

CHUCK GRASSLEY, IOWA
CHAIRMAN

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

January 12, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Karol V. Mason
Assistant Attorney General
Office of Justice Programs
U.S. Department of Justice
810 Seventh Street, NW
Washington, D.C., 20531

Dear Assistant Attorney General Mason:

On September 20, 2011, Iowa State Trooper Mark Toney died in the line of duty. On behalf of his family, an application for Public Safety Officer's Benefits (PSOB) was filed with the Office of Justice Programs' (OJP) PSOB Office on December 12, 2011.¹ PSOB "provides a one-time benefit to eligible survivors of public safety officers whose deaths were the direct and proximate result of an injury sustained in the line of duty on or after September 29, 1967."² Yet, more than three years after its filing, Officer Toney's PSOB application remains pending.

This delay is unacceptable, but not unique. In Iowa alone, there are two additional PSOB applications that have been pending for over three years, and another PSOB application has been pending since November 2013.³ According to a 2009 Government Accountability Office (GAO) report, families of fallen or injured officers waited an average of a year and a half before receiving an approval or denial of their PSOB application.⁴

¹ Pub. L. No. 94-430, Sept. 29, 1976, 90 Stat. 1346. In addition to death benefits, PSOB was designed to provide disability and education benefits to officers and their families in the event of the officer's permanent and total disability sustained in the line of duty. Notably, Congress mandated the death benefit program while designating the others as discretionary. See U.S. Department of Justice, Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), *PSOB Updates*, https://www.psob.gov/psob_updates.html.

² Hope D. Janke, U.S. Department of Justice, OJP, BJA, *BJA Fact Sheet: Public Safety Officers' Benefits Program*, https://www.psob.gov/files/PSOB_FS.pdf, at 1.

³ Chief Robert Smith, Stuart Police Department, E.O.W. 3/13/2010 (PSOB death benefit application filed in September 2011); Chief Lyle N. Rusk, Robins Police Department, E.O.W. 11/23/2008 (PSOB death benefit application filed in Fall 2009); and Lt. Patrick A. Richardson, Newton Police Department, E.O.W. 2/5/2014 (PSOB death benefit application filed on or about November 30, 2013).

⁴ GAO, *Public Safety Officers' Benefits Program: Performance measurement Would Strengthen Accountability and Enhance Awareness among Potential Claimants*, GAO-10-5 (Washington, D.C.: October 2009), at 14-15, 21.

In 2004, the Attorney General released a memorandum directing the PSOB Office to make a determination on all filed PSOB claims within 90 days of receiving all necessary information. The memorandum also directed OJP's PSOB Office to then draft written determinations and send all claims to the OJP's Office of General Counsel (OJP OGC) within 30 days for review. Upon receipt of the draft determination and supporting documents, OJP OGC is directed to complete its review and submit recommendations for any changes to the PSOB Office within 45 days.⁵ However, as noted by GAO and experienced by the families of the police officers referenced above, OJP's PSOB Office is not consistently adhering to these directives.

A 2008 Department of Justice (DOJ) Office of Inspector General (OIG) report also found issues with long wait times for PSOB claims.⁶ OIG pointed out that legal reviews conducted by OJP OGC caused delays in the claims process. Specifically, OJP OGC legal reviews took a median of 50 days, with some reviews taking more than 180 days.⁷ OIG also found, as follows:

The length of the review was extended because of certain inefficient internal practices by the OGC, such as allocating PSOB claims across numerous attorneys and *sometimes requesting additional documentation and evidence that was not necessary for making a determination on whether a claim was compensable*. Additionally, because OGC has no formal method of recording information requests in the case files, the PSOB Office received duplicative information requests from OGC attorneys. Further, OGC attorneys made numerous inconsistent edits to the draft determinations, adding time to the claims review process. Finally, we noted that OGC had no established timeliness standards for conducting its reviews of the claims.⁸

OJP concurred with the recommendation that OJP OGC should establish more definitive performance timelines for attorneys' reviews of PSOB claims.⁹ However, it is unclear whether OJP actually implemented that recommendation. In 2009, for example, GAO could not even determine how long the OJP OGC legal review portion of the process took.¹⁰ Further, state and local officials that assisted families with filing PSOB claims experienced difficulty in reaching PSOB Office staff for information on claim status and wait times.¹¹ The PSOB program director has acknowledged that calls and e-mails from claimants or agencies are not always returned.¹²

This is unacceptable. Officers and families of fallen officers deserve better treatment and timely responses from the very office created to serve them. Accordingly, please provide written responses to the following questions by January 30, 2015:

1. What is the status of PSOB applications filed on behalf of the following officers?

⁵ *Id.* at 11.

⁶ DOJ OIG, *The Office of Justice Programs' Implementation of the Hometown Heroes Survivors Benefits Act 2003*, I-2008-005 (Washington, D.C.: March 2008).

⁷ *Id.* at iv.

⁸ *Id.* (emphasis added).

⁹ *Id.* at 88.

¹⁰ GAO-10-5, at 16.

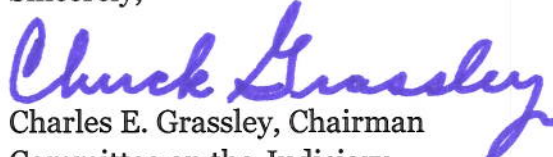
¹¹ GAO-10-5, at 22.

¹² *Id.* at 22.

1. What is the status of PSOB applications filed on behalf of the following officers?
 - a. Officer Mark Toney, E.O.W. 9/20/2011.
 - b. Chief Robert Smith, E.O.W. 3/13/2010.
 - c. Chief Lyle N. Rusk, E.O.W. 11/23/2008.
 - d. Lieutenant Patrick A. Richardson, E.O.W. 9/1/2013.
2. Why is it taking so long to process these applications?
3. How many PSOB death benefit applications have been filed in each fiscal year since FY 2009? For each fiscal year, please provide the following:
 - a. Average number of days to assign a PSOB Outreach Specialist.
 - b. Average number of days to receive basic required documents.
 - c. Average number of days to determine claim.
 - d. Average number of days consumed in each stage of the review process (i.e. Benefit Specialist review, Supervisory review, PSOB director review, OGC review).
 - e. Average number of days before approved claimants received payment.
 - f. Total number of appeals filed.
 - g. Total number of appeals granted and denied.
4. Why is OJP not complying with the 2004 Attorney General Memorandum?
5. Please describe the steps that OJP has taken, since 2009, to implement GAO's 2009 recommendations to improve timeliness of processing PSOB claims, including OJP efforts to implement claims processing timeliness, set strategic goals and measures, monitor performance, and report results.
6. Has OJP hired contractors to help conduct legal reviews of PSOB applications? If so, please provide the following for each contract:
 - a. Name of contractor,
 - b. Dollar-amount of the contract,
 - c. Length of the contract, and
 - d. Proportion of work that is supposed to be conducted by contractors versus OJP employees under the contract.

Please number your responses according to their corresponding questions. If you have any questions, please contact Jay Lim of my Committee staff at (202) 224-5225. Thank you.

Sincerely,


Charles E. Grassley, Chairman
Committee on the Judiciary