Congressional Fire Services Institute / International Association of Arson Investigators / International Association of Fire Chiefs / International Association of Fire Fighters / International Fire Service Training Association / International Society of Fire Service Instructors / National Fallen Firefighters Foundation / National Fire Protection Association / National Volunteer Fire Council / North American Fire Training Directors / Sergeants Benevolent Association

September 8, 2008

Hope Janke
Counsel to the Director
Bureau of Justice Assistance
Office of Justice Programs
810 7th Street, NW
Washington, DC 20531

RE: (RIN 1121-AA75; OJP Docket No. 1478) Comments on Proposed Rulemaking Regarding the Public Safety Officers' Benefits Program,

Dear Ms. Janke:

We, the undersigned organizations representing law enforcement officers, firefighters, and other first responders, submit these comments in response to the Notice of Proposed Rulemaking relating to the Public Safety Officers' Benefits Program ("PSOBP") that the U.S. Department of Justice, Office of Justice Programs ("OJP") published in the Federal Register on July 10, 2008 ("Proposed Regulation").

We support several of the goals OJP notes in the preamble to the Proposed Regulations that it hopes to accomplish through this rulemaking, such as to remove ambiguities in the current regulation and to counter any suggestion that claims filed under the Hometown Heroes Survivors Benefits Act of 2003 ("HHSBA") are not regular PSOB death-benefit claims, and we applaud OJP's continued commitment to improving this important program. We are concerned, however, that contrary to these stated goals, some of the changes OJP has proposed could unintentionally constrict the classes of individuals eligible to receive benefits under the PSOBP and impose unnecessary, unduly burdensome procedural requirements on PSOBP claimants. Such results would run counter to what Congress intended when it enacted the Public Safety Officers' Benefits Act ("PSOBA") and related laws, including the Hometown Heroes Survivors Benefits Act.

As the Court of Federal Claims has repeatedly counseled, the PSOBA "is remedial in nature and thus should not be applied grudgingly, but rather should be construed liberally to avoid frustration of its beneficial legislative purposes." *See, e.g.*, *Winuk v. United States*, 77 Fed. Cl. 207, 215 (2007); *Bice v. United States*, 72 Fed. Cl. 432 (2006); *Demutiis v. United States*, 48 Fed. Cl. 81, 86 (2000), *aff'd as modified*, 291

F.3d 1373 (Fed. Cir. 2002). *See also Baltimore & Philadelphia S.B. Co. v. Norton*, 284 U.S. 408, 414 (1932) (remedial laws "are deemed to be in the public interest and should be construed liberally in furtherance of the purpose for which they were enacted and, if possible, so as to avoid incongruous or harsh results"). Certain provisions of the Proposed Regulations run afoul of these important admonitions, and thus are not unlike OJP's initial regulations governing the HHSBA. Those initial regulations led to the denial of nearly all heart attack and stroke claims filed under the Act within their first year of operation, and necessitated the issuance of clarifying directives in October 2007. Given the problems which OJP encountered as a result of the agency's initial interpretation of the Hometown Heroes Act, it should not proceed precipitously in issuing Final Regulations regarding this important program unless and until it has fully considered the potential effects of these amendments on claimant public safety officers or their survivors, and consulted with the public safety community.

Our specific comments on the Proposed Regulation are as follows:

1. OJP Should Define, Clarify or Eliminate Certain Terms in the Definition of "Authorized Commuting," 28 CFR § 32.3.

The PSOBA provides for the payment of benefits when a public safety officer is killed or disabled in the line of duty. *See* 42 U.S.C. §§ 3796 and 3796d. OJP has interpreted that Act as providing that an injury is sustained in the line of duty, and thus qualifies for benefits, only if it is sustained in the course of the performance of a line of duty activity, a line of duty action or *authorized commuting*, or if convincing evidence demonstrates that such injury resulted from the injured party's status as a public safety officer. 28 C.F.R. § 32.3. The term "authorized commuting," which does not appear in the statute itself, nor did it become part of the regulations until the 2005-2006 PSOBP rulemaking, is presently defined as travel by a public safety officer "[i]n the course of actually responding to a fire, rescue, or police emergency…" *Id.* The Proposed Regulation would revise the definition so that authorized commuting is defined as travel by a public safety officer "[i]n the course of actually responding (as authorized) to a fire-, rescue-, or police emergency, or to a particular and extraordinary request (by the public agency he serves) for that specific officer to perform public safety activity, within his line of duty…." *See* Proposed Regulation at 39635. Taken as a whole OJP's proposed amendments to the term "authorized commuting" may create significant uncertainty, inconsistent application by the courts and/or PSOB determining officials, and is not in keeping with the Agency's stated goal to "remove ambiguities" in the current regulations. *See* Proposed Regulation at 39634. As such, it is not unlike OJP's original interpretation of "non-routine stressful or strenuous physical activity" in the 2006 regulations implementing the HHSBA. This interpretation generated no end of confusion, was a factor in a number of adverse determinations over the course of the first year that these regulations were in effect, and necessitated clarification in the BJA Director's October 2, 2007 policy directive. As described by the Director, this clarification was necessary "to ensure future consistency" in how BJA would consider this term.[1]

[1] See statement of Director Domingo Herraiz, Bureau of Justice Assistance, before the Senate Committee on the Judiciary, October 4, 2007.

There are several problems with the proposed change. The proposed definition of "authorized commuting" involves a phrase which expands the existing definition to include travel when a public safety officer is responding to "a particular and extraordinary request (by the public agency he serves) for that specific officer to perform public safety activity, within his line of duty…." The issue is that the word "extraordinary" is undefined. Does "extraordinary" mean that the request simply is not commonplace? Or is "extraordinary" instead a reference to dangerous circumstances? Or does "extraordinary" mean something else altogether? The Proposed Regulation does not say.

More fundamentally, the inclusion of the word "extraordinary" seems unnecessary. Consistent with Congress' intent, benefits should be triggered *whenever* a public safety officer suffers permanent disability or death as a result of an injury sustained while traveling pursuant to a specific request made by his or her agency to perform a "public safety activity within his [or her] line of duty." If a public safety officer has suffered disability or death resulting from an injury sustained while traveling to perform a "public safety activity within his line of duty" at his agency's specific request, the PSOBA very clearly provides for benefits. 42 U.S.C. § 3796(a) (where the BJA "determines … that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the [BJA] *shall* pay a benefit …") OJP reached a similar conclusion with respect to the meaning of the term "authorized commuting" in the preamble to the August 10, 2006 PSOBP regulations. The agency noted that "[i]n the case of officers who are commuting to or from work with other modes of transportation, the ordinary line of duty analysis would apply: Where it can be shown that they were injured while engaging in line of duty activities or action, or that they sustained the injury as a result of their status as public safety officers, they would be considered as acting in the line of duty." 71 FR 46033. Fairly construed, the PSOBA simply imposes no additional requirement that the officer's agency's particular request be "extraordinary."

To avoid uncertainty and to honor Congress' intent, the OJP should at the very least define "extraordinary" in a manner that is keeping with the intent of Congress. Absent this, we recommend OJP eliminate the words "and extraordinary" from the proposed revision to the definition of "authorized commuting" so as to avoid any undue confusion. Congress clearly wished to provide benefits in *all* situations where a public safety officer suffers permanent and total disability or dies as a result of an injury sustained while traveling pursuant a particular request made by his agency to perform a public safety activity within the line of duty.

Secondly, the proposed definition of "authorized commuting" is that it contains a new term, "public safety activity," which the Proposed Regulation defines as being limited to "(1) Law enforcement; (2) Fire protection; (3) Rescue activity; or (4) The provision of emergency medical services." *See* Proposed Regulation at 39637. While this definition would seem sufficient, due to the nature of public safety, this definition could inadvertently exclude certain emergency response activities that do not fall neatly into one these four categories. To ensure that the definition is sufficiently comprehensive, consistent with the intent of the PSOBA, the OJP should: **(i)** delete the

"or" between "Rescue activity;" and (4); and **(ii)** after the phrase "The provision of emergency medical services," insert the following: "; or (5) any emergency response activities an agency is authorized to perform."

2. OJP Should Not Adopt Certain Provisions in the Proposed Definition of "Certification" in 28 C.F.R. § 32.3.

Certifications are prerequisites to establishing eligibility for benefits under the PSOBP. 28 C.F.R. § 32.15 specifically provides that no claim for benefits shall be approved unless the following certifications are filed: (i) a certification from the public safety officer's agency that the officer died as a direct and proximate result of a line of duty injury and that the agency either has paid the officer's survivors the maximum death benefits it can legally pay or is not legally authorized to pay such benefits;[2] and (ii) a certification by the claimant listing every individual known to him who is or might be the officer's child, spouse, or parent.

The Proposed Regulation includes, for the first time, a definition of "Certification" in 28 C.F.R. § 32.3. This proposed definition would impose on PSOBP claimants a number of new procedural requirements that will make filing claims more cumbersome. OJP does not articulate any justification for adding these requirements. Among other things, the proposed definition would: (i) require certifications to be "expressly intended to be relied upon by the PSOB determining official in connection with the determination of a claim specifically identified therein" and "expressly directed to the PSOBP determining official"; (ii) require certifications to contain express declarations that they are legally subject to prosecution for false statements and perjury and to the statutory provision governing declarations under the penalty of perjury; (iii) require certifications to be executed by a person who has, and declares that she has, knowledge of the assertions made and legal authority to make such assertion; and (iv) allow the Director of the Bureau of Justice Assistance ("BJA"), in his discretion, to impose additional "form" requirements. In addition, the proposed definition might make it more challenging for claimants to have their claims considered, even if their certifications are otherwise technically compliant. Specifically, a provision in the proposed definition of "certification" permits the PSOB determining official to reject a certification if, in his own view, it is not "unambiguous, precise and unequivocal." These are terms that, on their face, lend themselves to subjective determinations.

We do not object to OJP's endeavoring to establish guidelines for what the certifications required under the PSOBP must contain. But OJP must not make the certification requirements so technical and so cumbersome (particularly without any legitimate, articulated justification) that it elevates form over substance and renders agencies and claimants effectively unable to comply with them without the assistance of counsel. It is our concern that, with some of the proposed requirements, OJP is doing precisely that. We therefore oppose the inclusion of such proposed requirements:

[2] 42 U.S.C. § 3796c-1 contains a similar certification requirement for cases in which beneficiaries choose to seek expedited benefits in connection with a death- or disability-causing line-of-duty injury sustained while preventing or responding to a terrorist attack.

a. By newly requiring certifications to be both "expressly intended to be relied upon by the PSOB determining official in connection with the determination of a claim specifically identified therein" and "expressly directed to the PSOB determining official," OJP is erecting for eligible PSOBP beneficiaries unnecessary procedural hurdles that appear to serve little purpose other than to permit the BJA to deny potentially meritorious PSOBP claims on technical grounds. Indeed, these proposed requirements are a clear effort to override a judicial decision in which the Court of Federal Claims explicitly criticized the BJA Director as having acted "narrow minded[ly]" and "arbitrar[il]y," and as having improperly elevated form over substance, for denying the PSOBA claims of the father of a volunteer firefighter who gave his life attempting to rescue victims of the terrorist attacks of September 11, 2001. *Winuk v. United States*, 77 Fed. Cl. 207 (2007) (holding that BJA Director acted arbitrarily in denying claim on grounds that, *inter alia*, certification letters were not expressly directed to BJA). In other words, the proposed requirements are an effort to *restore* a "narrow-minded" and "arbitrary" interpretation of the PSOBA that values form over substance. They should not be permitted to go into effect.

If, in connection with a claim, a PSOBP claimant and/or relevant agency provides to the BJA the requisite certifications that, *in substance*, contain the necessary information (*e.g.*, that the officer died as the direct and proximate result of a line-of-duty injury and that the survivors received the maximum allowable benefits from the officer's agency), such certification is sufficient to meet the certification requirement. Consistent with the ruling in *Winuk*, that is so whether or not the certifications are "*expressly* intended to be relied upon by the PSOB determining official in connection with the determination of a claim *specifically* identified therein" and whether or not they are "*expressly* directed" to the PSOB determining official. In the end, what matters is whether the certifications get into the hands of the determining official, not how they are intended or addressed. Subparagraphs (1) and (2) of the proposed definition of "certification" should be deleted.

b. It is unnecessary to require certifications to contain: (i) a *formal* declaration from the executing individual that he or she has knowledge of the assertions made in the certification and the legal authority to make them; or (ii) a *formal* declaration that the assertions made in the certification are subject to prosecution for false statements and perjury and to the statute governing declarations under penalty of perjury. Both are already implicit in any certification an agency or individual submits. As to (i), the signature on a certification plainly implies that the signatory has knowledge of and authority to make the assertions in the certification.[3] As to (ii), it is a given that an individual who signs a statement (*e.g.*, a certification) and provides it to federal officials is subject to federal criminal prosecution if the statement is false. There is thus no sound reason – and OJP gives none – to require formal declarations regarding these matters. This is especially so given that there are other provisions in the proposed definition of "certification" that guarantee the trustworthiness of PSOBP certifications. These include

[3] If the fact that the executing individual has personal knowledge of the assertions made in the certification cannot be gleaned from the contents of the certification – an unlikely scenario – the PSOB determining official can simply return the certification to the agency or claimant and ask the executing individual to make it clear. No formal declaration need be required.

the provision that requires certifications to be "true, complete and accurate" (*see* subparagraph (6)), and the language making explicit that the individual executing a certification may be punished under the criminal law for making false statements (*see* subparagraph (3)).

Requiring formal declarations regarding the assertions made in PSOBP certifications would, again, elevate form over substance and potentially result in the improper rejection of certain claims on non-substantive, technical grounds. Subparagraph (4) of the proposed definition of "certification" should be deleted, as should the words "and expressly declares the same to be so" in subparagraph (3).

c. The proposed provision permitting the BJA Director to alter the certification requirements from time-to-time is objectionable. While it arguably provides the BJA Director with flexibility to alter the form of the requisite certifications as needed, it provides absolutely no limits on what the Director may do. Giving the Director unfettered discretion to change the form of the certifications literally permits the Director to elevate form over substance, authorizing him, without limitation, to impose new technical, procedural requirements on PSOBP claimants outside the rulemaking process. Subparagraph (5) of the proposed definition of "certification" should be deleted.

d. The proposed provision requiring the certifications to be "unambiguous, precise, and unequivocal, in the judgment of the PSOB determining official as to any fact asserted, any matter otherwise certified, acknowledged, indicated, or declared…" is unwarranted. It seeks effectively to reverse the Court of Federal Claims' correct ruling in *Winuk*, which castigated the BJA Director for implausibly determining two certifications to be ambiguous on the question of whether a volunteer firefighter died from injuries sustained in the line of duty. The Court of Federal Claims got it right; the Proposed Regulation gets it wrong. When, as in *Winuk*, a public safety officer's agency certification can be fairly construed to indicate that the officer died from injuries sustained in the line of duty, and when such certification can be fairly construed to indicate that the agency has paid the maximum allowable amount of benefits, the certification requirement is satisfied. It is both unreasonable and contrary to Congress' wishes to hold claimants, who may not be sophisticated and likely are not trained in the law, to an exacting subjective standard that a PSOB determining official (like the BJA Director in *Winuk*) might interpret as requiring a near-impossible-to-attain level of precision. Subsection (7) of the proposed definition of "certification" should be deleted.

3. OJP Should Adopt a More Precise Definition of "Commonly Accepted" in 28 CFR § 32.3.

OJP has the authority to deny a claim if a public safety officer who died from a heart attack precipitated by line-of-duty conduct engaged in intentional "risky behavior," which is defined to include a number of things "commonly accepted" to be a substantial health risk. 28 C.F.R. § 32.13. The Proposed Regulation would define "commonly accepted" to mean "generally agreed upon within the medical profession." Proposed Regulation at 39636.

Our objection to this definition is that the phrase "generally agreed upon within the medical profession" is too imprecise and is therefore subject to misapplication. Fifteen (15) years ago, the U.S. Supreme Court rejected a similar standard, which had governed the admissibility of scientific evidence in federal courts for decades, and replaced it with a more comprehensive standard that focuses on the reliability and relevance of proffered scientific evidence. Under this more comprehensive standard, the non-exclusive list of factors for assessing reliability includes:

- whether the scientific theory or technique can or has been tested
- whether the scientific theory or technique has been subjected to peer review and publication
- the known or potential error rate of the technique when applied
- the existence and maintenance of standards and controls
- the general acceptance of the theory or technique in the relevant scientific community

Consistent with how federal and many state courts now determine the admissibility of scientific evidence, and to ensure that PSOB determining officials do not erroneously deny claims by interpreting the definition of "risky behavior" more broadly than is appropriate, the OJP should define "commonly accepted" to mean: "based on a theory or technique that is scientifically reliable, such scientific reliability being established on the grounds that the theory or technique: (i) can be or has been tested; (ii) has been subjected to peer review and publication; (iii) has a known or potential error rate; (iv) features the existence and maintenance of standards and controls concerning its operation; and (v) is generally accepted within the medical profession."

4. OJP Should Not Limit the Kinds of Training Programs that Trigger PSOPB Benefits Eligibility.

a. <u>OJP Should Not Limit the Kinds of Training Programs that Qualify as "Line of Duty Activity or Action" under 28 CFR § 32.3, as the Proposed Regulation Provides.</u>

The PSOBA provides that BJA should pay benefits if a public safety officer "has died as the direct and proximate result of a personal injury sustained in the line of duty." 42 U.S.C. § 3796(a). The PSOBA regulations currently provide that officers who participate in "training programs" are considered to be acting "in the line of duty." 28 CFR § 32.3. OJP proposes to revise the definition of "line of duty activity or action" so that it instead entails participation in "any official training programs of his public agency." Proposed Regulation at 39636.

We recommend amending this definition by striking "his public agency" and replacing it with "a public agency." This will keep the definition uniform with that of "official training program of a public agency" found later in the proposed rule and clarify any confusion over whether or not an officer can participate in a program offered by any

organization or agency other than his own when the officer's agency approves their participation.

b. OJP Should Not Narrow the Definition of "Participation in a Training Exercise" in 28 CFR § 32.13.

Under the PSOBA, as amended by the HHSBA, benefits eligibility may be triggered by a death resulting from a heart attack caused by, *inter alia*, on-duty "participation in a training exercise" that involves nonroutine stressful or strenuous physical activity. 42 U.S.C. 3796(k). The current definition of "participation in a training exercise" reads: "A public safety officer participates (as a trainer or trainee) in a training exercise only if it is a formal part of an official training program whose purpose is to train public safety officers in, prepare them for, or improve their skills in, particular activity or actions encompassed within their respective lines of duty." 28 CFR 32.13. OJP proposes to revise this definition to read, "A public safety officer participates (as a trainer or trainee) in a training exercise only when actually taking formal part in *a mandatory, structured activity* within an official training program *of his public agency*." Proposed Regulation at 39638 (emphasis added).

By requiring that the training be "mandatory," the new definition, by its plain language, could be interpreted to exclude officers who, *even with their agencies' approval,* participate in voluntary training programs to enhance their knowledge and skills.

We recommend OJP define the term "mandatory" as it applies to training exercises and ensure that the definition does not exclude voluntary training programs intended to enhance knowledge and skills. Failing this, OJP should not adopt the new definition of "participation in a training exercise" set forth in the Proposed Regulation, inasmuch as it is unclear and could inadvertently restrict the kinds of training programs that public safety officers could participate in.

5. OJP Should Revise the Proposed Definition of "Heart Attack" in 28 CFR 32.3.

In the existing regulations, "heart attack" is defined as "myocardial infarction or sudden cardiac arrest." 28 C.F.R. § 32.3. OJP proposes revising the definition as follows:

Heart attack means--

(1) A myocardial infarction; or

(2) A cardiac-event (i.e., cessation, interruption, arrest, or other similar disturbance of heart function), not included in paragraph (1) of this definition, that is--

(i) Acute; and

(ii) Directly and proximately caused by a pathology (or pathological condition) of the heart or the coronary arteries.

(Proposed Regulation at 39636-37).

While appropriately broader than the current definition of "heart attack," the proposed definition still fails to include, as it should, situations in which the heart stops due to chest trauma. For example, under the proposed definition, a public safety officer who, while acting in the line of duty, receives a lethal, heart-stopping blow to his chest during the few hundredths of a second between when the heart contracts and starts again would not be considered to have suffered a heart attack because an autopsy would reveal no cardiac pathology. OJP should revise the proposed definition of "heart attack" to include sudden trauma to the heart that causes the heart to stop, resulting in death. Our organizations specifically propose that OJP amend subsection (2) of the definition so that it reads as follows:

(2) A cardiac-event, (including, but not limited to, cessation, interruption, arrest, or other similar disturbance of heart function), not included in paragraph (1) of this definition, that is--

(i) Acute, and directly and proximately caused by a pathology (or pathological condition) of the heart or the coronary arteries; or

(ii) Directly and proximately caused by a trauma to the heart that causes the heart to stop.

6. OJP Should Revise the Proposed Regulation Regarding "Competent Medical Evidence to the Contrary" in 28 CFR § 32.14.

The HHSBA contains a presumption that death from stroke or heart attack occurring within 24 hours of non-routine stressful or strenuous "law enforcement, fire suppression, rescue … or other emergency response" activity or training exercise is a benefits-eligible, line-of-duty injury. 42 U.S.C. § 3796(k). The presumption may be overcome, however, by "competent medical evidence to the contrary." *Id.* As the Proposed Regulation explains, the BJA issued a memorandum in October 2007 that clarifies what the BJA should, and should not, consider to be "competent medical evidence to the contrary." OJP now purports to incorporate this memorandum into the implementing regulation by adding a new provision, 28 C.F.R. § 32.14(c). The new provision reads as follows:

(c) In connection with the determination of the existence of competent medical evidence to the contrary, pursuant to a filed claim—

(1) Where there is an affirmative suggestion under paragraph (c)(2) of this section, which indicates the existence of a potential ground for denial of the claim, the PSOB Office shall serve the claimant with notice thereof, to request that he file such documentary, electronic, video, or other non-

physical evidence (such as medical-history records, as appropriate) and legal arguments in support of his claim as he may wish to provide;

(2) There is an affirmative suggestion within the meaning of paragraph (c)(1) of this section, where the evidence before the PSOB Office affirmatively suggests that—

(i) The public safety officer actually knew or should have known that he had cardio-vascular disease risk factors and appears to have worsened or aggravated the same through his own intentional and reckless behavior (as opposed to where the evidence affirmatively suggests merely that cardio-vascular disease risk factors were present); or

(ii) It is more likely than not that a public safety officer's heart attack or stroke was imminent; and

(3) The PSOB Office shall not request medical history records to supplement a filed claim, unless the criteria in paragraphs (c)(1) and (2) of this section are satisfied; and

(4) Any mitigating evidence provided under paragraph (c) of this section will be considered by the PSOB Office.

For two reasons, this new provision falls short of OJP's stated goal of fully and successfully incorporating the October 2007 memorandum. First, the mutual cross-references between subsections (c)(1) and (c)(2) make the proposed provision cumbersome and confusing and therefore potentially subject to misapplication. Second, the proposed provision does not expressly convey one of the central tenets of the October 2007 memorandum – namely, that cardio-vascular disease/risk factors must *not* be considered in the absence of certain evidence in the claim file. There is no reason why it should not do so.

OJP should revise the proposed regulation regarding "competent medical evidence to the contrary" to read as follows:

(c) In connection with the determination of the existence of competent medical evidence to the contrary—

(1) Where the evidence submitted to the PSOB Office affirmatively suggests that (i) the public safety officer actually knew or should have known that he had cardio-vascular disease risk factors and appears to have worsened or aggravated the same through his own intentional and reckless behavior (as opposed to where the evidence affirmatively suggests merely that cardio-vascular disease risk factors were present) or (ii) it is more likely than not that a public safety officer's heart attack or stroke was imminent, the PSOB Office shall serve the claimant with notice thereof, to request that he file such documentary, electronic, video, or other non-physical evidence (such as medical-history records, as appropriate) and legal arguments in support of his claim as he may wish to provide;

(2) In determining whether the evidence submitted to the PSOB Office affirmatively suggests the existence of any of the criteria set forth in paragraph (c)(1) of this section, the mere presence of cardiovascular disease risk factors (even extremely severe) shall not be considered;

(3) The PSOB Office shall not request medical history records to supplement a filed claim unless the criteria set forth in paragraph (c)(1) of this section are satisfied; and

(4) Any mitigating evidence provided under paragraph (c)(1) of this section shall be reviewed by the PSOB Office in favor of the claim.

* * *

The PSOBP is a critical program designed to recognize and honor the invaluable public service performed by those who sacrifice their lives to protect our communities. It is imperative that OJP administer the PSOBP in a way that enables the PSOBP's intended beneficiaries to obtain the assistance Congress has provided without having to satisfy requirements that run counter to the PSOBP's broad remedial purposes. Accordingly, we urge OJP to take action consistent with the foregoing comments when revising the PSOBP regulations.

Thank you for your consideration. If you would like to discuss any of our comments further, please contact Sean Carroll, CFSI's Director of Government Affairs, at 202-371-1277.

Sincerely,

Dr. William Jenaway
President, Congressional Fire Services Institute

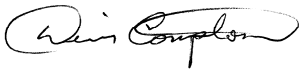
Ken Finley
President, International Association of Arson Investigators

Chief Larry J. Grorud, CFO, MIFireE
President, International Association of Fire Chiefs

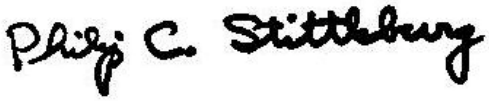
Harold A. Schaitberger
General President, International Association of Fire Fighters

Chris Neal
President, International Fire Service Training Association

Chief W. Edward Buchanan , Jr.
President, International Society of Fire Service Instructors

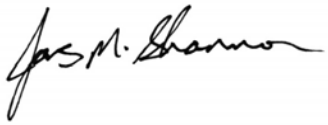


Chief Dennis Compton
Chairman of the Board, National Fallen Firefighters Foundation



Chief Philip C. Stittleburg
Chairman, National Volunteer Fire Council

Ed Mullins
President, Sergeants Benevolent Association of New York City



James M. Shannon
President, National Fire Protection Association

Rick Mason
President, North American Fire Training Directors