



Department of Justice

STATEMENT OF

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BEFORE THE

**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

FOR A HEARING ENTITLED

**“THE NEED FOR MORE TIMELINESS AND TRANSPARENCY:
OVERSIGHT OF THE PUBLIC SAFETY OFFICERS’ BENEFITS (PSOB)
PROGRAM”**

PRESENTED

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Statement of Karol V. Mason
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U.S. Department of Justice
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Hearing on the Public Safety Officers' Benefits Program
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Chairman Grassley, Ranking Member Leahy, and distinguished Members of the Committee, thank you for allowing me to speak here today. I appreciate the opportunity to discuss the Department's efforts to improve the administration of the Public Safety Officers' Benefits' (PSOB) Program.

I am Karol Mason, Assistant Attorney General for the Department of Justice's Office of Justice Programs (OJP). As the Committee is aware, OJP provides critical support for state, local, and tribal law enforcement and criminal justice systems. OJP's Bureau of Justice Assistance (BJA) administers the PSOB Program. Strengthening the PSOB review process has been one of my highest priorities during my time at OJP.

Enacted in 1976, the PSOB Act allows the Department to recognize the ultimate sacrifice of law enforcement officers, firefighters, and other first responders killed in the line of duty by providing a federal benefit to their eligible survivors. BJA's PSOB office administers the Death, Disability, and Educational Assistance Programs. These benefits assist families who may be struggling with finances in the aftermath of tragedy, as well as officers catastrophically injured in the line of duty and spouses and children seeking educational assistance to attend institutions of higher education.

In its review and determination of cases, BJA recognizes its responsibility to administer the PSOB Program in accordance with the law, as well as the importance of these benefits to families in the aftermath of tragedy. Some claims are straightforward and clearly meet the statutory criteria. Data from a recent Office of the Inspector General Audit of the PSOB Program confirmed that 56 percent of PSOB claims are determined within one year of filing. Other claims present significant factual and evidentiary complexities that must be resolved before a determination can be made about eligibility for benefits.

A requirement of the statute is that the claimant must establish, and BJA must determine, the core elements of the claim, namely that the individual was a “public safety officer,” and that he or she sustained “an injury” in the “line of duty.” If the claim is denied, the claimant can file an appeal, in which case BJA assigns an independent hearing officer to reconsider the claim and accept any newly submitted information. If the hearing officer also denies the claim, the claimant may file an appeal to the BJA Director.

BJA currently reviews more than 900 new claims filed each year for death, disability, and education benefits. The FY 2016 benefit amount for death and disability is \$339,881.

As of April 19, 2016, there are 814 active death and disability claims at the PSOB office level of review. Of these claims, 338 are at the initial stage of processing awaiting basic required documents from the employing public safety agencies and/or claimants. Additionally, there are 122 active Hearing Officer reviews, and 45 appeals to the BJA Director for a final agency determination.

The Department recognizes that the PSOB claims process can be complex and, more importantly, emotionally stressful for survivors, the agency the public safety officer served, and the community. I also understand that the time we take to determine claims often adds to the stress faced by public safety officers and their families. Yet, every claim is unique and is reviewed according to the PSOB Act and its implementing regulations. Each claim requires that evidence necessary to substantiate the claim be submitted. In addition, for each claim, BJA must prepare a determination that accurately describes the evidence and applies the appropriate statutory and regulatory provisions, such that benefits are only paid when legally permissible. Understanding the burden on claimants, BJA collaborates with national law enforcement, firefighter, and first responder groups to provide PSOB training and technical assistance resources to assist survivors and officers throughout the submission and review of their claims. Through these collaborative efforts, the PSOB office is able to offer vital information and support to survivors and agencies of fallen or catastrophically injured public safety officers.

The Department is committed to providing expeditious assistance to the survivors of our nation's fallen public safety officers and officers injured in the line of the duty. Nevertheless, some barriers exist that delay a statutorily compliant review of claims. Some of the barriers include difficulty in obtaining basic required documents from the employing public safety agency's point of contact or claimants; conflicting evidence, including investigation reports and medical records or medical opinions that require additional investigation; unclear medical evidence as to whether an injury is permanent and total and that the claimant is unable to engage in any gainful employment; and questions regarding whether any of the statutory prohibitions, or "limitations" to payment apply to the claim, including whether the officer's injury or death

involved intentional misconduct, gross negligence, or voluntary intoxication. While these and other barriers have been identified as key challenges in reviewing and determining cases, BJA has undergone significant improvements to eliminate the delays within BJA's control.

In 2013, BJA made changes that were intended to streamline the PSOB process and to shorten the time period for reaching determinations. While those changes have improved some aspects of the claims determination process, they unfortunately did not shorten the overall time period from the filing of claims to their determinations. At my direction, OJP and BJA are moving forward with further enhancements to the PSOB Program. In January 2015, I directed OJP's Office of Audit, Assessment, and Management to conduct a Business Process Improvement (BPI) review of all the PSOB Office's tasks, including the claims process and the legal review process. OJP engaged an outside BPI expert, PricewaterhouseCoopers, to conduct an independent and impartial review of the PSOB Program's processes and procedures.

In the meantime, as the Committee is aware, the OIG in July 2015 completed its own review of the PSOB Program. The OIG issued four primary recommendations: 1) to improve PSOB checklists available to claimants and agencies to communicate more clearly what basic documents must be filed to substantiate a claim; 2) to finalize and implement an "abandonment policy" to administratively close claims to better manage unresponsive claimants and agencies; 3) to improve PSOB claim decision-making documentation to facilitate legal reviews; and 4) to improve the collection and management of PSOB claims data to regularly report detailed metrics regarding program performance.

On October 20, 2015, OJP received the BPI report, which contained valuable findings and expanded on the OIG recommendations previously noted. In just the past few months, in response to the OIG and BPI recommendations, BJA has taken key steps to ensure the PSOB Program is able to provide the highest quality service to injured officers and the survivors of fallen officers. As a result of the OIG audit and BPI review, OJP is implementing a new automated case management system, referred to as “PSOB 2.0” to modernize the PSOB Program in an entirely paperless environment. This will include a secure web-based portal that will enable the claimant, claimant’s family/beneficiaries, and/or the public safety officer’s agency to submit and track the status of an application, receive communications from BJA, and submit inquiries. Another feature of the new case management system will be the ability to capture and report on a range of PSOB performance metrics including the timeliness of claim review at every stage of the determination process. We anticipate that this new customer-focused system, to be launched in November 2016, will increase transparency and offer claimants a more streamlined claim submission process in the aftermath of a tragedy.

Even before the launch of PSOB 2.0, BJA has made significant changes. BJA streamlined PSOB applicant checklists and posted these checklists on the PSOB website. As part of PSOB 2.0, BJA will deploy an interactive checklist to further decrease any confusion concerning required documentation. PSOB applicants will answer an initial series of questions and receive an automatically generated customized checklist, identifying the specific required documents needed to submit a complete claim. Additionally, in January 2016, BJA implemented a protocol for classifying claims by level of complexity, and identifying and resolving issues early in the claim lifecycle. This entailed the development of a new death and disability claims’

scoring model, as well as supporting materials, including a score sheet and standard operating procedures for the scoring process and resulting benefits specialist and legal advisor collaboration. This protocol is expected to increase the efficiency and timeliness of the review process, as well as ensure proper documentation of decision-making. In March 2016, BJA finalized an abandonment policy that permits BJA to administratively close claims involving unresponsive claimants and agencies.

Of particular concern to me was the inventory of claims involving September 11th exposure claims. BJA recently released a new protocol that permits BJA to rely on the medical and scientific methodology established by the World Trade Center Health Program (WTCHP) to determine PSOB claims involving the nation's public safety officers who responded to the sites to assist in rescue, recovery, and clean-up efforts.

Currently, there are approximately 175 death and disability cases pending before the PSOB office based on illness related to exposure to the September 11th sites. These claims have been pending while medical experts have worked to establish a link between the exposure of public safety officers to the chemicals and toxins at the 9/11 sites and the injuries sustained, which, in many cases, are different forms of cancer that caused the officers' deaths.

Following the enactment of the James Zadroga 9/11 Health and Compensation Act of 2010, WTCHP has developed a methodology to determine whether exposure to hazards and toxins resulting from the attacks was substantially likely to have been a significant factor in aggravating, contributing to, or causing many serious medical conditions suffered by the nation's

public safety officers who responded to the sites to assist in rescue, recovery, and clean-up efforts.

Working in close collaboration with WTCHP and the September 11th Victim Compensation Fund (VCF), BJA will now use WTCHP medical certifications and VCF eligibility determinations in its review of 9/11-related PSOB claims. The ability to access and rely on the public findings of WTCHP and VCF will allow BJA to process a significant amount of the PSOB claims filed thus far for deaths and disabilities related to 9/11 exposure. Until the WTCHP methodology was established, no medical and legal framework was available to link the 9/11 exposure with the wide range of serious medical conditions now accepted by the WTCHP as causally linked to the attacks. Through this truly collaborative effort, BJA will be able to efficiently process these 9/11 exposure cases, and provide claimants with determinations on their PSOB claims.

Another example of a newly adopted protocol to more efficiently review specific types of claims are those developed to process claims involving the statutory presumption for certain fatal heart attacks and strokes established by the Hometown Heroes Survivors Benefits Act of 2003.

The Hometown Heroes Act amended the PSOB Act by creating a statutory presumption of death as a result of a line of duty injury, which may be rebutted by “competent medical evidence to the contrary,” in cases where a public safety officer dies of heart attack or stroke within 24 hours of engaging in “nonroutine stressful or strenuous physical [line of duty] activity.” In January 2013, the Dale Long Public Safety Officers’ Benefits Improvement Act of

2012 amended the presumption by adding vascular ruptures to the conditions covered, eliminating the “competent medical evidence to the contrary” language, and revising the rebuttal criteria. As the amendment repealed the statutory language upon which OJP regulations implementing the presumption were based, BJA developed new guidance to more efficiently process such claims. Finalized in August 2015, the new guidance enabled BJA to determine 151 heart attack, stroke, and vascular rupture cases between August 2015 and the present.

On behalf of the Department, OJP considers it an honor to assist families and agencies of America’s fallen public safety heroes, and disabled public safety heroes, throughout the review of their PSOB cases. We remain committed to providing survivors, injured officers, and agencies with essential, and updated, resources and support needed to access the benefits of this program. We appreciate the Committee bringing its concerns to our attention, and we look forward to collaborating with you as we continue to improve the PSOB program. Thank you again for this opportunity, and I look forward to taking your questions.