yours,

FREDERICK A. PETERSON.

Enclosure.

AUGUST 13, 1975.

Re Frederick A. Peterson, Port Director, Muskegon, Mich.

Mr. WILBUR R. DEZERNE,
Director, Office of Audit,
Department of Treasury,
Washington, D.C.

DEAR MR. DEZERNE: This office has been retained by Frederick A. Peterson regarding the suspension of his status as Port Director of Customs for the Port of Muskegon. We have reviewed the matter carefully with Mr. Peterson and we are convinced that he has been denied due process of law not only in the manner in which his job performance has been challenged but also in the procedures employed. There has been no definite charges and no investigation of any "alleged improprieties".

To more fully explain this situation, Mr. Peterson has written the enclosed letter to you with the attached letter from the Regional Commissioner which advises Mr. Peterson of his suspension.

I am also enclosing a copy of the letter which I have addressed to the Regional Commissioner in response to his Order.

We deem it imperative that the matter be resolved with all promptness and dispatch. It is highly probable that Mr. Lacy will forestall investigation of the claimed improprieties because there is no foundation to his claim. Therefore, we urgently request that Mr. Peterson be reinstated to his position as Port Director and that the matter be investigated to its conclusion following his reinstatement.

We will be pleased to furnish you with any further comments or information you may desire.

Sincerely yours,

ALLAN E. VANDER PLOEG.

Enclosures.

[Western Union mailgram]

FREDERICK A. PETERSON,
Michinda Road,
Whitehall, Mich.

Telegram received. Making preliminary check on facts now. Will contact again when enough information available to decide course of action.

W. DEZERNE,
Director, Office of Audit.

From Acting Director, Personnel Management Division, U.S. Customs Service,
Washington, D.C.

Mr. FREDERICK A. PETERSON,
Whitehall, Mich.

We have received your teletyped message of August 13, 1975, to Mr. Wilbur Dezerne in Treasury. Mr. Dezerne has requested that we look into this matter. We will be in touch with you again as soon as possible.

(Signed) JAMES H. WALKER.

COCHRAN, VANDER, PLOEG, COLLINGE, SILKY & COLE,
ATTORNEYS AT LAW,
Muskegon, Mich., August 15, 1975.

Re: Frederick A. Peterson

Mr. ROBERT E. COLLOGAN,
Treasury Department,
U.S. Customs Service,
Chicago, Ill.

DEAR MR. COLLOGAN: With reference to our conversation of a few minutes ago, Mr. Peterson and I again request that you proceed with your investigation of the matters referred to in the letter sent by Jack T. Lacy to Frederick A. Peterson on August 7, 1975.

Mr. Peterson and Inspector Rodger B. Pietsch were present with us and both offered to confer with you and cooperate with you in conducting your investigation, including the answering of all questions, so that the incident referred to in Mr. Lacy's letter could be clearly identified.

We are advised that your investigation consists of deposing both Mr. Peterson and Mr. Pietsch, however, you refuse to do so with myself present as their attorney. You further insist that your conversations with these men be private but placed on your tape recorder. You will not, however, conduct these conversations if we likewise tape them.

I herewith repeat my request for any regulation or statutory citation upon which you base your position, (1) that Mr. Peterson and Mr. Pietsch are not entitled to have counsel present during either the conferences or deposition, and (2) that the conversations with you cannot be placed on our tape recorder while you are at the same time placing the conversations on your tape recorder.

Mr. Peterson, Mr. Pietsch and myself personally present this letter to you during the session in which you propose to commence your investigation so the factual circumstances surrounding same may be clearly identified and documented. We stand ready, willing and desirous of the immediate commencement of your investigation.

Although you have stated that the incident under investigation related to the office of the Port of Muskegon rather than any personal involvement of Mr. Peterson, you were unable to respond to our inquiry as to any explanation of the incident.

Request is further made for reference to the pertinent sections of the Federal Personnel Manual under which Mr. Lacy has taken action.

Sincerely yours,

ALLAN E. VANDER PLOEG.

P.S.: When I left you at the office of the U.S. Customs approximately one hour ago with the understanding that I would shortly return with this letter, I am advised that you departed the office and checked out of your motel a few minutes after I left you. This letter is, therefore, being mailed to your office.

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Chicago, Ill., August 18, 1975.

Refer to PER-2-18-0 CLB

Mr. FREDERICK A. PETERSON,
U.S. Customs Service,
Federal Building,
Muskegon, Mich.

DEAR MR. PETERSON: This will advise that the preliminary investigation concerning alleged improprieties in the clearance of merchandise through the port of Muskegon has been completed.

The inquiries to date failed to substantiate the allegations received from the importing community. Accordingly, effective August 19, 1975, you will resume the authorities of Port Director of the port of Muskegon.

Sincerely yours,

JACK T. LACY,
Regional Commissioner.

COCHRAN, VANDER PLOEG, COLLINGE, SILKY & COLE,
ATTORNEYS AT LAW,
Muskegon, Mich., August 27, 1975.

Attention: Mr. James DeFrancis

Ré: Frederick A. Peterson, Port Director, Port of Muskegon, Michigan

Senator ROBERT P. GRIFFIN,
Russell Office Building, Washington, D.C.

DEAR MR. DEFRANCIS: I appreciate your telephone call and your expression of concern regarding the suspension of Mr. Peterson from authority as Port Director. As stated to you in our telephone conversation, Mr. Peterson was suspended by the Regional Commissioner under cover dated August 11, 1975 with no further explanation or detail other than what was stated in the letter. Although Mr. Peterson made request for an explanation of the "allegations . . . involving improprieties" no general, much less specific, explanations or charges were ever given to Mr. Peterson.

The fact of the matter is that the situation relates to an incident on August 7 and involves the inspection and release of a shipment (approximately \$17.00 in value) to Steelcase Corporation of Grand Rapids. The shipment arrived at the Muskegon County Airport and Steelcase representatives were advised no less than three times in the morning of August 7 that the goods would be inspected by midafternoon. Such scheduling received the assent of all persons who were party to the conversation. By late morning Mr. Peterson received a call from the office of the Regional Commissioner of Customs and was ordered to go to the airport immediately to inspect the goods and release them. Mr. Peterson had reservations about the stated value of the goods but could not inspect the shipment in any event because the appropriate papers necessary for inspection were with the inspector whose itinerary for that day included inspection of the shipment according to the planned schedule. Nevertheless, Mr. Peterson expedited the matter and the goods were inspected and released before 1:30 the same afternoon. This is our entire understanding of the fact circumstances. To inspect the goods without appropriate papers would have necessitated a circumvention of the regulations. To inspect the goods any earlier in the day would have been an impossibility.

In a conference with Mr. Lacy, the Regional Commissioner, on August 18, 1975, he stated that he felt the so-called improprieties were serious and constituted an emergency. He never offered one scintilla of evidence to substantiate such "seriousness" much less such "emergency," and admitted that he acted on hearsay without ever talking to the complaining parties. As a matter of fact, we do not know if there were any complaining parties. He states, however, that he received a call from the Office of Congressman Vander Veen.

We believe that Mr. Lacy acted irresponsibly and capriciously in issuing the order of August 7, 1975. He did not follow the customary grievance procedures, nor did he utilize the proper chain of command through the office of the District Director. Mr. Lacy explains his unorthodox procedure by claiming an emergency situation. However, as stated above, he is unable to explain how the incident involved an emergency. A relevant reference is taken from a Customs publication which states: "Emergency suspensions are effected promptly and must be supported by conclusive evidence of record that a 'bona-fide' emergency situation does exist". Obviously there was no emergency and there was no conclusive evidence of any sort. Further pertinent references in the same publication recide: "Any proposed suspension should be initiated by the immediate supervisor, through the district director, who will discuss the case with the Regional Personnel Office to insure that statutory and regulatory requirements are observed".

Because the Regional Commissioner took such harsh measures and imposed a disciplinary penalty without prior admonishments, reprimands or warnings, and without any supportive evidence, Mr. Peterson feels seriously grieved. He has distinguished himself in the service of the U.S. Customs Office for approximately 25 years. The Regional Commissioner attests to his "outstanding performance"

as recently as October of last year as evidenced by his letter of commendation of which we enclose a copy.

This incident has brought us into contact and communication with other personnel of U.S. Customs. We find that this is not an isolated incident of bizarre actions by the Regional Commissioner. Other persons have also been the victims of Mr. Lacy's irresponsible exercise of power when they have been guilty of nothing more than faithfully discharging their duties.

It is our desire that an impartial investigation be conducted by the Department of Treasury with all possible dispatch. Mr. Peterson, the members of his staff, and other personnel under the jurisdiction of Mr. Lacy cannot properly function under the threats and antics of the Regional Commissioner.

I will be happy to furnish you with any further information you may desire. Copies of various communications are enclosed for your review and your further edification.

Sincerely yours,

ALLAN E. VANDER PLOEG.

Mr. GRUBACH. I think I have one letter here that sums up the matter. I would like to read that into the record, and that will sum it up.

Senator HASKELL. All right, sir.

Mr. GRUBACH. Here is one that I think it very pertinent. It was after the visit made to Chicago with his attorney, Mr. Peterson received this letter from Mr. Lacy. It says—

Dear Mr. Peterson: This will advise that the preliminary investigation concerning alleged improprieties in the clearance of merchandise through the port of Muskegon has been completed.

The inquiries to date failed to substantiate the allegations received from the importing community. Accordingly, effective August 19, 1975, you will resume the authorities of Port Director of the port of Muskegon.

Now, it is interesting to note that he calls it a preliminary investigation. The investigation he is talking about is a post investigation, which was subsequent to the penalties imposed.

Now, this letter was addressed to Senator Griffin, and also to Congressman Vander Jagt, which sums the whole thing up, and gives a complete picture. I'd like to read that into the record.

Senator HASKELL. Do you think you could submit that for the record? It will be reproduced in full. It looks rather lengthy. We will read it. But we would like to get to the more general matters within your knowledge.

Mr. GRUBACH. OK. This can be done.

Senator HASKELL. Fine.

Mr. GRUBACH. I think we can do that if we have reproducing facilities.

Senator HASKELL. Right.

[The above mentioned letter was submitted by Mr. Grubach:]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Muskegon, Mich., October 9, 1975.

Re: Frederick A. Peterson, Port Director, Port of Muskegon, Michigan

Senator ROBERT P. GRIFFIN,
Russell Office Building,
Washington, D.C.

DEAR SENATOR GRIFFIN: This is in further reference to our earlier appeal to you for assistance in righting a terrible wrong. In my attorney's earlier letter dated August 27, 1975, he related how Mr. Jack T. Lacy, the Regional Commissioner of Customs, Region IX, used blatantly illegal tactics to strip me of my authority as Port Director of Muskegon, in retaliation for my refusal to circumvent Customs law. As you will recall, Mr. Lacy wanted me to depart from

the regulations in order to placate a complainant by acquiescing to demands for "special" treatment.

Because Mr. Lacy's reprisal against me is not an isolated incident, but rather is exemplary of a continuous history of abuse of power, I requested that an impartial investigation be initiated. As yet, there has been no indication that an independent investigation is being conducted. I am writing to you again, because I and so many of my contemporaries strongly believe that such an investigation is vital to the very survival of a viable Customs Service in Region IX. I respectfully urge you to use the auspices of your office for the good of our Service and the public.

Since our earlier communication, I did find out, quite by accident, that Mr. Lacy and his Assistant, Mr. Clarence L. Bingham, visited the Grand Rapids office of Congressman VanderVeen on August 26th, 1975. It was through Congressman VanderVeen's office that the original complaint was made by Steelcase Corporation. The visit by Mr. Lacy and his assistant was made after I had been reinstated to my position, but during the period that the Chicago Regional Customs Office of Internal Affairs was conducting their "independent" investigation, and the Treasury Department's Office of Audit and the office of the Commissioner of Customs were contemplating their own investigations. Such a surreptitious and highly irregular visit by Mr. Lacy, made even while Internal Affairs, the Treasury Department, and the Commissioner of Customs were supposedly conducting their investigations, is a direct violation of our published Code of Conduct rules. It is even a direct violation of his own Regional directive which was circulated to all Region IX Customs officers.

Further, it is additional evidence of Mr. Lacy's continuing practice of flaunting proper procedure, of flagrantly substituting his personally ill-conceived rules for those set out in the Code of Conduct—rules which specifically forbid unauthorized investigations by superiors. I question the likelihood of an impartial investigation by Internal Affairs when it is being conducted under the present circumstances. The offices of the Regional Commissioner and the Director of Internal Affairs are across the hall from one another.

There are several compelling reasons for a truly independent investigation. (1) High management officials, even those not in adjacent offices, are apt to feel protective of their counterparts and perhaps, even unknowingly, let this influence their actions. (2) When Customs officers, who are not familiar with the facts, hear of an errant act of a lower graded official, there is generally little turmoil within the Service, but if the highest ranking official in the region were the offender, the consequences would be shattering. We all take pride in, and have loyalty to, the Customs Service. None of us, including Internal Affairs, want to see our Service tarnished with a national scandal and thus it might seem expedient for Internal Affairs to gloss over breaches by a high official in order to keep the situation on a lower level. This approach would also negate the possibilities of even more troublesome waves for our Headquarters office in Washington, who are already having serious and related problems of their own. (3) The most imperative reason by far for the independent investigation is the very essence of the situation. The Internal Affairs report was requested by Mr. Lacy and their report of investigation will be made directly to him. Reports by Internal Affairs do not make conclusions or recommendations. All subsequent actions are administrative and therefore, beyond the scope of Internal Affairs. Just what these administrative actions will be are at the discretion of Mr. Lacy. The situation is incongruous. Mr. Lacy illegally ordered by suspension. He ordered the investigation. Now he has the sole power to make the decisions. The injustice of this situation is that the Internal Affairs will investigate only what the victim has done and will not delve into the deliberate illegality and violations committed and perpetrated by Mr. Lacy, for which disciplinary action would be truly justified.

Even granting, for the sake of this discussion, that the Internal Affairs report were to be unbiased, there is nothing which would compel Mr. Lacy to base his decisions on the facts set forth in the report. I submit that it is simply not feasible for Mr. Lacy to keep his personal vindictiveness and illegal intentions out of any decision in which he is so personally involved. Mr. Lacy charged me with a rash of "serious improprieties", but I have been totally unsuccessful in my repeated attempts to learn the true nature of the alleged improprieties.

In the meeting my attorney and I had with Mr. Lacy in Chicago during the week I was suspended, Mr. Lacy alluded to an earlier complaint which had been made by a Mr. Jangda. Though I had not been apprised of the complaint before, it seems that Mr. Jangda had complained to Congressman Vander Veen that I had

made an ethnic slur. There is no denying that there have been complaints from citizens who become irritated in their dealings with Customs. This is not peculiar to the Port of Muskegon, but happens at all ports throughout the country. The Detroit District office is replete with such complaints. Regretfully for Customs, some of the complaints are justified, but generally, they constitute a reflection of an individual's misunderstanding of our mission. Ours is an enforcement agency, with the added responsibility of enforcing the laws of numerous other Federal Agencies. At times, complaints may be exaggerated because of the red tape and the inconveniences caused. Perhaps there has been a misjudgment of the attitude displayed by a Customs officer in discharging his duties. In any event, I assure you that any allegation of an ethnic slur on my part has absolutely no basis in fact. Such remarks would be utterly contrary to my feelings and philosophy of life. I consider ethnic slurs to be Unamerican. Further, it is not my way of conducting a professional and heretofore successful Customs business with the public, in and around Muskegon, for the past 13 years, and for three years prior to my appointment to this port. I have a total of 25 years government service; 18 plus in the Customs Service.

I digress by grasping at straws. But is it any wonder? In determining whether I have committed some act which is so serious as to warrant my removal, it would seem necessary to establish what it was that was violated. And so I consider whether it could be a complaint. Could it be the one referred to above? Could it be the more familiar complaint lodged by Steelcase? Preposterous, but according to Mr. Lacy, it was this "rash" of incidents which necessitated his drastic action. We must recognize that complaints cannot be equated with "serious improprieties." Complaints must be investigated to determine whether they have any basis. But "serious improprieties" would have to involve a breach of law or regulations involving some omission or commission which was to the detriment of either an importer or the government. There have been no such violations, nor even any evidence of such violations at any time in Muskegon. The nearest thing to such an occurrence was Mr. Lacy's oral request that we unlawfully release the Steelcase shipment, which of course, we declined to do.

But, according to Mr. Lacy, it was this rash of complaints which precipitated his drastic action. Mr. Jangda in July and Steelcase in August. As indicated, I was not even aware of the Jangda complaint until our meeting in Chicago on August 18th. At any rate, two unrelated complaints hardly constitute a "rash" of anything. Certainly such complaints can, in no way, constitute "serious improprieties" such as Mr. Lacy falsely charged me with and used as a basis for his arbitrary and illegal action. Mr. Lacy admitted that he acted on hearsay without even first having the complaints checked out. We have never been shown anything which could serve as a basis for the charges or what was used to support his allegations of "serious improprieties." Further, it is by understanding that the complainants directed their charges against the port of Muskegon, the Customs laws and regulations controlling imports, but did not direct them against me personally. If this is so, Mr. Lacy's retaliatory actions become even more ludicrous.

If the allegations were of such a serious nature as to require my immediate suspension and demotion, why is it that it took one full week before an investigator appeared at this office? Mr. Lacy is fully aware that the law requires an investigation of charges prior to any adverse action. He has the cart before the horse when he takes the adverse action first and then has an allegation checked; and after imposing an illegal sentence. When Mr. Lacy takes the law into his own hands and flaunts it in anger by impulsively imposing punitive action, he should be held responsible for placing his victim in unwarranted jeopardy and prolonged agony. It would be difficult to predict how long I would have been illegally suspended had I not taken positive action on my own initiative. It was only after I went to Chicago that the belated "investigation" actually commenced.

Unless you were to experience an ordeal similar to the one I have been subjected to, there is no way that I could convey the extent or seriousness of the damage which this has done to the Peterson family and to me personally, both as an individual and as a Customs officer. I had to secure legal counsel and have incurred a considerable debt. The financial loss, however, is inconsequential when compared to the mental anguish we have experienced.

The ramifications of this unfortunate incident is much larger than any personal grief. When the next Customs officer dares to enforce the law against Mr. Lacy's wishes, will he too feel the wrath of Mr. Lacy? Mine is not an isolated incident. Other Customs officers and senior managers have also been the

victims of Mr. Lacy's irresponsible exercise of power to the detriment of the Customs organization, its image and mission, as well as the morale and integrity of its officers. I believe that if this misuse of power is allowed to go unchecked, it will seriously undermine the enforcement effort and credibility of every Customs officer in the Region.

It clearly is time to ask some pertinent questions directly of Mr. Lacy. Specifically and in detail. What were the reasons for his actions? Why were the Civil Service and Customs personnel regulations not followed? Under what authority did he administer a punishment without any supportive evidence, prior admonishment, reprimand, or warning? Why is he permitted to flagrantly violate the personnel laws, regulations, and the Code of Conduct without being subject to disciplinary penalties? Why was the investigation initiated after the imposition of penalties rather than before, and why, in any event, did it take seven days before an investigator began his investigation?

Enclosed are pertinent sections of the Federal Personnel Manual. Note that in every case, an employee against whom adverse action is sought is entitled to written advance notice, stating any and all reasons, specifically and in detail, for the proposed action. The employee is then entitled to a reasonable time for answering such charges. It is clear that I was injured when I was denied due process of law.

The ramification of Mr. Lacy's actions are so far reaching, affecting Customs employees and the Service itself, that we feel it is imperative to determine the legality of such action. This matter, for the good of all Customs officers and the public alike, cannot be swept under the rug or "stonewalled."

In the interest of lawful government, we earnestly solicit your continued assistance in securing a prompt investigation by some independent arm of the government such as the Treasury Departments' Office of Audit or the Congress' investigative arm, the General Accounting Office.

Sincerely yours,

FREDERICK A. PETERSON.

Mr. GRUBACH. Now, this also refers, more or less, to the desire of the committee to find out what else is going on.

Senator HASKELL. Go ahead, sir.

Mr. GRUBACH. All right.¹

Senator RIBICOFF [presiding]. Sir, I have, personally, other engagements, and I will have to leave. Senator Haskell will continue these hearings.

In view of the personal charges made and the person being charged not being present, in all fairness, we will withhold the printing, formal printing of these charges, until such time as those being charged will have an opportunity to respond, to give the person whom you are making these accusations against, to give him an opportunity. He should have the opportunity of responding, either in person or in a written statement.

Mr. Acree, you will inform the people of what has transpired. Copies of this will be made available to whomever is mentioned, and that person should have reasonable time to respond to them, in all fairness.

Mr. ACREE. Mr. Chairman, I appreciate your thoughtfulness and your fairness, and your desire to see equity administered. I am hearing things I have never heard before.

Senator RIBICOFF. I understand that.

Mr. ACREE. All right, sir.

Senator RIBICOFF. Before I leave, if you will pardon me for just one second—Mr. Magee.

Mr. MAGEE. Yes, sir.

¹ STAFF NOTE.—Specific allegations and responses by the parties mentioned may be found in the subcommittee files. They are not included here because of their personal nature and because of the pervasiveness of statements derogatory of personalities.

Senator RIBICOFF. In your investigation of the whole situation around Denver, did you make any ascertainment of the problems of morale or supervision or the work habits in the Denver area?

Mr. MAGEE. No, sir. I have some subjective opinions in that area, but our investigation was limited to those areas that inferred misconduct or impropriety on the part of our customs employees.

Senator RIBICOFF. Well, since you are the one who is in charge, I would like to have your subjective opinions.

Mr. MAGEE. No, sir. The gentleman in charge is Regional Commission Cleburne Maier.

Senator RIBICOFF. But you made the investigation, and this is part of your duty. What are your subjective feelings about Denver?

Mr. MAGEE. Well, subjective feelings—it would be for the record for that, because I have no personal input. I have not been to Denver, and my area of concern is definitely a morale problem. We have had problems there. I think we are addressing those problems.

Senator RIBICOFF. In other words, there is a general morale problem in the Denver area?

Mr. MAGEE. I cannot speak of, at the moment. My information and awareness on this deals with the 1971 area, and somewhat in 1974. I think we would be less than astute if we didn't realize we do have some problems there. And I hope we will be able to address them.

Senator RIBICOFF. Do you think there ought to be a shakeup in the whole situation in Denver?

Mr. MAGEE. Again, I don't want to preempt the testimony of another witness who might be here, but sir, we have made efforts to change personnel there. But we had the limitations of the Civil Service Commission, who appointed an independent examiner who precluded us from moving these people from Denver. There are certain factors that we have not been remiss in trying to address, but we do have certain legal limitations imposed on us by the Civil Service Commission.

Senator HASKELL. What type of investigation did you make?

Mr. MAGEE. We made investigations strictly into the reported improper and illegal acts of the customs employees there. That is our charter for the Office of Internal Affairs.

Senator HASKELL. In other words, you followed up your security and audit. Are you part of the Security and Audit Office?

Mr. MAGEE. Security and Audit is the old terminology for the Office of Internal Affairs. It was changed last year.

Senator HASKELL. Is that what you are?

Mr. MAGEE. I am Assistant Commissioner for Internal Affairs, formerly Security and Audit.

Senator RIBICOFF. Do you mean that Commissioner Acree doesn't have the authority, when he comes across a problem in any of the district offices under his jurisdiction, to give it a good shaking up, if he thinks it is necessary for the good of the Service and the good of the public?

Mr. MAGEE. Only within the limitations of the Civil Service process.

Mr. ACREE. Mr. Chairman, if I may, sir.

Senator RIBICOFF. Yes, sir.

Mr. ACREE. I appreciate having to depart and I would like to give you the benefit of my observations over the last couple of days since I have gotten personally involved in these matters.

I have satisfied myself that every charge that the young gentleman has indicated this morning has been thoroughly and exhaustively inquired into. I am also satisfied that, under the Civil Service regulations and the procedures involved in the taking of adverse actions, that every effort was made by the Customs Service, prior to my becoming Commissioner, to effect some disciplinary actions in these cases. Appeals were undertaken. One, indeed, even got to the Treasury Department on appeal, and the Customs Service was reversed in the action that had been proposed.

So what we have, in short, right now, is the remnants of an administrative effort that has been going on for the last several years, to effect some personnel changes, and we have done so, in terms of downgrading, in terms of discipline, within the limits of the Civil Service regulations that are applicable to all Federal employees.

Senator HASKELL. Commissioner, specifically, a Mr. Miller was one who did all of these things that your own people found were wrong, and he has been promoted—how did that happen?

Mr. ACREE. Mr. Miller was downgraded two grades, as I understand. I'm sorry—I had another one in mind, another gentleman. You say, why was he promoted?

Senator HASKELL [presiding]. That is my question. I guess my question first is, was he promoted?

Mr. ACREE. He was administered, as I understand it, some discipline.

Senator HASKELL. But now, he occupies a higher position in 1975 than he did in 1971; am I correct in that?

Mr. MAGEE. May I try to put things in perspective? I don't believe the Commissioner has—

Senator HASKELL. I just want to know, first, does he occupy a higher position now?

Mr. MAGEE. Disciplinary action was proposed against Mr. Miller, because there was evidence in the investigation he acted improperly. He appealed. He was a grade 11 at that time. He appealed. The totally independent appeal examiner, all the way from California, someplace in California, recommended that the disciplinary action be withdrawn. The Regional Commissioner conferred with his personnel people. They advised him that when an independent examiner asks you, or suggests to you, that the disciplinary action be withdrawn, that it is proper to withdraw it, so therefore, the Regional Commissioner had to withdraw it.

Then, a number—we are speaking of a considerable period of time went by. Therefore, he, much like in any court of law, he had been found innocent, and he cannot be forever denied promotional consideration. He was later promoted titlewise.

Senator HASKELL. It may be too big for the hearing record, but could you submit for our files and inspection by staff, the examiner's finding of innocence of behalf of Mr. Miller. Will you submit that for the hearing record?

Mr. ACREE. It will be submitted, Senator Haskell.²

Thank you.

Senator HASKELL. I think it is important if, in fact, some examiner within the system found the charges were not well taken. We want

² The material referred to was not provided.

to know about it. And I emphasize, we are submitting it for our files. We may put it in the hearing record, if it is not too bulky.

Let us see. Mr. Grubach, you have the balance of your statement. How much more is there to be read?

Mr. GRUBACH. Well, I go into specifics after this. This is just to show what the climate is that existed.

Senator HASKELL. I think we want to hear the specifics, but I think, bearing in mind Senator Ribicoff's statement that we will withhold printing until there has been some opportunity for a response, we will accept the statement in full. I would like to hear the specifics, though, so why don't you go into the specifics.

Mr. GRUBACH. All right. You're going to accept the statement in full?

Senator HASKELL. Yes, the statement will be accepted in full, but I would like to hear the specifics.

Mr. GRUBACH. Would you like me to continue?

Senator HASKELL. Yes, sir.

Mr. GRUBACH. I have listed the specifics under 10 different categories, and these categories are a part of the statement. I won't read them, but I will give you the category, and then the specifics under each category.³

Mr. Grubach, I understand the Commissioner has a luncheon at 12:30?

Mr. ACREE. No, sir. We have a graduation ceremony over at our Training Academy. A number of distinguished Members of the Congress will be present.

Senator HASKELL. What time is it?

Mr. ACREE. That will be at 1:45, sir.

Senator HASKELL. 1:45. I've got to leave at 12:30. Mr. Grubach, if you would not mind, I would like to have the Commissioner come forward and you gentlemen can continue later. I really, basically, will accept your statement for the record, Commissioner. I just have a couple of questions to ask you. Can we do that?

Mr. GRUBACH. Sure.

Senator HASKELL. Then we will resume after lunch. If the Commissioner will come forward.

Mr. ACREE. Thank you.

Senator HASKELL. Commissioner, we will accept your statement for the record, as well as others. We have Mr. Maier, who will be here, so we can ask about the situation in Denver specifically.

I tell you what basically concerns me is the GAO report earlier this year which alludes to the use of overtime all over the Nation by the customs service. This is not just Denver where overtime was used; for example, apparently in Bangor, Maine, somebody who was getting a salary of \$17,000 a year during calendar 1973 piled up overtime of \$25,000. According to the synopsis of this GAO report, it would be possible for Mr. Burton, who is now in charge in Denver, to be paid \$167 for less than 1 hour's overtime. This situation is documented in the GAO report, and apparently stems from a law passed in 1911.

I would like your reaction to this and what you, as the Commissioner of Customs, feel ought to be done.

³ STAFF NOTE.—Specific allegations and responses by the parties mentioned may be found in the subcommittee files. They are not included here because of their personal nature and because of the pervasiveness of statements derogatory of personalities.

TESTIMONY OF VERNON D. ACREE, COMMISSIONER, U.S. CUSTOMS SERVICE

Mr. ACREE. Thank you, Mr. Haskell.

We too received a copy of the GAO report that you had requested the GAO to provide. The GAO did a very workmanlike job, in my judgment, in compiling all of the data that is included in it. I think that it is a fair, accurate representation as to the overtime laws under which the inspectional services of the Federal Government operate. This includes not only the customs service, the Immigration and Naturalization Service, the Public Health Service, the Agricultural Inspectors. And indeed, there may be a few others that also draw overtime pay.

Senator HASKELL. But my understanding, if I may interrupt you, is that those other services don't utilize this overtime pay nearly to the extent of the customs service.

Mr. ACREE. This is correct, sir, and this is primarily due to the fact that over the last years, as I understand it, the Public Health Service and the Department of Agriculture and the other inspectional agencies have gradually withdrawn from the picture, to the end that we find the customs service taking over their inspectional responsibilities.

As a matter of fact, we now, Customs, find ourselves—this is one of the dilemmas that we face, if you read some of the workload data in my opening statement—

Senator HASKELL. I did.

Mr. ACREE. One of the dilemmas we face is that we currently are enforcing over 400 laws for 40 other Federal agencies.

Senator HASKELL. Let me ask you this. Apparently, you have something called WAE's, which I gather stands for "When Actually Employed?"

Mr. ACREE. That is correct, sir.

Senator HASKELL. Why are those people not utilized? Why do you use your top management? Obviously overtime in top management is a lot more expensive than overtime down the line.

Mr. ACREE. We also have a very active and aggressive, and properly so, employee union, and as I have gotten into the overtime picture, and I have our Assistant Chief Counsel, Mr. Kenneth Gubin, who will be able to give you all of the legal details, that very, very frankly, I am not conversant with.

Insofar as the application of the law as it would relate to overtime, the usage of WAE's has historically not been a practice within the customs service.

Senator HASKELL. My question is, Why not?

Mr. ACREE. I would have to get Mr. Gubin here to give you both the legal reasons for it, as well, Senator, as the administrative reasons.

Senator HASKELL. Well, I think that is very desirable. It does not seem quite right—there are other examples; apparently at Dulles an inspector was paid \$18,600 a year, and he piled up roughly \$12,000 in overtime. An inspector at the Seattle airport was paid \$15,000 and piled up \$12,000 in overtime. Something is wrong.

Mr. ACREE. I am not so sure, sir, that you can necessarily compare Bangor, Maine, with the other two cities you mentioned. The inspectors there are involved in a variety of duties; consequently, we have inspecting cargo, and the like. Bangor, Maine, is singular in

a larger inspectional force. By other duties, I mean releasing cargo, that it does not have any cargo. Therefore, it would be imprudent, we believe, to maintain a large permanent work force at Bangor which basically, clears only charter flights. They stop there for refueling and then clearing Customs, Immigration, the other inspectional activities that are involved in passenger clearance, and then they are routed on to their ultimate part of destination.

Senator HASKELL. Commissioner, Mr. Bruton in Denver apparently can perform Sunday inspection work and is paid \$167, often for less than an hour's work. Does that seem right?

Mr. ACREE. It may seem inequitable, Senator, but working our employees as we do, in conformity with the overtime statutes that the Congress enacted, and the tradition of the deployment of our personnel behind us, with the strong employee union orientation that we have, I don't know, absent some congressional relief, that there would be any way I could, as the head of that Agency, effect any administrative change that would lessen the impact on the carriers.

Senator HASKELL. I think what I am asking you is, Would you recommend legislative change?

Mr. ACREE. The only way that this problem, Senator, can be addressed is through legislative change.

Senator HASKELL. Would you recommend it?

Mr. ACREE. Well, I think I have a dual responsibility. I have a responsibility, certainly, to the taxpayers, the carriers, in terms of payment of overtime. I also have a responsibility to our employees. And I can tell you, sir, that if I were to recommend that change, the first union meeting that would be held would be depicting me and the management of the Customs Service as antiemployee and very frankly, sir, I don't like to be cast in that role.

Senator HASKELL. Well, I can understand your reluctance, but it seems to me you should have an opinion as to whether or not you support such a change. I suppose you are torn. However, it does not seem quite right to me to burden the taxpayers with this kind of situation.

Mr. ACREE. Nor the carriers. They carry the great bulk of this overtime.

Senator HASKELL. Nor the carriers. Nor the importers. And furthermore, one of the findings of your own Internal Affairs unit was that the inspection of goods was purposefully delayed into the overtime period. That does not seem right.

Mr. ACREE. No, sir. That would be grossly improper.

Senator HASKELL. And with this peculiar overtime law, it would seem to me that every incentive in the world would exist to do that. Would you not agree with that?

Mr. ACREE. I would have to agree with you, sir. I think human nature would certainly dictate this.

Senator HASKELL. That is just human nature.

Mr. ACREE. That's right.

Senator HASKELL. I agree with you. Well, I think that is the basic thing that I wanted to discuss with you.

Mr. ACREE. I might point out, Senator, in the conclusions and recommendations of the GAO report, as I recall it—I did read it sometime back—there were some recommendations to the Congress that a

review of the overtime statutes applicable not only to the Customs Service but to the other inspectional agencies as well be made. So I think, sir, that would stand as a recommendation.

Senator HASKELL. I think that is about to happen.

Mr. ACREE. Sir?

Senator HASKELL. I think that is about to happen, Mr. Commissioner.

Are you at all familiar with your Internal Affairs audit of the Denver situation involving Mr. Miller?

Mr. ACREE. I am familiar from hearsay, from the hearsay standpoint only, Senator Haskell.

Senator HASKELL. Are you aware that some independent examiner reviewed this situation?

Mr. ACREE. I was so informed the day before yesterday, I was informed that an independent hearing examiner was called in because the regional commissioner, Mr. Maier, according to his words, as I recall them, felt that he could not objectively review the appeal. He then did call, as I recall the briefing I was given, through headquarters, an independent hearing examiner into that particular case. And I was told, as you heard Mr. Magee testify earlier, what the recommendations of that hearing examiner were.

Senator HASKELL. Is that normal procedure? When you have your internal affairs unit make certain findings, I assume the employee then has a right to request an independent examiner. Is that the normal way things go?

Mr. ACREE. Yes, sir. And I might, at this point, correct some misconceptions that the young man on my left has conveyed this morning, that all reports of investigations made by our Office of Internal Affairs come to the Commissioner. That is not a fact. I don't think I have seen but one or two, perhaps, since I have been in that office in 3 years that I have been Commissioner of Customs. Those reports—well, if you go again back to my opening statement, the Customs Service is comprised of a headquarters organization, nine regions, each headed by a regional commissioner who operates in semiautonomous fashion. Under the regional commissioners, we have 48 district directors, who, in turn, supervise and coordinate the activities of approximately 300 ports of entry, each headed by a port director.

When the Office of Internal Affairs conducts an investigation or makes an internal audit into the fiscal or managerial operations of a given office, those reports go to the regional commissioner having responsibility and authority to act in the geographical segment of our country over which he presides, and it is up to him, then to take the action.

If, in the circumstances you describe, sir, the action is to be one that is deleterious to a given employee, that employee has full rights of appeal. He has all of the internal appeal processes that he can utilize.

Senator HASKELL. I am concerned, Commissioner, with the employee; I am also concerned with the public. Apparently, it was not just the employee but the public that was being harassed. Now, do you exercise any oversight whatsoever to see that this does not happen?

Mr. ACREE. I exercise oversight through the managerial structure of the Customs Service, meaning the Assistant Commissioners, meaning the regional commissioners, all of whom report to me.

Senator HASKELL. What happens when you find that something is going on that should not go on at a given port? Do you just depend upon the word of the Assistant Commissioner, or do you have any mechanism to systematically review these wrongdoings?

Mr. ACREE. I have an independent mechanism, the Assistant Commissioner for Internal Affairs, who reports to me, who performs an independent eyes and ears mission, if you will, for the Commissioner of Customs.

Senator HASKELL. That is just right, and that is exactly what happened in Denver in 1971, and yet nobody in that region has noticed much improvement. I just wonder what active part, if any, you took? In other words, your independent eyes and ears reported to you that things were going on that should not go on. Now, where do you go from there?

Mr. ACREE. I don't believe that my independent eyes and ears have reported to me that things were going on that shouldn't have been going on. Individual reports were submitted as to specific—

Senator HASKELL. Now, just a minute. Your own independent eyes and ears reported that at least four customs inspectors at Stapleton have purposely delayed examining shipments of imported goods until after 5 p.m. Now, that should not go on.

Mr. ACREE. That report, sir, was made to the regional commissioner at Houston.

Senator HASKELL. I thought these were your eyes and ears.

Mr. ACREE. The individual complaint investigative reports go to the regional commissioner, if there is an employee accused of an act of misconduct, and it is up to him to assess that measure of discipline which may be appropriate in the circumstances.

Senator HASKELL. Is there nothing at your level that reviews that situation to see that the port is being operated correctly? This is all at the Assistant Commissioner level, is that correct?

Mr. ACREE. The Assistant Commissioner and the regional commissioner.

Senator HASKELL. So you do not have any check to see that your Assistant Commissioners are operating the way they ought to?

Mr. ACREE. Other than to depend on their professionalism as career customs officials and executives.

Senator HASKELL. Thank you, Commissioner. I think that is all the question I have of you.

Perhaps you could have the gentleman who is knowledgeable of this overtime, present this afternoon.

Mr. ACREE. Yes, sir. I certainly shall.

Senator HASKELL. Thank you.

We will recess until 2 p.m.

[The prepared statement of Mr. Acree follows:]

PREPARED STATEMENT OF VERNON D. ACREE, COMMISSIONER OF CUSTOMS

Mr. Chairman, members of the committee, I am Vernon D. Acree, Commissioner of Customs. I have with me today at your request, as specified in your letter of October 8, 1975, the following individuals: Mr. Jay Bruton, Port Director of Customs in Denver; Mr. Cleburne M. Maler, Regional Commissioner of Customs, in Houston; and Mr. Joseph Grubach, Deputy District Director in Detroit.

Also with me and possessing relevant knowledge of the issues at hand are the Deputy Commissioner of Customs, Mr. Glenn R. Dickerson; the Assistant Com-

missioner (Operations), Mr. Roland Raymond; the Assistant Commissioner (Administration), Mr. John A. Hurley; the Assistant Commissioner (Internal Affairs), Mr. William A. Magee, Jr.; the Chief Counsel, Mr. Theodore W. Allis; and Mr. Robert Battard, formerly District Director of the El Paso district in which the port of Denver is located.

We are here at your request to answer any questions regarding the operations of the U.S. Customs Service.

Before addressing the questions of you and your committee members, I feel it would be extremely useful to provide you with background on the mission and organization of the U.S. Customs Service. The Service, which was established in 1789 to enable our then young Republic to impose and collect duties on imported goods, today has the principal mission of enforcing Customs and related laws against the smuggling of contraband; to assess, collect, and protect, the levying of import duties and taxes; and to control carriers, persons, and articles entering or departing the United States by enforcing the Tariff Act of 1930 and administering and enforcing over 400 laws and regulations of over 40 government agencies. During the past fiscal year, Customs cleared over 246 million persons; 75 million cars, trucks, and buses; 128,000 ships; and 353,000 aircraft arriving in the United States. This involved making 77 million baggage examinations and processing 12 million Customs declarations. Additionally there were 47.6 million foreign mail parcels processed requiring over 2 million informal mail entries. In all, Customs collected a record \$4.54 billion in duty and taxes and processed \$100.2 billion worth of imported goods. On the enforcement front, merchandise seized was valued at over \$500 million and there were over 21 thousand drug seizures.

The present organizational structure of the Customs Service is a result of the President's Reorganization Plan No. 1, effective May 25, 1965. In accordance with this plan, Customs today is a decentralized organization, comprised of a Headquarters and nine semi-autonomous Regions headquartered in Boston, New York, Baltimore, Miami, New Orleans, Houston, Los Angeles, San Francisco, and Chicago with authority delegated to the Regional Commissioners for the operation of their Regions. The Regions are further subdivided into 45 Districts and 296 Ports of Entry. Regional Commissioners have further delegated to District Directors line authority to administer the operations of the Ports and Stations under their jurisdiction.

The focus on Denver has already been constructive. In our recent review conducted by the Region and Headquarters of Customs Service activities in Denver we find that there has been a workload growth truly just short of phenomenal. As you know, Denver is an inland port and its major cargo activity has been and is the clearance of in-bond shipments of merchandise delivered by air, rail, and motor vehicles. Much of the workload growth—in numbers, in value, and in complexity—has related directly to the changes in world travel and trade patterns such as containerization. In addition, the Customs Service workload at Denver includes the clearance of passengers from three daily air flights arriving from foreign, and numerous charters and private aircraft arrivals, again all from foreign.

The number of formal entries filed at the port of Denver has risen dramatically from 2,591 in FY 1965 to 8,353 in FY 1975. Total Customs collections have risen substantially in the same period from \$3.1 million to \$12.2 million. Aircraft arrivals have leaped from 358 to 1,340. Passengers cleared have soared from 27,207 to 97,892. With all of this our total strength of full-time employees has increased by only 7 from 1965 to 1975 at the port of Denver. The U.S. Customs Service total work force is and has been stretched to the maximum. Additionally, Customs officers must perform a large number of examinations on importers' premises, particularly for containerized cargo. The cargo facilities at the airport are only minimally adequate. The modifications which are planned for the present totally inadequate Customs Service passenger facility at Stapleton International Airport do little to meet our needs for efficient, economical processing of the fast growing passenger workload and due attention to our enforcement responsibilities which we perform for numerous other Federal agencies.

This is of particular concern to us and, I am sure, to this Committee as the Customs Service does desire that the facilities which we utilize and which are provided by the terminal operator are of quality which will reflect favorably upon our Government to returning citizens and to our visitors from other nations.

We welcome the committee's interest and can assure you that any matters which require resolution which are identified during the course of this hearing will receive prompt and remedial attention.

This concludes my opening statement. My staff and I shall be glad to provide you with further details on Customs mission and organization and to answer any other questions you or the members of the Committee may have regarding the matter at hand.

[Whereupon, at 12:28 p.m., the subcommittee recessed to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Senator HASKELL. The hearing of the Subcommittee on International Trade will continue.

Due to the need to catch airplanes, we will hear first from Mr. Turrill. Then we will hear from Ms. Sorden.

Mr. Turrill is with Ports of Call Travel Service in Denver, Colo.

STATEMENT OF LARRY TURRILL, EMPLOYEE, PORTS OF CALL TRAVEL SERVICE, DENVER, COLO., ACCOMPANIED BY HARLAN BALABAND, ESQ.

Mr. TURRILL. Senator, I would like to thank you for this opportunity to appear before you and the committee.

I do have a prepared text, very short. With me is Harlan Balaband, who is one of our club directors and also our corporate attorney.

I appreciate the opportunity to appear before this committee, as I feel that changes in the law governing the entry of aircraft into the United States are outdated and archaic.

I appear before you with much reservation and deep concern for my fear that testimony here will most assuredly result in additional cost to our organization when clearing customs and immigration in Denver. Our relations by and large have been good with the mandatory agencies which are required and declared at Stapleton International Airport.

The statements and views that I shall make are not new, nor are they startling. I have previously written complaints to our legislative representatives in Washington concerning the high cost of customs and the arbitrary manner in which agents are assigned.

I was concerned this morning when I heard the Director of Customs state that he would be afraid to suggest a change in the law, for fear that he might be considered antiemployee. It is this attitude that gives us great concern.

We are proud to say that we have a facility in Denver that exceeds most facilities available in the United States today for clearing customs and immigration. It is efficient as well as functional. With four customs agents we can clear 96 passengers and a crew in less than 40 minutes from the time the aircraft stops at the gate.

Our members have been trained in the proper procedure for clearing customs and are advised on their departure from Denver what they can and cannot bring back with them on their return. This helps to expedite our clearing and greatly reduces the amount of time and effort required by the customs officials.

Our relations with the Customs Bureau over the years have been both good and bad. Certain agents have taken advantage of their position to make clearing as difficult as possible and lengthy, if it would create additional income through overtime. On a return flight from Alaska on July 19, 1978, we were required to make an unscheduled stop at White Horse, Canada, for fuel, as Juneau was closed to traffic at that time. White Horse, I might add, is the listed alternate airport for Juneau, and the temporary landing of U.S. aircraft there is not uncommon.

On arrival at White Horse, we were placed in a special impound fueling area, and a Canadian customs agent boarded the aircraft. No one was allowed off the aircraft during the refueling operation, and a general declaration stating all of the above was obtained from Canadian Customs prior to departure from White Horse. The flight then proceeded to Denver.

The following morning, I went to the customs office with a copy of the general declaration and explained what had happened. I also stated that I did not know if I should have advised them of our technical fuel stop or not, considering that no one got off the aircraft, and it did not seem that they had, in fact, been in a foreign country, as we were returning from Alaska. Several of the agents on duty did not know the regulations either, and so I left.

That afternoon I was called, properly chastised for not notifying customs of this technical fuel stop, and the aircraft was placed under constructive seizure, and a fine of \$1,000 was levied against the club. I have copies of these documents, if the committee so desires to have them.

[The following material was submitted by Mr. Turrill:]

Ports of Call petitions for administrative relief from case number 74-2405-10008 on the following grounds.

1. Ports of Call was scheduled to depart Gustavo Airport Alaska and make a fuel stop at Juneau, Alaska. At the time of departure we were advised that Juneau was below landing minimums and that fuel was available at Whitehorse, Canada, which is the alternate airport for Juneau. On arrival at Whitehorse none of the passengers were allowed off the aircraft during the fueling operation and Canadian Customs were on board the entire time. On departure we received a general declaration from Canada stating that the passengers were not allowed off the aircraft. In view of this we thought that a customs inspection was not required as this was an emergency stop for fuel only. The following morning Denver Customs were advised of our stop and a copy of the general declaration was given to them, copy enclosed. This general declaration clearly states that the passengers were not off the aircraft and we felt in view of this that customs inspection would not be required. Several Customs inspectors were also unaware of whether or not we were in fact actually in violation of any regulation until they checked.

We petition the administrator for relief from the fine on the grounds that we were under the belief that what we did was right and proper. We would also like to assure the administrator that Customs will be advised under all future circumstances where an emergency landing is made in a foreign country.

THE DEPARTMENT OF THE TREASURY BUREAU OF CUSTOMS 2211, 2226, C.M.		Case Number 74-2403-10008	
NOTICE OF PENALTY OR LIQUIDATED DAMAGES INCURRED AND DEMAND FOR PAYMENT		Part Name and Code DENVER 7-35	
		Date	
		Investigation File No	
TO: [DOUGLAS E. UNDERWOOD PORTS OF CALL TRAVEL CLUB STAPLETON AIR FIELD 3400 SYRACUSE STREET DENVER, COLORADO]			
DEMAND IS HEREBY MADE FOR PAYMENT OF \$ <u>1,000.00</u> , representing <input type="checkbox"/> Penalties or <input checked="" type="checkbox"/> Liquidated Damages assessed against you for violation of law or regulation, or breach of bond, as set forth below:			
Failure to notify Customs of the arrival of aircraft N-6354C from Canada on July 19, 1973, in violation of section 6.2(b) Customs Regulations.			
Failure to present to a customs officer 97 (passengers and crew) who arrived this country from Canada and discharged at the port of Denver, Colorado in violation of section 6.2(c) Customs Regulations.			
(continue facts on reverse)			
LAW OR REGULATION VIOLATED		BOND BREACHED	
Sec. 6.2(b) CR Sec. 6.2(c) CR			
DESCRIPTION OF BOND (if any)	Form Number	Amount \$	Date
Name and Address of Principal in Bond			
Name and Address of Surety on Bond			Surety Identification No.
If you feel there are extenuating circumstances, you have the right to petition for administrative relief. Such petition must be executed in (duplicate) (triplicate), addressed to the Commissioner of Customs, and must be forwarded to <u>Room 119, New Customhouse, Denver, Colorado 80202</u>			
Unless the amount herein demanded is paid or a petition for relief is filed with the District Director of Customs within 60 days from the date hereof, further action will be taken in connection with your bond or the matter will be referred to the United States Attorney.			
Customs Form 895-A (3/70)		GPO 84-438	
		DISTRICT DIRECTOR OF CUSTOMS ROBERT N. BATTARD BY: <i>Kelly Lipp</i> ACTING PORT DIRECTOR-DENVER	

VI-RC-30

BUREAU OF CUSTOMS
REGION VI

23.11(a), 23.23(a) C.R.
23.23(a) C.M.

SPECIAL RECEIPT

RECEIPT FOR MERCHANDISE RETAINED IN CUSTOMS CUSTODY AND NOTIFICATION OF
FINES, PENALTIES AND/OR DUTIES, IF ANY

District No. 24, Port of Denver, Colorado Date July 20, 1973

Received from:

DOUGLAS E. UNDERWOOD
PORTS OF CALL TRAVEL CLUB
(Name)
STAPLETON AIR FIELD
3400 SYRACUSE STREET, DENVER, COLORADO
(Address)

The following articles:

1 DC-8 AIRCRAFT, N-6954C (CONSTRUCTIVE SEIZURE)
DO NOT DISPOSE OF OR ENCUMBER until final resolution of this case.

Total No. _____
of 1
Pieces

Vehicle detained (Sec 594 T.A. 1930) _____
for payment of penalty. Yes () No () J. Kelly Ryan
(Signature of Customs Inspector)

The following FINE (), PENALTY () and/or DUTY () is due the Government for
violation of the Customs Revenue laws as stated hereon.

SEIZURE NO.: 74-2405-10009 DOMESTIC VALUE OF MDSE: \$100,000.
LAW VIOLATED: Sec. 6,2(b)(c) CR FINE OR PENALTY INCURRED: _____
DUTY DUE: _____

If you feel there are extenuating circumstances, you have the right to petition
for administrative relief. Instructions regarding the preparation and filing
of petitions are on the reverse side of this form.
All petitions must be in writing, as an oral request for relief is not acceptable.

W31

GENERAL DECLARATION

OUTWARD/INWARD

SIAPK 7011 FLD,

Owner or Operator PARIS OF CALL TRAVEL CLUB ORINIER CULD

Marks of Nationality and Registration N 6354C Flight No. 292C Date JULY 14/73

Departure from VXV DIJON Arrival at DIJON 0830

FLIGHT ROUTING ("Place" Column always to list origin, every en route stop and destination)		
Place	1 TOTAL NUMBER OF CREW	2 NUMBER OF PASSENGERS ON THIS STAGE (DEPARTURE PLACE)
<u>DIJON</u>		Emberking
<u>VXV</u>		Through on same flight
<u>DIJON</u>		
<u>CREW</u>	<u>7</u>	Cargo manifests attached
<u>PASS.</u>	<u>90</u>	NUMBER OF PASSENGERS ON THIS STAGE (ARRIVAL PLACE)
		Disemberking
		Through on same flight

<p align="center">DECLARATION OF HEALTH</p> <p>Persons on board known to be suffering from illness other than sickness or the effects of accidents, as well as those cases of illness disembarked during the flight</p> <p>.....</p> <p>Any other condition on board which may lead to the spread of disease</p> <p>.....</p> <p>Details of each disinsecting or sanitary treatment (place, date, time, method) during the flight. If any disinsecting has been carried out during the flight give details of most recent disinsecting</p> <p>.....</p> <p>Signed if required</p> <p align="center"><small>Crew member concerned</small></p>	<p align="center">FOR OFFICIAL USE ONLY</p> <p><u>Fuel stop only</u></p> <p><u>Passengers did not de-Plane</u></p> <p align="center"><u>1115</u></p> <p align="center">.....</p> <p align="center">.....</p> <p align="center">.....</p> <p align="center">.....</p> <p align="center">.....</p> <p align="center">.....</p>
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I declare that all statements and particulars contained in this General Declaration, and in any supplementary forms required to be presented with this General Declaration are complete, exact and true to the best of my knowledge and that all through passengers will be/have been re-embarked.

Signature D. E. Henderson
Authorized Agent or Pilot in Command

1 To be completed only when required by the State.
 2 Not to be completed when passenger manifests are presented and only when required by the State.

Mr. TURRILL. Overtime charges and who gets the soft duty is a disgrace to our country and an affront to our society. Sixteen hours' pay for one hour's work cannot be justified by any other branch of our Government. The law written about the time the Wright brothers were trying to fly is not relevant today. A law that legally permits a man to make as much as 6 days' pay in 1 day should be examined—a law, we are told, that prohibits part-time employees, customs inspectors, from working on Sunday but permits these same inspectors to work during the week, when the rate of pay may be a paltry 4 hours for an hour's work.

I have with me, Senator, a list of all of the customs flights made for the first 9 months of 1975. We cleared 60 aircraft through customs in this 9-month period. This represents 5,507 passengers, or an average of 92 passengers per flight. The cost for this service amounted to a staggering \$19,558.02.

Senator HASKELL. Would you go over that again?

Mr. TURRILL. We cleared at our facility at Stapleton in Denver 60 flights in the first 9 months of this year, an average of 92 passengers per flight, 5,507 passengers. And we paid, for customs and immigration, \$19,558.02.

Senator HASKELL. How much of that was overtime?

Do you know?

Mr. TURRILL. That was all overtime.

Senator HASKELL. Do you have a schedule of when those flights landed?

Mr. TURRILL. Yes, I do.

Senator HASKELL. Would you leave with the committee a schedule of when those flights landed?

Was your \$19,000—that was your total. Was it all overtime?

Mr. TURRILL. It was just for the first 9 months of this year.

Senator HASKELL. Please leave a schedule of when the flights landed.

Mr. TURRILL. I will be happy to do so.

[The following material was submitted by Mr. Turrill:]

SCHEDULE OF OVERTIME PAID—CUSTOMS, AGRICULTURE, IMMIGRATION—PORTS OF CALL TRAVEL CLUB, DENVER, COLO.

9 months—Jan. 1.—Sept. 30, 1975

From	Date	Day	Time (p.m.)	Number in group	U.S. Customs			Agriculture			Immigration		
					Number of inspectors	Amount	Hours	Number of inspectors	Amount	Hours	Number of inspectors	Amount	Hours
Acapulco	Jan. 4, 1975	Saturday	5:30	96	4	113.60	1	4	48.48	1	1.05	20.24	
Mazatlan	do	do	6:30	96	4	124.28	1	4	48.48	1	.95	31.76	
Do	Jan. 8, 1975	Wednesday	6:30	93	3	285.07	2	4	60.16	1	(¹)	131.04	
Do	Jan. 12, 1975	Sunday	7:30	73	4	120.98	1	4	48.48	1	.35	36.72	
Acapulco	Jan. 18, 1975	Saturday	5:30	86	5	148.96	1	4.5	54.54	1	1.5	32.76	
Mazatlan	Jan. 22, 1975	Wednesday	6:30	94	6	391.48	2	6.5	105.60	2	1.60	277.92	
Acapulco	Jan. 26, 1975	Sunday	5:30	97	4	363.00	1	5	60.60	1	2	65.52	
Mazatlan	do	do	8:00	97	1	11.43	1	4	48.48	1			
San Andres	Feb. 12, 1975	Wednesday	8:00	95	4	232.16	1	4	48.48	1			
Mazatlan (crew only)	Feb. 22, 1975	Saturday	5:15	6	4	500.48	2	4	60.16	1	(¹)	36.72	
Mazatlan	Feb. 26, 1975	Wednesday	7:30	96	4	121.96	1	3	36.36	1	.25	131.04	
Do	Mar. 2, 1975	Sunday	7:30	95	4	(¹)	1	3	36.36	1	.30	32.76	
Do	Mar. 8, 1975	Saturday	6:15	95	4	121.96	1	3	36.36	1	3	64.24	
Eleuthera	Mar. 9, 1975	Wednesday	7:30	85	4	121.96	1	3	36.36	1	.30	36.72	
Mazatlan	Mar. 12, 1975	Wednesday	7:30	139	5	301.52	1	4	48.48	2	.30	69.48	
Cozumel	Mar. 13, 1975	Thursday	7:30	95	3	189.60	1	4	48.48	1	(¹)	131.04	
Mazatlan	Mar. 16, 1975	Sunday	7:30	139	5	288.00	1	4	48.48	2	.50	69.48	
Merida	Mar. 19, 1975	Wednesday	7:00	96	4	405.67	2	3.5	57.02	1	.30	32.76	
Mazatlan	Mar. 22, 1975	Saturday	7:30	96	4	152.50	1	2	24.24	1	1.95	73.44	
Guadaluajara (crew only)	do	do	8:00	6	4	340.80	1	5	60.60	1	(¹)	131.04	
Mazatlan	Mar. 26, 1975	Wednesday	7:30	95	6	369.52	X						
Guadaluajara	Mar. 30, 1975	Sunday	9:30	98	4	369.52	2	4	60.16	1	2.05	65.52	
Mazatlan	Mar. 30, 1975	Sunday	7:30	97	4	227.52	1	5	60.60	1	.35	32.76	
Do	do	do	8:30	97	4	389.86	1	4	60.16	1	(¹)	131.04	
Guadaluajara	Apr. 2, 1975	Wednesday	11:00	95	4	258.40	1	4	48.48	1	1.25	36.72	
Guadaluajara	Apr. 2, 1975	Wednesday	11:00	95	4	487.20	1	4	48.48	1	(¹)	146.88	
Grand Bahamas	do	do	8:45	77	4		2	4		1			
Mazatlan	Apr. 5, 1975	Saturday	8:15	88	4		1	5		1			
Puerto Vallarta (crew only)	Apr. 6, 1975	Sunday	6:30	6	4		2	4		1			
Nassau	Apr. 9, 1975	Sunday	7:15	78	4		2	4		1			
Mazatlan	Apr. 9, 1975	Wednesday	7:15	72	4		1	4		1			
Do	Apr. 13, 1975	Sunday	7:15	83	4		1	4		1			
Puerto Vallarta	Apr. 13, 1975	Sunday	8:15	97	5		1	4		1			

SCHEDULE OF OVERTIME PAID—CUSTOMS, AGRICULTURE, IMMIGRATION—PORTS OF CALL TRAVEL CLUB, DENVER, COLO.—Continued

From	Date	Day	Time (p.m.)	U.S. Customs				Agriculture				Immigration			
				Number in group	Number of in-pectors	Amount	Number of in-pectors	Hours	Amount	Number of in-pectors	Hours	Amount	Number of in-pectors	Hours	Amount
Mazatlan	Apr. 19, 1975	Saturday	7:15	91	4	240.00	1	4	48.48	1	50	32.76			
Acapulco	Apr. 20, 1975	Sunday	9:00	91	4	464.16	2	4	60.16	1	(1)	75.90			
Mazatlan	Apr. 23, 1975	Wednesday	8:15	59	3	183.04	1	4	48.48	1	(1)	35.72			
Acapulco	Apr. 26, 1975	Saturday	7:15	77	3	186.00	1	4	48.48	1	(1)	32.76			
Mazatlan	Apr. 27, 1975	Sunday	7:15	79	4	529.00	2	4	60.16	1	(1)	43.68			
Belize	Apr. 30, 1975	Wednesday	8:45	95	4	236.72	1	4	48.48	1	(1)	36.72			
Freeport, Bahamas	May 4, 1975	Sunday	3:45	89	5	408.94	2	4	60.16	1	(1)	146.88			
Puerto Vallarta	May 7, 1975	Wednesday	5:45	139	5	239.36	1	6	72.72	2	3	101.04			
do	do	do	8:30	66	4	251.54	2	4	60.16	1	(1)	128.48			
Freeport, Bahamas	May 11, 1975	Sunday	3:45	62	3	159.52	1	4	48.48	1	(1)	32.76			
Guadalajara	May 14, 1975	Wednesday	7:45	68	3	183.04	1	4	48.48	1	(1)	35.72			
Mexico City	May 21, 1975	do	7:15	70	5	242.12	1	4.5	54.54	1	(1)	36.72			
Mazatlan	May 28, 1975	do	8:15	98	4	250.48	1	4	48.48	1	(1)	36.72			
do	June 1, 1975	Sunday	7:15	90	4	198.48	2	4	60.16	1	(1)	73.44			
Grand Cayman	June 18, 1975	do	7:15	96	4	339.41	2	4	60.16	1	(1)	135.04			
Mazatlan (crew only)	June 28, 1975	Saturday	5:15	6	4	12.36	1	4	48.48	1	3.95	36.72			
Mazatlan	July 2, 1975	Sunday	7:00	96	4	327.97	1	4	48.48	1	2.75	146.88			
do	July 6, 1975	Sunday	7:00	86	4	226.76	1	4	48.48	1	(1)	32.76			
Mexico City/Tasco	July 12, 1975	Saturday	8/15	83	(1)	(1)	(1)	4	48.48	2	(1)	125.12			
St. Lucia	July 13, 1975	Sunday	6:00	139	5	419.92	1	4	48.48	2	(1)	281.92			
Victoria	July 27, 1975	do	6:00	137	5	278.81	1	4	48.48	2	(1)	281.92			
do	Aug 3, 1975	do	5:00	147	5	178.44	2	4	60.16	2	(1)	283.76			
Bermuda	Aug 17, 1975	do	8:00	115	5	400.00	2	4	60.16	2	(1)	64.52			
Portugal/Spain	Sept 20, 1975	Saturday	7:30	96	4	325.00	2	4	60.16	1	(1)	33.76			
Acapulco	Sept 21, 1975	Sunday	(1)	380	5	500.00	2	4	60.16	2	(1)	300.00			
Mystery (3 planes)	Sept 28, 1975	do	(1)	5, 607	12, 709.94	2, 30	2, 483.50	45	4, 354.58	79					
Total															
Average per person															
Total Customs, Agriculture, Immigration															
Average cost per person—5,507 persons															

1 Sunday
 2 Fort Lauderdale, Fla.
 3 Estimated
 4 6:45, and 7:30 a.m.

Mr. TURRILL. This averages out, Senator, \$3.50 per person. This in itself may sound reasonable to some, not to me. Weekday flights are manned by four customs agents, one immigration and one agriculture. Sunday flights may require up to five customs, two agriculture, and two immigration inspectors for the same number of people on the aircraft.

You may logically ask, why not schedule our flights to return during normal port hours. We have discussed this with Mr. Miller, who is head of the airport customs. He has advised us that landing rights during normal working hours cannot be approved, due to other commitments. The earliest that we can schedule a flight to arrive in Denver is 5:15 p.m., which is the first period of overtime on weekdays. However, Sunday seems to be no problem, even though the foreign carriers—that is, Western and Mexicana—operate 7 days a week.

To summarize, we feel that a law that is older than most of us, written in an era of trolley cars and steamships, a law that favors those in authority, who can assign as they see fit to benefit themselves and their friends, also leads to corruption.

In my opening statement, I expressed concern over reprisal in our future flights requiring customs and immigration inspection in Denver. I again state my concern for the future but have made these statements today because of my belief in the American system of equality.

The law must be changed. The agents must be compensated for overtime work performed, but on a fair and an equitable basis, predicated on 1975 values and not on those of a half-century ago.

That is the end of my prepared text, Senator. I would like to add that I do have some possible suggestions for the problem in Denver.

Denver is an international airport, and, as such, could conceivably operate at the airport on a 1 p.m. to 9 p.m. schedule, which would eliminate much of the overtime. It should be considered as a 7-day-a-week port, giving days off in the middle of the week, so that the port could be manned on a regular basis 7 days a week from 1 to 9 p.m.

The Port of Newark, N.J., just recently opened for arriving foreign aircraft, and they are operating from 1 in the afternoon to 9 p.m. as regular working hours. This would eliminate much of the overtime.

Senator HASKELL. Thank you, Mr. Turrill.

First, if you experience any reprisals, I would like to be the first one to know.

Mr. TURRILL. I would be happy to comply.

I was referring to the Commissioner of Customs earlier today, earlier in my speech.

Senator HASKELL. Right, I understand.

You were told, I gather, then, by Mr. Miller that your flights could not arrive before 5 o'clock in the afternoon?

Mr. TURRILL. That is correct.

Senator HASKELL. Would you also provide for the record a list of international flights arriving at the Denver airport each day of the week, so we can examine the workload on weekdays, as opposed to weekends?

Mr. TURRILL. This information, Senator, would have to come from either the Bureau of Customs or the airlines involved. You have, to my knowledge, two international carriers, Western that comes in once a day, sometimes twice a day, from Calgary; and you have Mexicana that operates 7 days a week from Mexico. Their exact schedule, I am sorry, I am not aware of.

Senator HASKELL. I will ask staff to obtain that from the airlines. I presume, the customs could find out as well, Mr. Magee?

Mr. RAYMOND. Yes, sir, they could.

Senator HASKELL. Maybe, Mr. Raymond, you could provide that for the record.

Mr. RAYMOND. We will do that, sir.

[The following material was submitted by Mr. Raymond:]

U.S. GOVERNMENT,
DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
November 11, 1975.

File: PER-15-O:I:R R

To: Assistant Commissioner, (Operations), Attn: Program Planning Staff

From: Acting Director, Inspection and Control Division

Subject: Requested Information on Denver

The following information on Denver is provided as requested:

1. The following is submitted as evidence of the substantial growth in numbers of aircraft and passengers arriving in Denver since January 1, 1973, and contributing to staffing and scheduling difficulties for Customs.

	Calendar year—		
	1973	1974	1975 ¹
Aircraft.....	1,354	1,581	1,797
Passengers.....	77,413	95,401	102,821

¹ Projected figures based on 1st 3 quarters 1975.

2. The report of total overtime earnings for CY 74, which is attached, provides the overtime earnings of the Port Director, only, since March 3, 1974 when he was assigned to Denver. The second attached report of overtime earnings is for CY 75 which includes the Port Director for this year to September 27, 1975.

CHARLES C. GASKETT, Jr.,
(For John D. Robison).

Attachments.

U.S. GOVERNMENT,
DEPARTMENT OF THE TREASURY,
UNITED STATES CUSTOMS SERVICE,
November 5, 1975.

MEMORANDUM

File: AIR 4-O:I:R RM

To: Assistant Commissioner (Operations) Attn: Program Planning Staff

From: Acting Director, Inspection and Control Division

Subject: Scheduled Airline Arrivals in Denver for CY 1974 and 1975

The following information is furnished as requested on the scheduled airline arrivals in Denver for CY 1974 and 1975.

Airline	Flight No.	Time of arrival	Frequency
1974:			
Western.....	1 543	10:11 a.m.....	Daily.
Do.....	481	3:56 p.m.....	Do.
Do.....	483	7:16 p.m.....	Do.
Mexicana.....	916	Standard time 1:40 p.m. ³	Do.
1975:			
Western.....	4 543	10:25 a.m.....	Do.
Do.....	481	4 p.m.....	Do.
Do.....	483	9 p.m.....	Do.
Mexicana.....	916	Standard time 1:40 p.m. ⁷	Do.
Do.....	918	12:15 p.m.....	Saturday only.
Do.....	918	11:45 a.m.....	Monday, Wednesday, and Saturday.

- ¹ Effective Dec. 2, 1974, arriving 10:25 a.m.
² Flight canceled Sept. 9, 1974.
³ Daylight savings time 4:40 p.m.
⁴ Effective June 1, 1975, arriving 10:50 a.m.
⁵ Effective June 1, 1975, arriving 3:55 p.m.
⁶ New flight effective June 1 to Sept. 9, 1975.
⁷ Daylight savings time 2:40 p.m.
⁸ New flight effective July 1, 1975.
⁹ New arrival time and 2 additional flights effective Nov 15, 1975.

JOHN D. ROBISON.

Senator HASKELL. Has this situation that you describe been in existence for some years?

Mr. TURRILL. As long as I have had knowledge of the customs rules, and that is going back about 8 years.

Senator HASKELL. Has it ameliorated in any way in the last few years?

Mr. TURRILL. No. I think it is bad or about the same, as near as I can tell. However, our activity in the last several years has increased tremendously.

Senator HASKELL. Do you have any other complaints about the operation of the Customs Service in Denver, other than the overtime?

Mr. TURRILL. No; not really.

Senator HASKELL. All right, sir.

Well, I thank you very much for appearing. I can understand why, things being as they are, you were reluctant to appear. I want to congratulate you and repeat again, if anything occurs that you consider a reprisal, please let me know.

Thank you, gentlemen, very much indeed.

Mr. TURRILL. Thank you.

Senator HASKELL. Our next witness will be Ms. Frances Sorden, with REA Express.

Mr. BRIODY. Mr. Senator, first of all, let me introduce Ms. Sorden. She is our broker at Denver.

I am Michael Briody, Director of Economic Regulation, REA, in New York.

We have no prepared statement. Ms. Sorden's deposition was taken in this matter in 1971. I believe it is available to the committee. Ms. Sorden received a letter asking her to appear here to add anything to that that may be germane.

She has primarily just two items of testimony. One has to do with the use of overtime in the port, and the other one would have to do with certain clerical practices of the customs, which she feels might have some deliberating effect on the public, such as occasional brokers. And of course, she would answer any questions that she would have knowledge about.

Senator HASKELL. Proceed, Ms. Sorden.

STATEMENT OF FRANCIS SORDEN, BROKER, REA EXPRESS, DENVER, COLO., ACCOMPANIED BY MICHAEL BRIODY, ESQ.

Ms. SORDEN. As far as the overtime is concerned, in the 1971 investigation we reported, not only were overtime requests, work delayed past 5 o'clock so that it was on overtime, but I personally witnessed one of the inspectors who had received an overtime request from REA for a passenger coming in on Western Airlines in 1971. I went over and asked if we could get the shipment cleared that he was hand-carrying. And I was told by Mr. Miller, yes, if you put in a request for overtime, even though the freight would be at Western Airlines at 4:30.

I immediately put in the request for overtime. The customer came over to my office from the flight. He was trying to make a 6 o'clock flight to Texas, and he was nervous. So I said, well, let us go up to Western Airlines, and we will wait up there at their freight office, and the minute the inspector walks in and releases the shipment, you can leave.

We were there at 25 minutes to 5. At 20 minutes to 5, Inspector Angelo walked in and released the merchandise. The overtime request was not killed. We were subsequently sent a bill which we had to pay. However, it was prorated to another overtime job that he did do after 5 o'clock, so that we only had to pay half of the overtime for our customer. But this was before 5 o'clock on an overtime.

Senator HASKELL. In other words, you know that you paid overtime? You know this of your own knowledge?

Ms. SORDEN. Yes, sir.

Senator HASKELL. And the inspection actually was made before 5 o'clock in the afternoon?

Ms. SORDEN. At 20 minutes to 5.

Senator HASKELL. Has your company ever remitted any of the portion of the overtime pay?

Ms. SORDEN. No.

Senator HASKELL. This again was what date?

Ms. SORDEN. August 16, 1971.

Senator HASKELL. Thank you very much.

Ms. SORDEN. After the investigation, the overtime requests did close off. There have been no more where they have deliberately waited until after 5 o'clock. However, since the newspaper articles have come out about the overtime, now when there is a necessity for having overtime, it is hard to convince the inspectors that you have to have it, that your customer requires it for some special reason.

Some of them are refusing to work overtime when it is something that is immediately after 5 and there is no way to get it there before 5. And it is right on the dock, the airport dock. It is not like going clear across town or something. Now it is becoming hard to get overtime after the publicity.

Senator HASKELL. Has any customs officer, to your knowledge, ever asked for any special favor or gratuity?

Ms. SORDEN. Not to my exact knowledge, no.

Senator HASKELL. Are there any other complaints, other than the overtime, that you would have against the Customs?

Ms. SORDEN. Yes. Our office is right next door to Customs at the airport. Consequently, we probably are in Customs office more than the other brokers, and we see more going on with the public who do not use brokers.

Also, because we are close, when Customs makes a request that a customer go to a broker, sometimes we get them in our office because of our proximity.

Now, there is a Customs regulation that states that a customs officer shall make an informal entry for an importer, which is a shipment that is valued under \$250, and a broker is not required, or a bond is not required. At Denver, there are some inspectors who are helpful and try to help the public. But those about which we complain all the time, say, there are the tariff schedules, here is the form, now you fill it out. And the importing public has no idea of how to use that book.

So they come back and it is wrong. So the inspectors says, well, you just have to get a broker. And a lot of them do not come necessarily to REA, but some of them do. If I feel that it is a shipment that is not worth charging a customer for, it is something simple I can do quickly, I will rate the invoice for them. I will figure out the duty as in the proper, prescribed form before applying to a Customs Form 5119A, and say, now, you take this back to Customs and I am sure they will take it. And they do.

Senator HASKELL. I wonder if there is anybody from the U.S. Customs Office who would be able to inform us as to what the duties of a customs inspector are in helping the traveling public?

Mr. Raymond or Mr. Magee, would you be in a position to do that?

Mr. RAYMOND. Yes, I can respond.

Senator HASKELL. You heard, Mr. Raymond, what Ms. Sorden said about the casual traveler being handed a book and asked to fill out a form. I have seen the books myself; they are rather formidable.

What is normally expected of a customs officer?

Mr. RAYMOND. There is no requirement that a customs officer prepare the informal entry, which is one of the documents that Ms. Sorden referred to. However, as a matter of course, we provide information as to the—with commercial importers, it might be somewhat different, because they would be expected, because of their routine involvement in importation, to know more about the tariff schedules. But the occasional importer, we do make it a policy to assist them, in terms of attempting to help them to classify.

Senator HASKELL. I would certainly hope so, Mr. Raymond. And I hope you take this information to heart and see that they be more helpful. I have seen those books, and they are pretty thick.

Mr. RAYMOND. I admit they are very complicated.

Senator HASKELL. Right.

Thank you, Mr. Raymond.

Is there anything further, Ms. Sorden?

Ms. SORDEN. Not other than the fact that the customs officials will not help the importer with the 5119. It appears mostly that if the customs inspector does not himself know where to put it, that he tells them to go get a broker or to do it themselves and hope that the importer can figure it out enough on his own.

There are cases—we had a person come in our office a couple of weeks ago. They had a form that they were to fill out for Customs. She

says, I am sorry, but Customs will not help me fill out this form, so they said get a broker. Will you help me?

And I looked at the form. For a broker, there was nothing to it, and there was no reason to have a broker. So I finished typing it for her, the way—the information she gave to me, and sent her back.

Most of the problems in Denver are with the inspectors themselves and not with the office personnel, so to speak.

Senator HASKELL. I gather that.

Ms. SORDEN. They are rough to their customers. We have a practice—it is all undercurrent, but we do keep a box of Kleenex right by the door for a female customer that happens to come in, you know, if they have had it. We get those all the time. We try to help them out.

And then, there are only females in my office. It is quite an abrupt stop for some gentlemen coming in who are swearing at the top of their lungs when they walk in the door. Then we have to calm them down.

We have also had trouble; we have been accused of being in cahoots with customs, because customs said you had to get a broker.

These people, I say, well, if you feel that way, then, I am sorry, but REA will not help you. You go find another broker. They usually end up finding out that the broker had nothing to do with it. It is just that customs will not help them.

Senator HASKELL. Thank you, Ms. Sorden.

I will repeat the same thing to you that I did to Mr. Turrill, that if you find things become difficult, please let me know.

Ms. SORDEN. Thank you.

Senator HASKELL. Thank you very much, indeed.

Our next witness will be Mr. Cleburne M. Maier, regional commissioner of customs for Houston. Mr. Maier?

STATEMENT OF CLEBURNE M. MAIER, REGIONAL COMMISSIONER OF CUSTOMS FOR HOUSTON

Mr. MAIER. Thank you, Senator.

I would like to make just a few remarks, if I may. First of all, I am the regional commissioner, and there is a district director in El Paso in the management scheme between my office and the office at Denver. However, certainly, I know that we have had some problems at Denver, and I myself have tried to stay familiar with them, and to provide what changes we could.

As it was pointed out to you this morning, sometimes a manager wants to do some things that—sometimes a manager realizes things need to be done. Sometimes he cannot do them, and certainly that has been part of the problem at Denver. In addition to that, we have—it has not been mentioned, but we do have what I think is a strong Port Director at Denver, and I think that he is a good manager, and I think we will be able to resolve the problems that now exist at Denver.

I do not know to what extent we will have to go to do that. But I think that some of the things—I have had meetings at Denver, and every year, someone from our office goes to meet with the importing public. And we met this year, as always, and we did not get

many complaints. And I sensed that something must be wrong, because people always have something to air about how they would like to have changes.

Then the articles appeared in the Denver newspapers, and I myself went there and conducted open—I do not guess they were hearings; not, certainly, in the sense that this is, but—gripe sessions, and invited the press, invited your office and the other people to the office to come. I invited the brokers, the importers, the press, and the carriers, and from that, certainly, we did gather that there was a feeling that the attitude in Denver by the inspection group was less than cooperative, and that overtime laws needed changing.

And my response to that was, we will do what we can to change the attitude, and had meetings with our employees. And I was hopeful, and still am hopeful, that they will be productive; and did tell them that I believe that any substantial changes in what happened in overtime would need to be done through the legislative process.

Senator HASKELL. Mr. Maier, let's go back to this 1971 investigation by your Office of Internal Affairs. You are familiar, I presume, with the report that office made, are you not?

Mr. MAIER. Yes, I am.

Senator HASKELL. Upon receipt of that report, what steps, if any, did you take in the Denver Port?

Mr. MAIER. Well, first of all, we made various recommendations to go up through the channels, and as a result, one of the people was demoted, and his supervisory responsibilities were taken from him. He was the principal problem in the port. That was Mr. Angelo. And others were just handed admonitions or oral reprimands for various reasons.

Senator HASKELL. Who was the inspector, for example, that grabbed somebody by the shirt, ripped off a button, and threw the person against the wall?

Mr. MAIER. As I recall the report, that was the one who was reduced two grades.

Senator HASKELL. Say that again?

Mr. MAIER. That was the man that was reduced two grades, as I recall the report. I do not have before me, right at this moment—that would be Mr. Angelo, yes.

Senator HASKELL. Did the report indicate that either Mr. Angelo or Mr. Miller, who was the other one, intentionally delayed inspections to an overtime period?

Mr. MAIER. I believe the evidence was fairly strong that both probably did, but we were able to prove that Mr. Angelo did.

Senator HASKELL. Did the report indicate that Mr. Miller did?

Mr. MAIER. The report indicated strong evidence that he did. But as I recall the circumstances, in his reply, it revolved around whether or not we could prove the allegations.

Senator HASKELL. Did either Mr. Miller or Mr. Angelo use seized vehicles to commute to and from work?

Mr. MAIER. Well, I think there is a step in between there. In many of the activities of the Customs Service, we go to court or administratively forfeit vessels, vehicles, and automobiles that have been seized. Then, the court would assign them to the Government for official use. They would not be used in the interim period.

As far as I know, that did not happen in Denver. An automobile would be seized from a violator of the law—perhaps a counterfeiter,

which would be a typical Denver case. It would be a counterfeit. The car would be forfeited to the Government, and be assigned for future use by a judicial body, depending on the value of it. But it would not be used by the Government for official use in between that time.

Senator HASKELL. Did the report of your internal investigating unit indicate that these automobiles were used by either of these two men prior to the time that they had been assigned to the Government official?

Mr. MAIER. Senator, I do not recall that being the case. No; I do not recall that.

Senator HASKELL. Another thing that apparently took place was that inspectors—that two agents designed a scheme whereby one would cover for the other while the other took days off. Is that covered in the report?

Mr. MAIER. Those were allegations in the report. As far as I know, they were never proved.

Senator HASKELL. I think I will ask that the Customs Department furnish copies of those reports for the hearing record.

Mr. MAIER. I believe you have them, sir.

Senator HASKELL. Names are deleted. We want the full copies of those reports for the hearing. Maybe Mr. Magee can be of help.

Mr. MAGEE. I think I can clarify. I do not believe, Senator Haskell, that the issues that you are referring to at this moment were the subject of the 1971 investigation. The deletions from the report that we submitted under the Freedom of Information Act did not delete material fact. It deleted only names.

Senator HASKELL. That is true. But I am really trying to find out what the report said about this individual that was subsequently promoted. And for that reason, I would like to have the report with the names in it.

Mr. MAGEE. Very good.

Senator HASKELL. You will submit those for the record? I understand they will be submitted for the record?

Mr. MAGEE. Well, yes. Do you want the complete report on it?

Senator HASKELL. That is correct.

Mr. MAGEE. Not the version under the Freedom of Information Act?

Senator HASKELL. That is correct.

[The following material was submitted by Mr. Magee:]

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS

REPORT OF PERSONNEL CONDUCT INVESTIGATION

FILE NO. DATE OF REPORT DOT 8 1971	
NAME, GRADE, AND STATION OF EMPLOYEE Jack R. ROWE Customs Inspector, GS-9 Denver, Colorado 11-26-17	OFFICE Regional Director of Security & Audit, Area III, Houston, Texas
HOURS 14	INVESTIGATION BY Alex L. Higdon, Jr. & Perry D. Martin
TYPE OF REPORT: SPECIAL INQUIRY <input type="checkbox"/> CONDUCT <input checked="" type="checkbox"/>	
TYPE OF REPORT: PRELIMINARY <input type="checkbox"/> FINAL <input checked="" type="checkbox"/>	

SYNOPSIS

This investigation was initiated because of information gained by this office during a conduct investigation on Supervisory Customs Inspector Tim Angelo. During the course of our initial investigation, we learned that Inspector Rowe had also been guilty of accepting various gratuities. We also learned that Inspector Rowe had delayed clearing merchandise until after 5:00 p.m. in order to collect overtime pay for the clearance.

Report of investigation is made available to you for administrative purposes. After it has served this use, please return to this office for retention. While in your custody, it should be maintained in a locked file cabinet accessible to authorized personnel only.

NAME OF APPROVING OFFICER <i>Jus W. Herrman</i> JUS W. HERRMAN	TITLE AND OFFICE Regional Director of Security & Audit, Houston, Texas
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Form 4627 (12-70)

GPO 1971 67-612-022

BASIS FOR INVESTIGATION

Investigation was based on information gained during a conduct investigation of another Denver Customs employee. The information gained indicated that Inspector Rowe had accepted gratuities and was improperly charging and collecting for overtime services.

STATUTE, REGULATION OR RULE OF CONDUCT

Treasury Personnel Manual, Chapter 735, paragraph 0.735-33, titled "Gifts and Gratuities from Outside Sources."

DETAILS OF INVESTIGATION

On August 15, 1971 Gus W. Herrman, Regional Director of Security and Audit, and I interviewed Douglas Stanley, Customs Warehouse Officer, in Denver, Colorado, in connection with our investigation into alleged misconduct on the part of Supervisory Customs Inspector Tim Angelo. Mr. Stanley reported that it was evident to him that several Customs employees at Denver were habitually accepting gratuities, mainly in the form of liquor, from Customs brokers and Customs bonded liquor warehouses. Mr. Stanley also related that he thought several Customs inspectors had been improperly collecting overtime pay and he had been informed that Inspector Rowe was compiling information about this fact.

On August 17, 1971 Mr. Kelly Tipps, Port Director, was interviewed to ascertain if he was aware that several Denver Customs inspectors were collecting for overtime services on assignments that had actually been performed during regular working hours or if he knew of an agreement between Customs inspectors and brokers whereby the brokers consented to pay overtime for faster Customs clearance of merchandise even though the work was actually performed during regular working hours. Mr. Tipps stated that he was not aware of anything like this occurring at the Denver port.

On the same date Customs Inspector Jack R. Rowe was interviewed and freely admitted that he had accepted bottles of liquor from some of the liquor warehouses and also from Charles M. Schayer, Customhouse broker. He also related that as far as he knew, all of the other inspectors did the same thing; however, he did mention that this occurrence was generally at Christmas time. Mr. Rowe was asked if he felt the other Customs inspectors, including his supervisors, were honest and he replied, "No," and indicated that he would have something to report to Security in the near future.

On the same date Customs Inspector Lowell R. Anderson was interviewed and when asked if he knew of any dishonesty on the part of Customs employees at Denver he stated that on a few occasions he had completed assignments prior to 5:00 p.m. and collected overtime pay as if the work had been done after 5:00 p.m. He also indicated that several other inspectors had done the same thing.

On the same date Supervisory Customs Inspector Tim Angelo was interviewed and in addition to admitting having accepted gratuities, he related that there had been occasions when Customs brokers had sent in requests for overtime for clearance of certain merchandise and if an inspector was available prior to 5:00 p.m. they actually made the clearance during regular working hours and nevertheless collected overtime pay. According to Angelo, this was only done when the broker who had requested the overtime told the inspector to go ahead and clear the shipment prior to 5:00 p.m. and the broker would still pay the overtime. Mr. Angelo stated that he had done this on several occasions and personally knew that other inspectors had also.

On September 3, 1971 a sworn statement was taken from Customs Inspector Robert J. Norton. Mr. Norton admitted that he had accepted gratuities, mostly in the form of liquor from brokers and liquor warehouses in the past. He also stated that Mr. Rowe, Mrs. Lawson, Mr. Miller, Mr. Angelo and Mr. Anderson had also accepted gratuities. A copy of Mr. Norton's statement is attached as Exhibit A.

On September 7, 1971, a sworn statement was taken from Inspector Rowe. At this time Inspector Rowe furnished us with a four-page, type-written voluntary statement which he swore to. This statement listed various instances of misconduct on the part of Inspectors Angelo and Miller and was made a part of his formal statement. In addition, Mr. Rowe related instances where he had accepted gratuities, mainly in the form of liquor, from different individuals who conduct business with U.S. Customs. Mr. Rowe stated that he had never knowingly collected overtime pay for work that had been performed during regular working hours; however, he did admit that there had been occasions when he had "hidden out" or otherwise delayed clearing a shipment until after 5:00 p.m. so that he could collect the overtime pay. He further stated that he understood that this was the port policy and assumed that the instructions had come from either Inspector Miller or Angelo. Mr. Rowe's statement is attached as Exhibit B.

On September 9, 1971 Mr. Bob Henry, warehouse foreman for Davis Brothers liquor warehouse, was interviewed and stated that over the past several years at Christmas he had given bottles of liquor to Inspectors Rowe and Norton.

On September 10, 1971 Mr. Loui Pastori, warehouse foreman for Best Brands liquor warehouse, was interviewed and stated that Inspectors Norton and Rowe had accepted bottles of liquor from him over the past several years, mainly at Christmas time.

It should be noted that Inspector Rowe was very cooperative in this investigation and, in fact, furnished us with information pertaining to the misconduct of several other Customs employees at Denver. Mr. Rowe was, in fact, gathering information regarding the improper charging of overtime by Customs inspectors and intended to furnish the information to this office; however, he was interrupted by our investigation.

DOCUMENTARY EVIDENCE

In addition to the exhibits that have been previously mentioned, copies of two letters, one Bureau letter and one Regional letter, pertaining to the acceptance of gratuities by Customs employees, are attached as Exhibit C.

PERSONAL AND EMPLOYMENT HISTORY

The personnel file of Customs Inspector Jack R. Rowe shows that he is 53 years of age, married, the father of three children, presently resides at 12555 Albrook Drive, Apartment 3601, Denver, Colorado; he graduated from Central High School, Grand Rapids, Michigan in 1935 and also has two years of college. He also served in the U.S. Army from 1941 to 1946 and he receives a 10 per cent disability pension from the Army which entitles him to a ten-point veterans preference. Inspector Rowe entered the Customs Service as Customs Entry Clerk, GS-4, at Denver, Colorado, on January 2, 1957. On February 23, 1958 he was promoted to GS-6 with the same title and on July 1, 1960 he was promoted to Customs Inspector, GS-7. On July 1, 1961 he was promoted to Customs Inspector, GS-8, and on July 9, 1961 he was promoted to GS-9, in which grade he is presently serving. The personnel file reflects that he has received satisfactory performance ratings throughout his tenure with the Bureau of Customs. A favorable qualifications and fitness investigation was completed on October 26, 1960, and there is no indication of any prior disciplinary action in his file.

PERRY D. MARTIN,
Senior Special Agent (Security).

Approved.

ALEX L. HIGDON, JR.,
Assistant Regional Director (Security).

BASIS FOR INVESTIGATION

Investigation was based on information gained during a conduct investigation of another Denver Customs employee. The information gained indicated that Inspector Norton had accepted gratuities from various outside sources and was improperly charging and collecting for overtime services.

STATUTE, REGULATION OR RULE OF CONDUCT

Treasury Personnel Manual, Chapter 735, paragraph 0.735-33, titled "Gifts or Gratuities from Outside Sources" and paragraph 0.735-54, titled "Falsification of Official Records".

DETAILS OF INVESTIGATION

On August 15, 1971 Gus W. Herrman, Regional Director of Security and Audit, and I interviewed Douglas Stanley, Customs Warehouse Officer, in Denver, Colorado, in connection with our investigation into alleged misconduct on the part of Supervisory Customs Inspector Tim Angelo. Mr. Stanley reported that it was evident to him that several Customs employees at Denver were habitually accepting gratuities, mainly in the form of liquor, from Customs brokers and Customs bonded liquor warehouses. Mr. Stanley also related that he thought several Customs inspectors had been improperly collecting overtime pay and he had been informed that Inspector Rowe was compiling information about this fact.

On August 17, 1971 Customs Inspector Jack R. Rowe was interviewed and freely admitted that he had accepted bottles of liquor from some of the liquor warehouses and also from Charles M. Schayer, Customhouse broker. He also related that as far as he knew, all of the other inspectors did the same thing; however, he did mention that this occurrence was generally at Christmas time.

DEPARTMENT OF THE TREASURY
BUREAU OF CUSTOMS

REPORT OF PERSONNEL CONDUCT INVESTIGATION


<small>EMPLOYEE USE ONLY</small> NAME, HOME GRADE, AND STATION OF EMPLOYEE Robert J. NORTON Customs Inspector, GS-9 Denver, Colorado 9-12-09	FILE NO. 607 & 608
	DATE OF REPORT OFFICE Regional Director of Security & Audit, Area III, Houston, Texas.
INVESTIGATION BY Alex L. Higdon, Jr. & Perry D. Martin	TYPE OF REPORT: PRELIMINARY <input type="checkbox"/> FINAL <input checked="" type="checkbox"/>

INVESTIGATION: SPECIAL INQUIRY CONDUCT

SYNOPSIS

This investigation was initiated as a result of information gained by this office during a conduct investigation on Supervisory Customs Inspector Tim Angelo. During the course of our initial investigation, we learned that Inspector Norton had been guilty of accepting various gratuities from outside sources and also had collected overtime pay for work that was performed during regular working hours.

This report of investigation is made available to you for administrative purposes. After it has served this use, please return to this office for permanent retention. While in your custody, it should be maintained in a locked file cabinet accessible to authorized personnel only.

SIGNATURE OF APPROVING OFFICER  GUS W. HERRMAN	TITLE AND OFFICE Regional Director of Security & Audit, Houston, Texas
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On September 3, 1971 a sworn statement was taken from Customs Inspector Robert J. Norton. Mr. Norton admitted that he had accepted gratuities, mostly in the form of liquor, from brokers and liquor warehouses in the past. He also stated that Mr. Rowe, Mrs. Lawson, Mr. Miller, Mr. Angelo and Mr. Anderson had also accepted gratuities. Mr. Norton also stated that he had heard that Inspector Angelo had performed assignments during regular working hours and still collected overtime pay for the assignments. He also related that he had heard Mr. Angelo tell people that no inspectors were available to perform certain assignments until after 5:00 p.m. when actually there were inspectors not doing anything at the time and they could have performed the assignment prior to 5:00 p.m. therefore alleviating the overtime expense. Mr. Norton also related instances of rude treatment of the general public by Inspectors Angelo and Miller and stated that he had heard of occasions when liquor and cigars seized at the airport had been converted to an employee's personal use. Mr. Norton's statement is attached as Exhibit A.

On September 7, 1971 a sworn statement was taken from Customs Inspector Jack R. Rowe. In his statement he indicated that he had possibly picked up bottles of liquor from Charles M. Schayer's office and brought them to the Customs office for Mr. Norton. A copy of Mr. Rowe's statement is attached as Exhibit B.

On September -8, 1971 Field Auditor Ray D. Reynolds prepared a "spread sheet" covering overtime that A. J. Fritz & Company has paid to Customs for clearance of merchandise for Mobil Oil Company and Geophysical Services, Inc. accounts. This spread sheet was for the period from January 1, 1971 to the present and indicates the name of the inspector performing the service, the date, the hours during which the service was performed, the amount of overtime paid, the time the merchandise was transferred to another carrier, the Fritz file number, and the check numbers paid to Customs. A copy of this spread sheet is attached as Exhibit C.

On September 9, 1971 Mr. Bob Henry, warehouse foreman for Davis Brothers liquor warehouse, was interviewed and stated that over the past several years at Christmas he had given bottles of liquor to Inspectors Rowe and Norton.

On September 10, 1971 Mr. Loul Pastori, warehouse foreman for Best Brands liquor warehouse, was interviewed and stated that Inspectors Norton and Rowe had accepted bottles of liquor from him over the past several years, mainly at Christmas time.

DOCUMENTARY EVIDENCE

In addition to the exhibits that have been previously mentioned, copies of two letters, one Bureau letter and one Regional letter, pertaining to the acceptance of gratuities by Customs employees, are attached as Exhibit D.

PERSONAL AND EMPLOYMENT HISTORY

The personnel file of Customs Inspector Robert J. Norton shows that he is 62 years old, married, the father of four children, presently resides at 501 South University Boulevard, Denver, Colorado; Mr. Norton has a high school education and is not a veteran of the armed services, therefore he has no veterans preference. Inspector Norton entered the Customs Service as a Verifier-Opener-Packer, CAF-3, at Denver, Colorado on August 31, 1945. He was promoted to CAF-4 on May 6, 1948, maintaining his same title. On February 25, 1954 he was promoted to Customs Inspector, GS-7, and on February 25, 1955 he was promoted to GS-8. On July 9, 1961 Mr. Norton was promoted to Customs Inspector, GS-9, his present position. The personnel file reflects that he has received satisfactory performance ratings throughout his tenure with the Bureau of Customs. A favorable qualifications and fitness investigation was completed in August 1954, and there is no indication of any prior disciplinary action in his file. (Statement was taken before birth date and report was written after birth date.)

PERRY D. MARTIN,
Senior Special Agent (Security).

Approved.

ALEX I. HUDON, Jr.,
Assistant Regional Director (Security).

Mr. MAGEE. Fine. They do not address that issue you are referring to, this point of automobiles.

Senator HASKELL. Then maybe I could ask you some of these questions.

Mr. MAGEE. I will certainly try to answer.

Senator HASKELL. Again, what is your understanding of those reports about who was the man that seized this individual by the shirt?

Mr. MAGEE. Mr. Tim Angelo.

Senator HASKELL. I see.

Does your report indicate that either of those men—Mr. Miller or Mr. Angelo—took gratuities from importers?

Mr. MAGEE. They did, yes, sir.

Senator HASKELL. Both of them?

Mr. MAGEE. Both of them.

Senator HASKELL. Did the report indicate that either of them or both had used seized vehicles in going to and from work?

Mr. MAGEE. That was not an element of our investigation in 1971. The first of our knowledge—that was the appearance in a newspaper article just recently.

Senator HASKELL. But that was not part of your investigation?

Mr. MAGEE. No, sir, it was not.

Senator HASKELL. How about improperly imported goods being converted to officers' personal use? Was that part of the investigation?

Mr. MAGEE. Yes, sir. There were some seized Cuban cigars, I believe, that were taken by either one or both.

Senator HASKELL. Do you recall which?

Mr. MAGEE. I believe Mr. Angelo admitted taking them. Mr. Miller denied it. However, we had strong reason to believe that Mr. Miller also participated in the cigars.

Senator HASKELL. Mr. Magee, did it ever occur to you that the actions of these men, and maybe others for all I know, might have violated either the criminal laws of the State of Colorado or the United States?

Mr. MAGEE. Yes, sir, it did.

Senator HASKELL. Did you refer the situation to law enforcement authorities, either State or Federal?

Mr. MAGEE. We did not make a formal submission for a prosecutorial opinion. The only element that was of perhaps enough concern at the time was the question of overtime. As I recall the facts, that which the U.S. attorney would have been interested in was, were we able to prove that either one or both or others of these employees actually submitted false overtime reports. We have indication, and had strong belief at the time, they did.

Our sole evidence, however, in that case was the reliability of one clock which was used for the time-counting purposes. That clock differed from the clock in the official customs office. Therefore, we failed to establish the requisite intent to submit fraudulent overtime.

Senator HASKELL. You heard Ms. Sorden testify a minute ago?

Mr. MAGEE. Yes, sir.

Senator HASKELL. Her deposition was taken in 1971. Did she refer to the incident that she referred to here a moment ago?

Mr. MAGEE. I believe she referred to the intentional delaying until after 5 p.m.

Senator HASKELL. How about to the situation where they actually told her that they would inspect it after 5, but inspected the goods at 20 minutes of 5?

Mr. MAGEE. As I recall, it would have to refer to the report again, sir. I say, I would have to defer to my reports. I was trying to find it while she was testifying, and could not put my finger on it.

Senator HASKELL. Could you do that? We would like to know what the policy of the U.S. Customs is when there is at least some evidence that indicates some kind of criminal activity? Do you have any policy regarding that situation?

Mr. MAGEE. Yes, sir. Well, first let me point out—our office, internal affairs; that is, security and audit, was only 5 months old at the time this investigation originated. We admittedly were in our infancy in establishing our formalized procedures and policy. We had the investigative expertise. I think we did a good investigation. I believe we pointed out serious misconduct on the part of our employees. Our policy is now much more formalized.

However, even during that period of time, the policy was to refer to the appropriate U.S. attorney for prosecutive opinion on substantive violations of the law, and these are often done—not formalized, syllabus-type case reports, as you would one you were readily expecting to go to trial on. They are often phone calls to the U.S. attorney outlining a brief synopsis of what the case is. There will be an informal decline, or they will express interest.

Let us look at it further. As best as I can reconstruct, we had such an informal contact with the U.S. attorney in this case, and in subsequent cases.

Senator HASKELL. How about the State or local enforcement authorities?

Mr. MAGEE. If the primary jurisdiction rests with the State courts, we will refer it to the State court. We have such a matter pending.

Senator HASKELL. But you did not, in this particular instance?

Mr. MAGEE. We did not in that case. I think the primary jurisdiction rested in the Federal courts in the instances we have discussed here. For example, removing merchandise from customs custody is a violation of Federal law, and primary jurisdiction would be—

Senator HASKELL. What about grabbing somebody by the shirt, and throwing them up against the wall?

Mr. MAGEE. We would not refer that for prosecution. I think if an individual is inclined to seek redress on it, it would be up to the individual to file an assault charge.

Senator HASKELL. You mean to tell me that the U.S. Customs Service will allow its customs officers to take citizens, throw them up against the wall, throw them out, and then do nothing about it?

Mr. MAGEE. We do not allow that, Senator.

Senator HASKELL. You allowed it in this case. You did not refer it to the local authorities.

Mr. MAGEE. If you are asking me as a matter of policy, I do not believe that would be the type of offense we would refer. I do not know the circumstances that well to discuss how much of assault actually took place, whether it was just a pushing, a shoving, a temper situation. Normally, I would say unless it is a Federal, prosecutable offense, we would not refer it.

Senator HASKELL. I would say that the customs service better rethink. Assault and battery is not exactly a minor offense, and particularly when it is done by a customs officer. I really think this is incredible.

Mr. MAGEE. Well again, we are talking a hypothetical situation.

Senator HASKELL. Well, not a hypothetical situation. A gentleman by the name of Angelo did it in 1971.

Mr. MAGEE. Well, I guess to be the most responsive to you, Senator, is that normally we would refer our matters to the U.S. attorney. That is from whom we gather our guidance. If he would suggest—and we have had them suggest that this be referred to the State level—we would certainly do so. We have one in exactly that situation to this day, but we would be most reluctant to run to another court without first touching base with the U.S. attorneys.

Senator HASKELL. Mr. Maier, what is your region? You are based in Houston. What is the geographical scope of your region,

Mr. MAIER. Southwest, including Texas, Oklahoma, New Mexico, Colorado, and parts of Louisiana.

Senator HASKELL. You know all is not well in Denver, obviously. How about the rest of your region? Are you aware of any abuses anywhere?

Mr. MAIER. We have some problems other places—overtime abuses?

Senator HASKELL. That would be one.

Mr. MAIER. I have no knowledge of that. We try to keep on top of that, especially since the Denver thing, and the source we rely on most heavily for that is our meetings with the brokers and importers. As far as I know, there are no other abuses of that.

In dealing with the public, with as many people as we have, when we have in our region about 40 percent of the population of the United States every year, or an equivalent number come in who have a constant group of people who make complaints about the customs, all of which are investigated.

Senator HASKELL. But you are not aware of any situations of abuse currently going on elsewhere in your district?

Mr. MAIER. Well, overtime abuse?

Senator HASKELL. Any type.

Mr. MAIER. Personal assault and overtime? I do not know of any of those, Senator. We have some investigations by other investigative agencies, including grand juries and whatever, going on in my region at this time. But I do not believe that they involve any of the situations at Denver. They involve some conduct of people, of our people.

Senator HASKELL. What do you mean by that?

Mr. MAIER. We have some investigating misconduct, and I do not know all of the details, because before the grand jury—I will not know before they get through. I have some people appearing before the grand jury.

Senator HASKELL. How about overtime? What steps do you take to be sure there is not abuse of overtime in your region?

Mr. MAIER. Well, I guess the same thing you do about everything. You ask the level above, the participants, to watch for abuses, listen for abuses. But it is not that easy to catch them. I think the Commissioner said this morning the system lends itself to abuse. It has to be watched by the supervisory, and that was our problem at Denver;

was that the supervisor was participating in it, you see, and that makes it a little bit more difficult.

Senator HASKELL. Was the supervisor not meant to participate in the overtime?

Mr. MAIER. No, no. They participate in overtime.

Senator HASKELL. Do you participate in overtime?

Mr. MAIER. No, no, not I. No.

Senator HASKELL. You heard Mr. Brower talk about a conversation that you and he had. Was his description of it accurate, in your opinion?

Mr. MAIER. The last one that I had, where he said that I said I would get him—certainly I did not say that. And certainly, in my relationship with Mr. Brower, it did not amount to harassment. But in fact, as he assumed—and I think I must say, I think he really believed that—I do not discredit his belief. I believe he believes that I was harassing him, because he instigated a 1971 investigation. As a matter of fact, I did not know he did that.

Senator HASKELL. Who did instigate it? Who did start the 1971 investigation?

Mr. MAIER. Someone else, but not Mr. Brower. Now, the 1974 one, certainly, he asked for, and we got it from him. But as I recall, there was another employee involved in the 1971. Mr. Stanley, I believe, was the one who did that.

Senator HASKELL. Was he an employee of the Customs Service?

Mr. MAIER. Yes, he was.

Senator HASKELL. Where is he now?

Mr. MAIER. In Alaska, on his own.

Senator HASKELL. I was going to ask you—

Mr. MAIER. No, no, on his own.

Senator HASKELL. Thank you very much, Mr. Maier.

Mr. MAIER. Thank you so much.

Senator HASKELL. The next witness is Mr. Jay Bruton, who is port director of customs for Denver.

STATEMENT OF JAY BRUTON, PORT DIRECTOR OF CUSTOMS FOR DENVER

Mr. BRUTON. Thank you for the opportunity of appearing. Senator, I do not have a prepared statement. I have nothing to add. Of course, I arrived in Denver in March of 1974, much after these events, which are predominantly under investigation here. Our inquiry had little to do with history, as far as I am concerned, and I personally know nothing about these reports, any of those matters, 1971 or 1974.

Senator HASKELL. Where is your office physically located?

Mr. BRUTON. It is in the New Customs House, Denver, room 119.

Senator HASKELL. Are there other employees of the Customs Service in with you in your office?

Mr. BRUTON. Yes, sir. The entire staff, other than inspection and control, for the U.S. Custom Service in Denver is in the New Customs House.

Senator HASKELL. And where are the inspectors located?

Mr. BRUTON. At Stapleton International, sir.

Senator HASKELL. Do you participate in overtime?

Mr. BRUTON. Not as a regular classified participant; no, sir. I have worked overtime on an as-needed basis in emergency situations only.

Senator HASKELL. How much did you earn in 1974 in overtime?

Mr. BRUTON. I do not know, sir. I did not spend the entire year there, but I would say around, as a maximum figure, and I am guessing, \$2,000.

Senator HASKELL. How much have you earned so far this year?

Mr. BRUTON. \$2,000.

Senator HASKELL. Would you be able to supply the committee with a schedule showing the overtime pay and to whom it it paid during your tenure at the Port of Denver?

Mr. RAYMOND. Yes, sir, we could provide that.

(The following table was subsequently supplied for the record:)

DENVER—1911 COMPARATIVE OVERTIME EARNINGS REPORT

Location and name	Social security No.	Weekday overtime earned			Sunday and holiday overtime earned			Total, year to date
		Last quarter	This quarter	Year to date	Last quarter	This quarter	Year to date	
As of Dec. 21, 1974:								
24 05—Charles L. Miller	274-28-6835	\$2,288.16	\$1,041.16	\$5,195.96	\$1,278.40	\$1,471.04	\$5,529.96	\$10,725.92
24 05—Marlin J. Gerochets	453-05-7353	1,458.60	918.08	4,339.16	1,750.32	1,558.16	6,273.58	10,527.84
24 05—Louis A. Robb	524-22-0879	1,732.80	932.72	4,340.56	1,472.88	1,564.16	6,284.96	10,523.82
24 05—Jack R. Rowe	367-14-2042	1,357.36	1,104.44	3,876.92	1,501.76	1,570.40	6,508.88	10,395.82
24 05—Tim Angelo	522-30-0836	1,573.04	854.32	4,073.36	1,617.28	1,465.44	6,230.64	10,304.00
24 05—Lowell R. Anderson	523-20-9566	1,440.08	911.24	4,075.12	1,605.00	1,600.96	6,085.64	10,170.76
24 05—Robert K. Knox	525-22-7869	1,856.40	919.56	4,605.84	1,404.56	1,114.08	5,410.32	10,016.16
24 05—Joseph Lockhart	081-32-9510	2,638.48	969.80	4,801.00	1,863.96	1,153.60	4,664.12	9,465.12
24 05—Jay W. Britton	481-28-3108	139.04	177.64	316.68	834.24	725.92	2,383.20	2,689.88
25 05—Frances R. Lawson	522-01-9436	140.40	0	196.56	898.56	705.12	2,277.60	2,474.16
24 05—Kerren C. Donald	514-40-1050	72.32	0	127.56	596.24	381.60	1,249.44	1,377.00
24 05—Donald E. Harris	478-18-3245	0	0	0	76.64	0	76.64	114.96
24 05—Elbert Spotts	496-05-1577	0	0	38.32	0	0	0	95.80
24 05—David J. Chifalo	478-52-7337	38.32	0	95.80	0	0	0	76.64
24 05—David P. Bata	521-52-9492	0	0	0	61.92	0	61.92	61.92
24 05—Deborah Martikainen	521-56-8276	0	0	0	0	0	0	0
24 05—Joe D. Amista	522-56-6740	0	0	57.48	0	0	0	57.48
24 05—Morris M. Wilkin	180-16-3875	0	0	57.48	0	0	0	57.48
As of Sept. 27, 1975:								
24 05—Robert K. Knox	525-22-7869	1,728.00	3,139.20	6,502.40	1,152.00	1,728.00	4,796.80	11,299.20
24 05—Joseph Lockhart	081-32-9510	2,194.72	3,011.36	7,171.12	1,122.88	1,327.04	4,083.20	11,254.32
24 05—Charles L. Miller	274-28-6835	2,673.44	2,708.16	6,452.12	1,972.16	1,805.44	4,814.72	11,246.84
24 05—Lewis A. Lobato	524-22-0879	1,959.13	2,809.60	6,199.71	1,179.36	1,965.60	4,971.36	11,171.07
24 05—Tim Angelo	522-30-0836	2,220.88	3,006.90	6,948.18	1,126.08	1,501.44	4,128.86	11,077.14
24 05—Jack R. Rowe	367-14-2042	2,100.36	2,822.24	6,392.40	1,359.36	1,339.36	4,626.88	11,019.28
24 05—Lowell R. Anderson	523-20-9566	2,183.80	518.40	4,197.20	1,152.00	691.20	3,686.40	7,833.60
24 05—W. A. Retiff	263-72-6682	213.32	469.24	966.16	789.68	867.20	2,677.44	3,663.60
24 05—Frances R. Lawson	522-01-9436	88.92	385.32	503.88	237.12	1,057.04	1,659.84	2,163.72
24 05—Jay W. Britton	481-28-3108	0	0	0	503.52	671.36	2,081.12	2,081.12
24 05—Freddie H. Hensberg	464-28-7202	44.48	98.72	143.20	622.72	868.56	1,693.60	1,812.80
24 05—Albert L. Ehret, Jr.	396-28-2282	0	0	0	160.96	1,287.68	1,448.64	1,448.64
24 05—Kerren C. Donald	514-40-1050	0	0	76.32	457.92	460.00	1,146.88	1,273.20
24 05—Theodore Trujillo	521-34-8150	34.72	173.60	347.20	0	277.76	555.52	902.72
24 05—Patrick A. Spence	467-78-5554	0	0	0	0	596.64	680.32	680.32
24 05—Steven D. Conwell	463-78-2903	0	30.76	276.84	123.04	142.08	265.12	541.96
24 05—James B. McMillinray	521-46-6746	0	16.36	16.36	0	261.76	261.76	278.12

Senator HASKELL. You heard importers at Denver, apparently fear retaliation at the port. Do you have any comments on that?

Mr. BRUTON. Yes, sir. I would like to add my own to your comment. If there is any retaliation against any of the witnesses that have appeared here, if I hear of it, appropriate action will be taken at my level. I would like to assure you of that.

Senator HASKELL. Thank you. I have a newspaper report of October 1, 1976, about a man named Patrick Spence, who worked in your office. The newspaper report says that he apparently attempted to get information concerning the sources of supply of an organization called "Celestial Seasoning." This is improper since he is going to go into competition with them. Do you concur with that?

Mr. BRUTON. This was alleged, sir, and at the time it came to my attention, I immediately reported it to my superior, the district director in El Paso. I considered it to be improper and so reported it.

Senator HASKELL. Did you ask him to resign?

Mr. BRUTON. No, sir, I did not.

Senator HASKELL. Did you indicate that an investigation would take place?

Mr. BRUTON. I did not personally, no, sir.

Senator HASKELL. Is not an investigation taking place?

Mr. MAGEE. I believe I can address this.

Senator HASKELL. Yes, Mr. Magee, would you please?

Mr. MAGEE. There was an investigation, Senator. Briefly, it pointed out that Mr. Spence did use inhouse information that he took off entries to further his own personal future interests. I do not believe he actually got into the business. In essence, it was a spice importing firm that had, perhaps, a favorable contract as a sole source in another country. Because of Mr. Spence's duties, naturally he saw the documentation that pointed out this sole source, and on his own communicated with them and indicated that he would like to be in the same business, all of which was totally improper, totally illegal.

We conducted an investigation. Mr. Spence admitted it. We discussed it with the U.S. attorney on August 13 for the second time, first an informal inquiry. He said he would like to look at it a little bit more. Subsequent to that, Mr. Spence resigned and, in view of his resignation, the U.S. attorney's office did not choose to pursue it any further since it really had not quite materialized as an actual importing venture on his part, so we withdrew.

Senator HASKELL. Then it was the decision of the U.S. attorney not to proceed, is that right?

Mr. MAGEE. Yes, sir, it was.

Senator HASKELL. Thank you. Thank you gentlemen very much indeed. At this time, I think to keep the hearing record from being overburdened, I am going to submit for the record two newspaper articles. One deals with the national situation on overtime. It is an article appearing in the "Rocky Mountain News," August 14, 1975, referring to a GAO report. I will ask staff to look at it and see if this adequately summarizes the GAO report on overtime. If it does not they will supplement it where necessary.

Then, similarly, I will introduce for the record another article which is undated. It is three pages, and it details the situation in Denver, vis-a-vis, the 1971 investigation. When you submit the investigation

record, Mr. Magee, I will ask staff to go through it and see if this newspaper article is accurate. If it is, then this will appear in the record as a summary, or if it contains inaccuracies, staff will supplement it in any way possible.

[The articles referred to by Senator Haskell follow:]

[From the Rocky Mountain News, Aug. 14, 1975]

CUSTOMS OVERTIME PAY EXCESSIVE NATIONWIDE

(By Jack Olsen, Jr.)

The U.S. Customs Service, taking advantage of an antiquated federal law, charged importers and others more than \$27 million in overtime inspection fees during fiscal 1974.

But the inspectors were paid an additional \$5.6 million in overtime compensation. About 4,700 customs inspectors to khome an average of \$6,925 in overtime during the year, most of them increasing their annual salaries by at least one-third.

The high customs overtime rates paid at Denver's Stapleton International Airport have become a matter of controversy in recent weeks. A handful of the highest paid inspectors here have grabbed the most lucrative overtime assignments.

As a result, some of them will come close to doubling their salaries this year. And the money comes directly out of the public's pocket.

According to a report by the U.S. General Accounting Office (GAO) released earlier this year, Denver isn't unique when it comes to the overtime situation, however. The nationwide overtime figure is enormous, and one inspector in Bangor, Maine, has done better for himself than any inspector in Denver.

According to the GAO, his base salary was \$17,000 a year. But during calendar 1973, this particular inspector piled up \$25,000 in overtime for a total salary of \$42,400.

At Dulles International Airport outside Washington, an inspector being paid a base salary of \$18,000 a year upped his income to \$30,000 with overtime. An inspector at Seattle-Tacoma International Airport piled \$12,500 in overtime on a base salary of \$15,300.

In Denver, customs officials have maintained they can do nothing about the high overtime bills. The fees are a direct result of a 1911 law that requires customs inspectors to be paid a minimum of two days pay for certain overtime assignments that could require as little as five minutes.

But the GAO report reinforces the feasibility of one cost-saving measure that local customs director Jay W. Bruton has steadfastly ignored: The use of part-time inspectors in overtime situations.

Under the present setup even Bruton has cut himself in on the lucrative overtime work. He is an administrator in the downtown Denver customs office, yet he has had lucrative Sunday inspection work at the airport, for which he must be paid \$167, often for less than one hour's work.

There are lower-ranked customs employees working with Bruton downtown who would have to be paid less than one-half of Bruton's overtime fee. They are trained and certified to do the work, and they have asked to be assigned to it regularly.

But there also are part-time inspectors at the airport who want the overtime work, and they too would be paid far less than Bruton or any regular airport inspector.

Bruton and his boss, regional customs commissioner Cleburne Maier, stationed in Houston, have stated that these part-timers, called WAEs ("when actually employed"), are not permitted to work overtime. But neither official has been able to cite the customs law or regulation to back up the assertion.

According to the GAO report, WAEs can work the more lucrative overtime assignments, and they do in other parts of the country.

So far this year, the Denver port director has earned more than \$1,400 in overtime, and six other high ranking inspectors have been paid an average of at least \$7,000 apiece in extra fees. If the work that earned them this bonanza had been divided among lower-paid WAEs—who do inspection work regularly anyway—the overtime tab would have been cut by at least one-third.

The GAO's intent was to compare the overtime rates paid various federal agencies dealing with the public at airports and seaports, including the customs service, the U.S. Immigration and Naturalization Service and the U.S. Department of Agriculture.

There are wide discrepancies between agencies in overtime paid to employees for the same amount of work. Customs employees generally seemed to have the best setup, and the GAO concluded that it could only be changed—and the overtime standards made uniform for all agencies—by federal legislation.

Maier during a recent trip to Denver had said that various lobbyists, including ones representing major airlines, had been attempting "all my life" to change the customs overtime law passed in 1911. But they had failed to get the momentum needed in Congress.

The customs service, however, has resisted legislation that would reduce the overtime bills. According to the GAO, "Customs emphasized the effect on employee morale of any substantial reduction in annual earnings."

In criticizing the GAO report, a top customs official noted: "The report is silent with respect to what impact the alternative compensation methods (as might be established by legislation) would have on an employee's total yearly overtime earnings . . . The report does not even consider the effect on employee morale if the earnings were to be less under the alternative methods."

The GAO study also includes a letter of criticism from the U.S. Civil Service Commission, which includes this statement: "The commission has long been concerned about the excessive overtime compensation authorized by law for inspectors at ports-of-entry."

The commission recommended that the overtime fees to customs be reduced gradually to minimize the impact on the inspectors.

[From the Rocky Mountain News]

HASKELL GETS SECRET REPORTS—CUSTOMS SCANDALS DISCLOSED

(By Jack Olsen Jr.)

U.S. Customs Service officers pride themselves in being courteous and firm but most of all above reproach in "protecting the revenue"—that is, collecting proper import tariffs from international companies and travelers who bring foreign goods into the country.

The agency is known for a level of integrity and efficiency considered rare in the federal bureaucracy. It is widely thought to be the best customs service in the world, and there never has been any reason to believe its operation in the "port" of Denver has hurt that reputation—until now.

Sen. Floyd Haskell, D-Colo., recently pried loose from customs headquarters in Washington a dozen previously secret investigation reports on the customs operation here from June 1971 through last summer. Made available for inspection last week, they detail serious wrongdoings by customs officials at Stapleton International Airport, including gross mistreatment of the public.

MERE SLAP ON WRIST

And there is evidence that regional customs officials in Houston first dragged their feet and then merely slapped wrists. All the while, they claimed, it was none of the public's business.

First there was a major investigation in the summer of 1971 that lasted at least three months and produced eight separate reports on illicit conduct by Denver customs officers:

—Investigators from the service's Office of Security and Audit, which is answerable only to the U.S. commissioner of customs in Washington, reported that at least four customs inspectors at Stapleton, including the supervisory inspector, had purposely delayed examining shipments of imported goods until after 5 p.m. That way they could charge the owners overtime. The extra money, hundreds of dollars, went into the inspectors' pockets.

Improperly imported goods, including cigars, plants and possibly liquor, had been seized from international travelers and converted to customs officers' personal use. This was possible because receipts often weren't issued to the owners of the seized goods.

Seized vehicles had been used by customs inspectors to commute to and from work.

Customs officers regularly had accepted gratuities from importers, primarily liquor companies, who wanted their goods "cleared" through customs fast.

Despite being shorthanded, inspectors had taken time off work but were paid for it. Two agents devised a system whereby one would "cover" for the other while he too entire days off.

The public often had been treated rudely. Gruff statements as to the customs inspectors' broad authority were made in threatening ways. In one case, an irate person berated the supervisory inspector at Stapleton, calling him a name. The inspector grabbed him by the shirt, ripping off a button, threw him against a wall and then physically ejected him from the office. The inspector later apologized for his conduct.

FOUR INVESTIGATIONS

There were four investigations of the Denver office after 1971, including one last summer that documented continued mistreatment of the public. But the 1971 scandal still hangs over the port of Denver, primarily because two key inspectors implicated in the wrongdoing—Charles Miller and Tim Angelo—are still at Stapleton and still in positions of power in dealing with the public.

Miller subsequently was promoted to supervisory inspector.

Denver customs operations currently are under the supervision of Jay W. Bruton, port director, who was transferred here last March from Oklahoma. He oversees from 25 to 30 inspectors and clerical personnel, some of whom are stationed at Stapleton to check passengers, their luggage and shipments of imported goods.

Other agents work in downtown offices examining lists of goods and calculating what tariffs should be charged. There also are customs investigators in Denver, not under Bruton, who watch for violations of customs regulations.

During fiscal 1975, which ended June 30, the port of Denver collected about \$12 million in revenue and handled about 100,000 incoming passengers and 8,300 shipments of foreign goods.

The inspectors regularly deal with firms called customs brokers. Such companies earn their fees helping importers complete paperwork and follow proper procedures to clear customs. There are four major brokers in Denver—Charles M. Schayer & Co., REA Air Express, Arthur R. J. Fritz Co. of Colorado and G. L. Gumbert Co.

Employees of several of these firms and their importing clients precipitated the 1971 investigation, testifying that inspectors had forced them to pay overtime inspection rates when goods had been cleared before 5 p.m.

The illicit practice had become so commonplace that some brokers came to believe it was a port policy. One broker told investigators there had been so many improper overtime bills that it would be impossible to pull them all from the files.

The brokers were never questioned again or informed of the results of the investigation.

"It was a whitewash," Schayer charged.

According to another customs investigation report filed last summer, Denver's brokers viewed the turn of events with "dismay and disgust." There was speculation that Miller "had a direct line to the district office in El Paso (which is between the port and regional offices)."

CONNECTIONS "OBVIOUS"

"It was obvious to everyone," charged Bruce Brower, a former customs officer in Denver, "that Miller had connections that got him off the hook."

Brower of 12760 W. 15th Place, Lakewood, was a veteran of 11 years in the customs service, four of them at the port of Denver, when he resigned last year.

He claimed he pushed for a renewed investigation of customs operations in 1971 along with an investigation of Maier's long-delayed and "suspicious" handling of the situation. As a result, Brower claims, he was harassed and ordered to transfer to Houston.

An investigation of Brower's claim that he was being punitively transferred was by the Office of Security and Audit, which failed to substantiate it.

Rather, the investigators found that Brower was unusually well qualified and an ideal man to fill crucial opening in Houston.

Brower didn't buy that explanation and he resigned from the service last September. He subsequently sought Sen. Haskell's assistance in determining what had occurred in the port of Denver.

Last April the Office of Security and Audit, prompted by more complaints against Miller, came to the port of Denver for another investigation. They took testimony that Miller had abused his discretion and been impolite to the public. Miller denied the specific allegations, saying he was following the rules in each case.

GOODS TO OTHER PORTS

There was evidence that some importers had been taking their goods to other ports for customs clearance, rather than suffer the hassle in Denver. According to the investigation report, one broker described customs-public relations as "pathetic," saying Miller "was determined to make things as difficult as possible."

Another broker at first refused to talk to the investigators. According to the report, he "stated that he felt like investigators were 'wasting their time' because the last time he had talked to Security agents in 1971, Miller was promoted."

Another broker "said his opinion was that Customs in Denver attempted to cause inconveniences even though they were acting within the scope of the regulations."

Miller told the investigators that problems revolved "around the fact that importers and brokers in Denver had been allowed a great deal of freedom in the past, and because recent changes had been personally associated with him, a personal attack had been launched against him."

Miller, according to the report, "described his problem as basically the fact that his mouth doesn't turn up in a smile when he talks and the public construes this as hostility."

Last week Miller said he believed the investigation last summer was provoked by brokers who thought "I was being retaliatory."

He attributed their paranoia to their professional shortcomings. Angelo agreed that complaints were a result of the brokers' inability to perform their jobs properly. They are supposed to know the right forms and how to fill them out, he said, but many times they come through with things done improperly.

Miller said he enforced the customs laws uniformly and he would continue to do so.

Nevertheless, the regional commissioner, Maier, wasn't happy with last summer's investigation report. He filed a "letter of admonishment" in Miller's personnel record, Miller said. This time it didn't arrive until about eight months after the conclusion of the investigation.

APPEAL REPEATED

In April or May, Miller said, he again appealed, and Maier finally arrived in Denver to hear what Miller had to say "a little over a month ago." Maier listened, went back to Houston and rescinded the letter.

Miller said he got word of it the week before last.

"He said the letter was to be destroyed," the supervisory inspector said.

Maier refused to discuss any of these matters during a telephone interview last week because, he said, they weren't the public's business. He repeatedly stated "no comment" when asked to explain his reasoning for clearing Miller in 1972 and 1975.

He said customs personnel problems were internal matters.

Maier said he would have publicly announced the problems—and would discuss them now—only if Miller and Angelo had been involved in illegal activities, which he said they weren't.

Moreover, the regional commissioner said his long delay in dealing with the problems in Denver and then in clearing Miller "was not significant."

It took Haskell six months to force the customs service to release reports of what has been happening in Denver in recent years. At first, the commissioner of customs in Washington, Vernon D. Acree, refused to release the records.

Then the new Freedom of Information Act became effective. Under its provisions, Acree could no longer keep secret the reports of the Denver investigations.

In March, Haskell requested them again. On April 18, Washington customs officials gave in and said the reports would be on their way within 30 days.

By the end of May they hadn't arrived at Haskell's office. Another Haskell letter spurred them to release the information last month.

Some of these complainants say now that they were foolish to have talked with the investigators. They say they have been paying for it ever since.

Brokers are, in essence, at the inspectors' mercy. It is generally agreed that an unscrupulous inspector could severely hurt a broker's business merely by being

as tough as possible in the scores of daily procedures in which the inspector is permitted broad discretion.

RUNNING IN CIRCLES

An inspector, who asked not to be named, said last week, "I could have them (brokers) running in circles if I had a mind to. I've seen it done."

Said a former inspector: "You could tie them up for days by being petty."

One of the eight investigation reports from 1971 notes that two brokers in their testimony to investigators "indicated that they were afraid to complain about the Customs operation at the Denver port because they felt that the Customs inspectors had them 'over a barrel' and that the Customs inspectors would only make it harder on them in the future.

"They also indicated that they had complained in the past; however, they had given up on this because no action had been taken."

The international manager of REA Air Express, Mrs. F. L. Sorden, said on Friday that she feared being quoted in the newspaper would bring retribution from the current supervisory inspector, Miller, at Stapleton.

"If he finds out I've said anything, he'd take revenge," she alleged.

CONVERSATION RELATED

A report issued last summer on an investigation of continued mistreatment of the public by customs at Stapleton told of a conversation between investigators from the Office of Security and Audit and a broker.

"During the conversation," the investigators wrote, "a U.S. Customs inspector in uniform walked up, and (the broker) was visibly shaken; he inquired as to whether the Customs inspector knew that the investigating officers were Security agents and refused to discuss the matter further."

The broker-inspector relationship has remained one of suspicion and fear primarily because of what resulted from the 1971 scandal.

Mrs. Sorden's predecessor, Bob Thompson, who now works in another capacity at REA Air Express, said he was one of the brokers who started the probe. He said he believed that the evidence was so overwhelming that the supervisory inspector, Angelo, and his immediate subordinate, Miller, who some said seemed to do a lot of Angelo's decision-making, would be fired or transferred to a port in "Siberia," that is, an obscure port along the Texas border with Mexico.

JOINED IN TESTIFYING

Other brokers and importers joined him in testifying because they believed the customs service would at least have to remove the inspectors from the port of Denver.

From July until October, the inquiry was conducted. The investigators produced a lengthy report that said Angelo and Miller indeed had delayed shipments to collect overtime and had accepted gratuities. Moreover, the two were identified as the primary culprits.

Nothing happened for more than eight months.

During an interview last week, Miller said more than one year elapsed before the regional commissioner in Houston, Cleburne Maier, informed him of the charges against him.

Then, after another nervous wait, Maier informed Miller and Angelo of the intended punishment: according to Miller, demotion two pay grades and transfer to an obscure port.

In addition, Angelo was told that he would lose his supervisory inspector title. (The investigators wrote that one of the two was initially informed that he would be fired from the customs service.)

THROUGH THE GRAPEVINE

The brokers and importers who deal at the Denver airport learned of these punishments through the grapevine, they said, and were satisfied. Their waning faith in the customs service was restored—temporarily.

According to Angelo, the regional customs commissioner changed his mind and decided that punitive transfer weren't permitted. Angelo accepted the demotion without a fight.

"I admitted I did those things," Angelo said last week. "I was honest about it, that was the problem. Everyone was doing it."

The demotion has amounted to a loss of about \$2,000 to \$3,000 annually in salary for him.

As for Miller: He appealed the punishment. By that time it was more than a year after the completion of the investigation, Miller said.

A personnel officer from Houston came to Denver, Miller said, and listened to his side of the story, even though Miller in 1971 had made an extensive statement to investigators rebutting the allegations.

FINALLY GOT LETTER

In the fall of 1972, Miller said, he finally received a letter from Maier clearing him.

"All I know is he dropped the charges," Miller said.

He refused to discuss the substance of the allegations and wouldn't comment when asked to rebut what the Office of Security and Audit investigators had said in their report.

About one year later, in November 1973, Miller said, he applied for Angelo's old job as supervisory inspector and was accepted as a finalist by the regional board reviewing applications. Then Maier chose Miller for the job.

Last week one of Denver's leading brokers, Charles M. Schayer Jr., described the chain of events as "science fiction. Yet it was real."

Senator HASKELL. Thank you gentlemen very much indeed.

Mr. MAGEE. Thank you.

Senator HASKELL. Now we will turn to Mr. Grubach, Deputy District Director of Customs for Detroit.

TESTIMONY OF JOSEPH GRUBACH—Resumed

Mr. GRUBACH. I was proceeding on the various categories that I delineated the specifics, which I think that the committee should know about. It is happening in the Detroit district, of which Mr. Lacy is regional commissioner. It got down to specific number 11, and the category is "Abusive practices and reprisals against certain district managers and operational personnel."⁴

Senator HASKELL. Mr. Grubach, if you do not mind, I am going to ask you to submit your statement for the record because it is very lengthy. I am going to keep the hearing record open for 2 weeks, and I would think it would be proper for the Commissioner's office to respond since I did not know of this and presumably they did not know of it. They are very detailed complaints that I think should be part of the record.

I also think that it probably would be better to put them in the record. They will be reproduced in full. The committee will look at them; the staff will look at them. The Customs Service should analyze them and have a chance to respond. But I think that would be the better way of proceeding, and you might just want to summarize your observations.

Mr. GRUBACH. Well, I have given copies; copies have been made.

Senator HASKELL. Yes; we have them.

Mr. GRUBACH. And are in the record.

Senator HASKELL. Yes; that would be sufficient. Why do you not just summarize what you have because we will study them. They will be part of the record, and then the customs service can respond within 2 weeks, Mr. Magee.

Mr. MAGEE. Yes, sir.

⁴ STAFF NOTE.—Specific allegations and responses by the parties mentioned may be found in the subcommittee files. They are not included here because of their personal nature and because of the pervasiveness of statements derogatory of personalities.

Mr. GRUBACH. All right. I want to state to the committee here that in connection with personnel matters, I wish to state that during all of my management years, I have exerted every effort to build the stature of Customs officers, not destroy them; to counsel and steer them on a course of self-development in lawful professionalism, personal integrity, honesty, and respect for the law.

In connection with duty assessment and fraud and during my whole career, I have always operated under a cardinal principle that Customs wants what is lawfully right, no more and no less, and that the customhouse brokers and the importing community should pay what is lawfully right, no more and no less. Under this concept, customs officers have as much obligation to lawfully protect the importers' interest as they do in lawfully protecting the Government's interest.

The regional commissioner at Chicago and the district director at Detroit operate under a fallacious principle that Customs wants what is lawfully right and what is not lawfully right and the customhouse brokers and the importing community should pay what is lawfully right and what is not lawfully right. A whole-hog Customs grab, like it or not.

And therein lies the conflict and breach between my thinking and that of the Regional Commissioner and the District Director.

That concludes my presentation to this committee. I will be pleased to answer any questions, if I can. Thank you.

Senator HASKELL. Thank you, Mr. Grubach. We appreciate very much your coming here, and the hearing record will stay open for 2 weeks, and maybe I will have additional questions to ask either you or any other witness. Maybe Senator Ribicoff will. In any event, the Customs will provide the documents they talked about in response to your presentation. Thank you so very much indeed.

Mr. GRUBACH. Thank you.

Senator HASKELL. The hearing will be adjourned, subject to the call of the Chair. Thank you.

[Whereupon, at 3:05 p.m., the hearing was recessed, subject to the call of the Chair.]

