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U.S. Senate

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PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

Improvements Made but Information on Performance Goals Still Needed

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Income Security Issues

GAO Highlights

Highlights of [GAO-16-617T](#), a testimony before the Committee on the Judiciary, U.S. Senate

Why GAO Did This Study

The PSOB program, administered by the Department of Justice's Bureau of Justice Assistance, provides three types of benefits (death, disability, and education) to public safety officers and their eligible family members in cases of line-of-duty death or disability. GAO's 2009 report (GAO-10-5) examined the timeliness of claims processing and the extent to which the program followed government guidelines for monitoring program performance. The report made two recommendations to DOJ. DOJ's OIG issued a report in 2015 that provided updated information on the concerns raised by GAO in 2009.

This testimony summarizes key findings of GAO's October 2009 report on the PSOB program and DOJ's actions to implement GAO's recommendations from that report. For its 2009 report, GAO reviewed a generalizable sample of 233 PSOB claims that were opened during fiscal years 2006 to 2008, reviewed relevant agency documents, and interviewed PSOB program officials, representatives of advocacy organizations, and state and local officials in five selected states. For this statement, GAO also reviewed DOJ's actions to date and the findings from the DOJ OIG's 2015 report on the PSOB program.

What GAO Recommends

GAO is not making any new recommendations in this testimony.

View [GAO-16-617T](#). For more information, contact Andrew Sherrill at (202) 512-7215 or sherrilla@gao.gov

April 26, 2016

PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM

Improvements Made but Information on Performance Goals Still Needed

What GAO Found

GAO's 2009 report on the Public Safety Officers' Benefits (PSOB) program—created to provide certain benefits in cases of public safety officers' death or total disability in the line of duty—identified issues with the timeliness of claims processing, program awareness, and performance measurement. Specifically, GAO found that death and education claims were processed faster than disability claims. GAO estimated that the Department of Justice's (DOJ) PSOB Office generally had processed education and death claims in under a year while disability claims took between 17 and 26 months. In 2009, most claims were being processed on paper, and DOJ had plans to establish an automated claims system to help ensure more efficient claims processing and improve available claims data. This system has since been established.

GAO's 2009 report also identified issues with awareness of program benefits and adherence to federal guidelines for performance monitoring. In particular, representatives of 15 of the 44 public safety organizations GAO spoke with mentioned a lack of awareness about disability or education benefits, while officials from another 6 organizations were concerned that their constituents had a general lack of knowledge of the program. Moreover, GAO found that because DOJ had not set strategic goals and measures for the program, monitored performance, or reported results, the program had little accountability. To enhance claimant awareness and program accountability, GAO recommended that DOJ establish appropriate performance measures and goals for the PSOB program and use reliable data to monitor and report on program performance.

DOJ agreed with GAO's recommendations and has taken some steps to address them. Specifically, by 2014, DOJ had established two PSOB performance measures and posted data for these measures on its public website. DOJ subsequently posted data for additional performance measures on its website, including average number of days to assign a PSOB Outreach Specialist and percentage of claims determined within 1 year. While posting data on these measures represents an improvement, as of April 2016, DOJ had not taken the additional step of publishing performance goals—which specify the desired level of performance—for the PSOB program. GAO continues to believe that publishing performance goals is a key step in gauging how well the program is working and enhancing stakeholder awareness of the program.

Findings from a 2015 report by DOJ's Office of Inspector General (OIG) highlighted the program's continuing problems in the timeliness of claims processing and reporting of reliable program performance data. The OIG concluded that it did not believe that the PSOB Office's database, as a management tool, was adequate to evaluate efficiencies in processing or to identify potential causes of timeliness problems. The OIG made four recommendations to DOJ to address these concerns, and DOJ agreed with the recommendations. Continued attention to these issues by DOJ is needed to help ensure accountability for achieving the program's goals.

Chairman Grassley, Ranking Member Leahy, and Members of the Committee:

Thank you for this opportunity to discuss our prior work on the Public Safety Officers' Benefits (PSOB) program. Public safety officers, including law enforcement officers, firefighters, and emergency medical technicians, are among the first to respond to potentially dangerous and life-threatening situations, putting themselves at risk of catastrophic injury or death. In 2014, nearly 140 work-related deaths were experienced by law enforcement and firefighting officers alone.¹ The program was established by federal law in 1976 in appreciation for the service of public safety officers and in recognition of the potential inadequacy of state and local benefits for officers and their survivors.²

The PSOB program, administered by the Department of Justice's (DOJ) Bureau of Justice Assistance, provides three types of benefits: death, disability, and education. In cases of line-of-duty death or injuries that result in permanent and total disability preventing the performance of any gainful work, public safety officers and their beneficiaries are currently eligible to receive a onetime lump-sum payment of \$339,881.³ In addition to the lump-sum death and disability benefits, the officer's spouse and children may also qualify to receive postsecondary education benefits up to \$1,021 a month.⁴

In October 2009, we reported on DOJ's management of PSOB.⁵ At the time we conducted our review, questions had arisen about DOJ's

¹Information is based on preliminary data from the Bureau of Labor Statistics.

²Public Safety Officers' Benefits Act of 1976, Pub. L. No. 94-430, 90 Stat. 1346 (codified as amended at 42 U.S.C. § 3796 *et seq.*).

³For more information about disability benefits available to public safety officers, see GAO, *Disability Benefits: Benefit Amounts for Military Personnel and Civilian Public Safety Officers Vary by Program Provisions and Individual Circumstances*, [GAO-06-4](#) (Washington, D.C.: Apr. 7, 2006).

⁴Although funding for death claims is mandatory, funding for the disability and education portions of the program is discretionary. Also, the benefit amounts are adjusted each year to reflect the percentage of change in the Consumer Price Index.

⁵For more information, see *Public Safety Officers' Benefits Program: Performance Measurement Would Strengthen Accountability and Enhance Awareness among Potential Claimants*, [GAO-10-5](#). (Washington, D.C.: Oct. 29, 2009).

administration of the program, in part because of the time taken by the agency to implement the Hometown Heroes Survivors Benefits Act of 2003.⁶ The act expanded program eligibility to include public safety officers who die as a direct and proximate result of heart attacks or strokes while on duty or within 24 hours after engaging in a nonroutine stressful or strenuous physical public safety activity or training.⁷ Our 2009 report examined the timeliness of processing for the PSOB program and the extent to which DOJ followed government guidelines for monitoring program performance, among other issues. In 2015, DOJ 's Office of Inspector General (OIG) issued a report on the PSOB program that provided updated information on both topics.⁸ My testimony today summarizes: (1) key findings from our October 2009 report on the PSOB program and (2) DOJ's actions to address the recommendations from our report.

For our 2009 report, we reviewed a random generalizable sample of 233 out of the 1,632 PSOB claims that were opened during fiscal years 2006 to 2008 for all three types of claims (death, disability and education). In addition, we reviewed relevant agency documents, and interviewed PSOB program officials, representatives of advocacy organizations, and state and local officials in five selected states: California, Iowa, Louisiana, Maryland, and New York. We selected these states based on the number of public safety officer deaths around that time, geographic location, and other factors. More detailed information on our objectives, scope, and methodology for that work can be found in the issued report. More recently, we conducted follow-up work to determine the status of our recommendations, which involved contacting agency officials to obtain relevant documentation. Additionally, we reviewed the findings of the 2015 DOJ OIG report on the PSOB program.

⁶Pub. L. No. 108-182, 117 Stat. 2649

⁷Since then, the Public Safety Officers' Benefit Act was amended further by the Dale Long Public Safety Officers' Benefits Improvements Act of 2012, to include vascular ruptures. For other amendments made by that act, see Pub. L. No. 112-239, § 1086, 126 Stat. 1632, 1964.

⁸For more information, see U.S. Department of Justice Office of Inspector General, *Audit of the Office of Justice Programs' Processing of Public Safety Officers' Benefit Programs Claims*, Audit Division 15-21 (Washington, D.C.: July 2015).

The work on which this statement is based was conducted in accordance with generally accepted government auditing standards.⁹ Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The PSOB program provides death, disability, and education benefits to eligible public safety officers and their families in the event of the officer's death or permanent and total disability in the line of duty. To qualify for program benefits, claims must be associated with an officer who worked for a public agency in one of the following official capacities:

- law enforcement officer;
- firefighter;
- rescue squad or ambulance crew;
- employee of the Federal Emergency Management Agency (FEMA) who is responding to a federally declared disaster or emergency;¹⁰
- state, local, or tribal officials who are working in cooperation with FEMA during a federally declared disaster or emergency; or
- fire or police department chaplain.

Eligible survivors—including spouses, children, and surviving parents—may qualify for death benefits if an officer's death was the direct and proximate result of an injury sustained in the line of duty.¹¹ To qualify for

⁹Because the information in this testimony is largely from our 2009 report, it may not reflect developments that may have occurred since that time, including changes in laws, regulations, or policies.

¹⁰According to FEMA officials, many of these officers are usually state and local officials who are temporarily under contract with FEMA during a disaster.

¹¹Eligible survivors include the officer's spouse, children, surviving parents, or an individual designated by the officer on his or her most recently executed life insurance policy or designation of beneficiary on file. The PSOB statute establishes a hierarchy for determining who among these types of survivors will receive all or portions of the benefit.

disability benefits, the public safety officer has to be permanently and totally disabled as the direct result of catastrophic injury sustained in the line of duty that permanently prevents the individual from performing any gainful work.¹² An officer's spouse or children may also qualify for education benefits only after the officer's eligibility for death or disability benefits has been established.

The PSOB program is administered by the PSOB Office, a unit of the Bureau of Justice Assistance within DOJ's Office of Justice Programs. At the time of our 2009 report, it employed a total of 10 staff, including the program director. In fiscal years 2006 through 2008, a total of 1,632 PSOB claims were filed through this office. The majority, or about 57 percent, were death claims; about 32 percent were education claims; and about 11 percent were disability claims.

As we reported in 2009, claimants were required to submit documentation to the PSOB Office for each type of claim. Typically, the officer's employer (i.e., the state or local agency for which the officer worked at the time of death or disability) assisted with filing death and disability claims on the officer's behalf, while claimants generally file for education benefits on their own. Advocacy organizations may also have assisted. Upon receipt of all the required documentation, a PSOB benefits specialist reviewed the claim and its supporting documentation and drafted an initial determination on whether to approve or deny the claim. This draft determination was then reviewed by a senior benefits specialist, the PSOB director, and the Office of Justice Program's Office of the General Counsel (referred to in this testimony as the "legal review" or the "attorneys' review") before a final determination was rendered.¹³

¹²The definition of "disabled" for purposes of the PSOB program differs from the definition of "disability" for the Social Security Disability Insurance (DI) and Supplemental Security Income (SSI) programs. To be eligible for disability benefits under these Social Security Administration programs, individuals generally must be unable to engage in any substantial gainful activity because of a medically determinable physical or mental impairment that is expected to result in death or last continuously for at least 12 months.

¹³An appeals process was available for claimants whose claims were denied. Since we issued our report, the U.S. Department of Justice's Office of Inspector General (OIG) has reported on PSOB claims processing. In its report, the OIG noted that the claims process has changed in that the legal review is now conducted by the PSOB Counsel housed in the PSOB Office. For more information, see, DOJ OIG, *Audit of the Office of Justice Programs' Processing of Public Safety Officers' Benefit Programs Claims*, Audit Division 15-21 (Washington, D.C.: July 2015).

Furthermore, some death claims were reviewed by a contracted pathologist and all disability claims were reviewed by independent medical reviewers of various medical specialties and subspecialties who provide additional information as to whether claims meet medical standards for eligibility.¹⁴ A claim may have gone through different phases of the process multiple times if at any phase DOJ officials determined that more information may be needed to make a determination.

In 2009, GAO Identified Issues with Timeliness of Claims Processing, Program Awareness, and DOJ's Monitoring of Program Performance

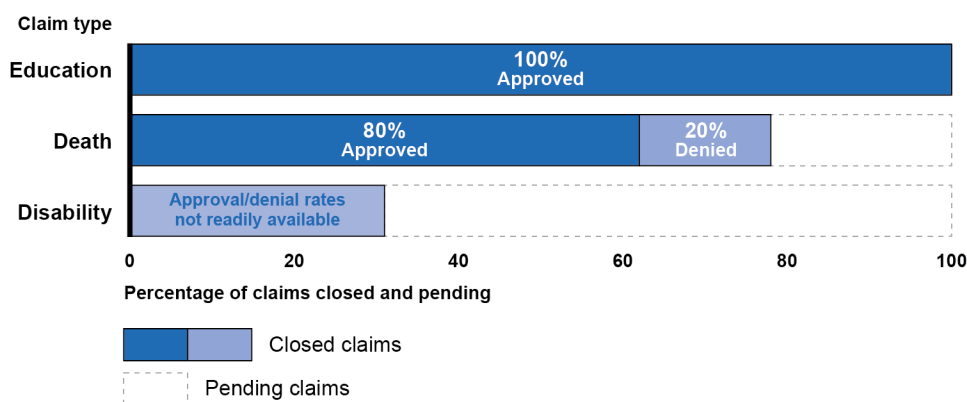
Death and Education Claims Were Processed Faster Than Disability Claims

Based on the sample we used for our 2009 report, we estimated that the PSOB Office closed and approved the different types of claims at varying rates. Specifically, the office closed 78 percent of death claims and approved about 80 percent of those closed claims that were initiated in fiscal years 2006 through 2008. For education claims initiated over the same period, the office closed and approved all of those claims. In contrast, only 31 percent of disability claims were closed during the period we reviewed. Moreover, we could not reliably determine their approval

¹⁴Death claims were sent for medical review at the discretion of PSOB officials based on the evidence provided by the survivor, or the survivor's agency, to support the claim. In its March 2008 report, DOJ's OIG noted that death claims associated with the Hometown Heroes Act were often sent for medical review. According to DOJ officials, this review satisfied the law's requirement regarding the review of "competent medical evidence to the contrary." For more information, see U.S. Department of Justice Office of Inspector General, *The Office of Justice Programs' Implementation of the Hometown Heroes Survivors Benefits Act of 2003*, Evaluation and Inspections Report I-2008-005 (Washington, D.C.: March 2008).

rate due, in part, to the significantly longer time frame to process disability claims (see fig. 1)

Figure 1: Status of Education, Death, and Disability Claims, Fiscal Years 2006 through 2008



Source: GAO analysis of data from the Bureau of Justice Assistance (BJA). | GAO-16-617T

Note: The percentages above are based on sample data and have, at most, a plus or minus 10 percent margin of error.

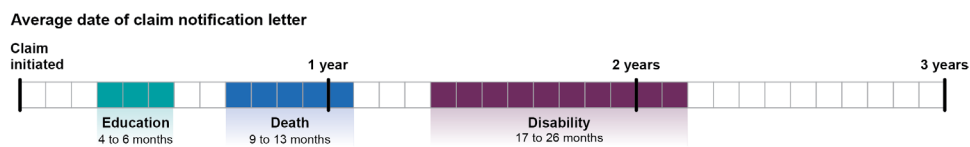
With regard to the first phase of the claims process—length of time between the date of death or disability and when the PSOB Office began to process the claim— we reported in 2009 that the average length varied significantly by type of claim. Specifically, the average length was 7 months to a year for death claims, 4 to 6 years for disability claims, and 7 to 10 years for education claims associated with approved death claims.¹⁵ PSOB officials told us that several factors may affect the length of this phase of the claims process, including claimants’ difficulty with obtaining necessary documentation to prove eligibility and lack of awareness about the program.

Similarly with regard to the second phase of the claims process—length of time between the date the PSOB Office received the claim to sending a final determination letter to the claimant—our 2009 report found that the

¹⁵The 7- to 10-year time for an education claim associated with an approved death claim is not unusual given that an officer’s children may not reach college age until years after the officer’s death or disability. Ranges of time are based on sample data and represent the upper and lower bounds of the 95 percent confidence intervals for the mean length of time.

average length also varied by type of claim. Specifically, the average length of time was 4 to 6 months for education claims, 9 to 13 months for death claims, and 17 to 26 months for disability claims (see fig. 2).

Figure 2: Average Program Processing Time in Months for Closed Education, Death, and Disability Claims, Fiscal Years 2006 through 2008



Source: GAO analysis of Bureau of Justice Assistance (BJA) data. | GAO-16-617T

Note: Ranges are based on sample data and represent the upper and lower bounds of the 95 percent confidence interval for the mean length of time.

Officials explained that disability claims were generally more challenging and may have taken longer to process than death and education claims, in part because eligibility was based on adequate medical documentation from the claimant and an independent medical review by Bureau of Justice Assistance contractors. Disability claims decisions were also three times more likely to be appealed than death claims, which also contributed to longer processing times.

We were unable to identify which steps of the claims process were most time-consuming because the claims files in the sample we reviewed in 2009 did not include reliable documentation regarding when claims passed through each step of the process. For example, the PSOB Office did not consistently document the dates of the attorneys' reviews nor did it document the dates of the contractors' medical reviews. However, based on our sample, we found in 2009 that the overall length of time from occurrence of death or disability to the claimant's receipt of a final determination took an average of 16 to 21 months for death, 60 to 92 months (or 5 to about 7.5 years) for disability, and 96 to 126 months (or about 8 to 10.5 years) for education claims. At the time of our report, most of these claims were being processed on paper but the PSOB office had plans to and subsequently implemented an automated information management system in an effort to help ensure efficient claims processing and improve available data on claims.

In 2009, Public Safety Organizations In Selected States Expressed Concerns about Program Awareness, Difficulties Establishing Eligibility, and Perceived Long Wait Times for Benefits

In 2009, we reported that state and local officials from police and fire department and other public safety officer organizations did not always know about PSOB program benefits, particularly disability and education benefits. In particular, representatives of 15 of the 44 organizations we spoke with mentioned a lack of awareness about disability and education benefits, while officials from another 6 organizations were concerned that their constituents had a general lack of knowledge of the PSOB program. The general lack of awareness tended to pose a particular problem among smaller rural and volunteer departments. The lack of awareness also had an adverse effect on some claimants. For example, an official representing a local police officers' union mentioned that a local police department unfamiliar with the disability benefits did not seek benefits on behalf of a severely and permanently disabled officer until the officer happened to seek educational assistance for his child. Officials from some public safety officer unions and the PSOB program said that they were more focused on promoting awareness of death benefits. Officials from the five selected states we reviewed in 2009 also told us that submitting all the necessary paperwork to prove eligibility was difficult and could be time-consuming. For example, according to local officials we interviewed, the application process could be delayed by long wait periods to obtain accident reports, medical records, and birth records. In one case, an official from a firefighters' employee association in New York stated that an officer's family had to wait 6 months before they could submit a death claim. Outdated beneficiary forms could have also delayed claims processing, and Office of Justice Programs officials acknowledged that sometimes the PSOB Office lost claim files. PSOB officials noted that they planned to address this concern by automating the claims process using an online application form.¹⁶

In 2009, officials most frequently expressed concern about perceived long wait times for receiving benefits and also reported difficulties obtaining information about claims status. A local police department official explained that relatively long wait times for PSOB benefits can impose a financial burden on families. A few state and local officials also expressed concern that the PSOB Office did not inform claimants or agencies of how long the claims process was expected to take. PSOB officials told us that the program provided information on what stage the claim was in the

¹⁶Applications for all three types of benefits can now be submitted online.

review process but not the estimated time frames for processing claims because they varied widely based on each claim's circumstances.

DOJ Did Not Monitor PSOB Program Performance in 2009

At the time of our 2009 report, the PSOB Office had not followed government guidelines for performance monitoring. All federal executive branch agencies are required by the Government Performance and Results Act of 1993 (GPRA) to set strategic goals, measure performance, and report on the degree to which goals were met in an effort to ensure government accountability and enhance public awareness about agencies' accomplishments.¹⁷ Agencies are also subject to the Federal Managers' Financial Integrity Act of 1982, which requires that they establish and maintain systems of administrative controls.¹⁸ GAO and the Office of Management and Budget have established guidelines for implementing these two acts.¹⁹ The guidelines include establishing goals and performance measures, monitoring progress—including collecting reliable data on program outcomes—and communicating program operations and outcomes to relevant stakeholders such as Congress and the public, including program participants.

In 2009, we reported that DOJ had not set strategic goals and measures related to GPRA for the PSOB Office and therefore did not track or report such information to the public. As a result, the program had little accountability. Officials said that the program was not subject to strategic planning and goal setting because it was considered a payment program and its budget was largely mandatory. However, we noted that other federal programs that provide benefits after work-related injury and illness

¹⁷Pub. L. No. 103-62, 107 Stat. 285. Since we issued our 2009 report, GPRA has been amended by the GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011).

¹⁸Pub. L. No. 97-255, 96 Stat. 814.

¹⁹See GAO, *Standards for Internal Control in the Federal Government*, [GAO/AMD-00-21.3.1](#) (Washington, D.C.: November 1999) for the guidelines that were operational at the time of our report. For more recent guidelines, see GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014). For other federal guidance see, GAO, *Executive Guide: Effectively Implementing the Government Performance and Results Act*, [GAO/GGD-96-118](#) (Washington, D.C.: June 1996), and OMB, *Preparation and Submission of Strategic Plans, Annual Performance Plans, and Annual Program Performance Reports*, Circular A-11 (Washington, D.C.: June 2005) and *Management's Responsibility for Internal Control*, Circular A-123 (Washington, D.C.: December 2004).

have established performance measures, such as ones for claims-processing timeliness, and reported their results publicly. While the PSOB program lacked GPRA-related strategic goals and performance measures, a 2004 Attorney General memorandum established two claims-processing goals. However, at the time of our 2009 report, the PSOB program director stated that the office did not track the memorandum's first goal of processing claims within 90 days of receiving all necessary documentation because it lacked automated data that would have enabled the program to establish a baseline against which to gauge progress. As for the second goal, an official in the Office of Justice Programs' Office of the General Counsel told us that their office had not established mechanisms to monitor whether the attorneys reviewed claims within 45 days of receiving all necessary documentation.

Our 2009 report concluded that a more focused and systematic approach to managing the PSOB program could help ensure that the office achieves its goal of effectively and efficiently administering benefits that honor the work of many public officers who are killed or injured in the line of duty. To strengthen PSOB's accountability and enhance awareness of the program and its benefits, we recommended in 2009 that the Bureau of Justice Assistance establish appropriate performance goals and measures and use reliable data to monitor and publicly report on the program's performance. DOJ agreed with these recommendations.

PSOB Office Has Taken Some Actions to Monitor Performance Since 2009, but a Recent OIG Report Identified Continuing Problems

DOJ has taken steps to implement program improvements. By 2014, we observed that the Bureau of Justice Assistance had posted two PSOB performance measures and related data on its public website in consultation with public safety stakeholder groups: average time for the PSOB program to receive basic required documents, and average time for the PSOB program to determine a claim. The Bureau subsequently posted additional performance measures on its public website, including average number of days to assign a PSOB Outreach Specialist and percentage of claims determined within 1 year. While posting data on these performance measures represents an improvement, as of April 2016, the Bureau of Justice Assistance has not taken the additional step of publishing performance goals—which specify the desired level of performance—for the PSOB program. We continue to believe that the Bureau of Justice Assistance should publish performance goals to help the public gauge how well the program is working and enhance stakeholder awareness of the program.

In addition, in its July 2015 report, DOJ's OIG raised questions about claims processing times and performance measurement. Specifically, the report identified three primary factors that contributed to significant delays in processing death and disability claims: (1) claimants filing incomplete claims applications due, in part, to inadequate program guidance, (2) claimants and agencies being unresponsive to the PSOB Office's request for additional information, and (3) the PSOB Office not adequately documenting the basis for its initial determination, which caused delays during the legal review phase. The OIG also determined that the PSOB Office had not reported annual and appropriate data on its performance measures and noted issues with the data's reliability. For example, the OIG found the PSOB Office's database was inconsistent and did not include data fields for important claims processing milestones, such as the date claimants submit applications and the PSOB submits claims for legal review. The OIG concluded that it did not believe that the PSOB Office's database, as a management tool, was adequate to evaluate efficiencies in processing or to identify potential causes of timeliness problems. The OIG made four recommendations to DOJ to address these findings, and DOJ agreed with all four recommendations.

In conclusion, the work of GAO and the OIG highlights difficulties DOJ has encountered in working to improve performance measurement for the PSOB program. While DOJ has taken some steps to address these issues, continued attention is needed to help ensure accountability for achieving program goals.

Chairman Grassley, Ranking Member Leahy, and Members of the Committee, this concludes my statement. I would be pleased to respond to any questions you may have.

GAO Contact and Staff Acknowledgments

For further information regarding this testimony, please contact me at (202) 512-7215. Key contributors to this testimony were Holly Dye, Meeta Engle, Danielle Giese, Avani Locke, Lorin Obler and Almeta Spencer.

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