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July 21, 2010

House Subcommittee on Federal Workforce, Postal Service and the District of Columbia Hearing

Chairman: The Honorable Stephen F. Lynch

Ranking Member: The Honorable Jason Chaffetz

Hearing: "Are Agencies Playing It Safe and Secure: An Examination of Worker Protections Pre- and Post-Injury."

Federal Law Enforcement Officers Association

Witness Statement: Jon Adler, National President

Chairman Lynch, Ranking Member Chaffetz, and Distinguished Members of the committee, on behalf of the 26,000 membership of the Federal Law Enforcement Officers Association (FLEOA), I thank you for the opportunity to appear before you today. My name is Jon Adler and I am the National President of F.L.E.O.A. I am proud to represent federal law enforcement officers from over 65 different agencies. My testimony will primarily respond to the question of "how well the Federal Employees' Compensation Act is meeting the needs of injured workers in high-risk occupations.

Every year, approximately 300 Federal law enforcement officers sustain line of duty injuries during violent physical encounters. They also suffer from serious duty related injuries from vehicle accidents, toxins and hazardous materials exposure, and training incidents. From all the pain these noble warriors have endured, the pain that hurts them the most is their negative experiences dealing with the Office of Workers Compensation (OWCP), and the Division of Federal Employee Compensation. To illustrate the pattern of how our members have been mistreated, including having to endure financial and emotional duress, I will discuss five egregious examples:

On September 11th, 2001, Special Agent Mike Vaiani was at Ground Zero when the Twin Towers collapsed. Before the second Tower collapsed, Special Agent Vaiani and a firefighter ran into the building and rescued injured fire fighters and civilians. In the process, S/A Vaiani sustained serious injury to his neck, shoulders and back. After filing his works compensation claim, he first heard from a OWCP claims examiner in October 2001. The examiner asked one question: did the firefighter asked S/A Vaiani to follow him into the building? S/A Vaiani's response was that of a hero: "I went in to save lives because that's what I do." Afterwards, S/A Vaiani began to receive collection notices for unpaid medical bills. Then, in December 2002, OWCP lost his case file and his supervisor offered to pay his medical bills on her personal credit card. After enduring this miserable process, S/A Vaiani stated, "I would rather run back into the Tower while it's on fire than have to deal with the Department of Labor."

After anthrax contaminated mail was sent through the Brentwood postal facility in 2001, Postal Inspector Bill Paliscak responded to the crime scene. He was instructed to remove a contaminated filter to preserve as evidence. Wearing only a dust mask, Inspector Paliscak was unexpectedly covered in Anthrax dust. Days after the severe anthrax exposure, Inspector Paliscak became deathly ill. The OWCP denied his claim because they questioned if it was in his job duties as an Inspector to touch a contaminated filter. In spite of the fact that the filter he removed was saturated with anthrak spores, his claim was denied because he could not immediately prove he was suffering from Anthrak exposure. In May 2002, OWCP finally accepted Inspector Paliscak's claim. Since the incident, Inspector Paliscak's credit was ruined since his medical bills went unpaid for months, and his medical care was disrupted. Today, this hero is bound to a wheelchair, while he suffers from severe muscle spasms, overwhelming fatigue, and other debilitating effects of anthrak exposure.

On November 16, 2006, Special Agent Paul Buta was off-duty with his family in a mall when he was shot while effectively stopping a violent assault committed in his presence. His heroic actions saved a man's life, and stopped a lethal threat. While his wife and his 13 year old daughter administered first aid, S/A Buta's four year old daughter went for help and called 911. After receiving medical care, S/A Buta's doctor told him he would need extensive physical therapy to maintain and prolong the atrophy of his leg muscles. With bullet fragments lodged in his leg, S/A Buta began physical therapy treatment. Unfortunately, due to OWCP's inability to pay S/A Buta's bills timely, his physical therapy ended on June 30th, 2008. His current outstanding debt is \$11,895. Without the physical therapy, S/A Buta is struggling to meet the mandatory fitness standards to keep his job. Prior to the shooting, S/A Buta was a triathlon athlete. Now, he's a hero in pain and in serious debt.

From 2000 to 2007, Special Agent Tim Chard was assigned to a narcotics task force. During this time, S/A Chard was personally involved in busting and dismantling 100 meth labs. His task force commander stated, "I was so impressed that he, a Federal Agent, was helping us do a job we hated when other Detectives assigned to our team

seemed to disappear when ever a lab was discovered.” In late 2008 and into 2009, S/A Chard began to suffer from a variety of debilitating symptoms and pain that seemed connected to his exposure to meth labs toxins. Renowned expert Dr. Gerald H. Ross wrote, “It is my medical opinion that in all reasonable likelihood, S/A Chard’s symptoms have resulted directly from his meth and meth-related chemical exposures.” Dr. Ross recommended that S/A Chard be admitted to the Utah Meth Cop Project 30-day detox program for treatment. Unfortunately, OWCP denied S/A Chard’s claim. Appealing to his agency for help, S/A Chard was told that if he enrolled in the program, “any costs you incur up front will have to paid out of pocket. You will also be required to take sick leave for the program. You would then be reimbursed for your expenses by OWCP, if they accept your claim.” In spite of OWCP rejecting his claim, the FLEOA Foundation paid for S/A Chard to enter the treatment program. After completing the program, S/A Chard’s health greatly improved. However, he will have to pay for all medical tests to monitor his condition. Thanks to the support of the Utah Meth Cop Project, and actor Vince D’Onfrio, this hero is getting emotional support.

More recently, Deputy Jason Matthew was stabbed by a female inmate who had secreted an HIV contaminated edged weapon on her person. Deputy Matthew was immediately taken for emergency treatment to tend to his wound and his exposure to an HIV contaminated weapon. While receiving emergency medical care, Deputy Matthew was given a prescription for HIV preventive medication. After laying out his money to purchase the medication, Deputy Matthew’s OWCP claim was denied. He was informed that because he was not diagnosed with HIV, he would not be reimbursed for the prescription expense. Fortunately, his agency intervened and paid this hero’s medical bill. Deputy Matthew continues to be monitored for his HIV exposure.

The common denominator from these horror stories is that OWCP is unable to effectively process claims filed by injured law enforcement officers. One of the glaring patterns is OWCP’s inability to grasp the nexus of the injury with the law enforcement function. The net effect is that our heroes are left with a physical and financial hardship. FLEOA has been collecting other case related data and will be happy to make this information available to this committee upon request. We hope this committee will consider initiating a review of the law enforcement cases handled by OWCP and the Division of Federal Employee Compensation. Heroes should be supported by the Federal Employees’ Compensation Act; not kicked to the curb.

Respectfully submitted,

Jon Adler

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