



U.S. Department of Justice

Office of Justice Programs

Bureau of Justice Assistance

Office of the Director

Washington, D.C. 20531

**PUBLIC SAFETY OFFICERS' BENEFITS PROGRAM POLICY
MEMORANDUM**

re: **"Nonroutine stressful or strenuous physical activity"**

With respect to the Public Safety Officers' Benefits Office determination of any claim that implicates the presumption described at 42 U.S.C. § 3796(k), and pursuant to subpart B of 28 C.F.R. part 32, effective immediately the following shall be the policy and practice of the Public Safety Officers' Benefits Program, in determining whether there may be "nonroutine stressful or strenuous physical activity":

1. No activity shall be understood to be "performed as a matter of routine" within the meaning of such subpart solely by virtue of being described by the public safety agency as being "routine" or "ordinary."
2. The determination of an activity's "routineness" should be informed less by the frequency with which it may be performed than by its stressful or strenuous character. (For example, although "domestic disturbance" calls may occur with some frequency in the law-enforcement context, typically they occasion considerable stress, given the many and serious unknowns associated with encountering often highly-emotionally charged (and often violent) individuals, on their own territory, and under circumstances where the mere presence of law-enforcement officers well may be perceived as intrusive and insulting; similar observations (as to frequency and stress) could be made with respect to vehicular, roadside traffic stops and fire alarms. Responding to an emergency call shall presumptively be treated as non-routine.)

Director

Date

10/2/07



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re: "Competent Medical Evidence to the Contrary"

With respect to the Public Safety Officers' Benefits Office determination of any claim that implicates the presumption described at 42 U.S.C. § 3796(k), and pursuant to subpart B of 28 C.F.R. part 32, effective immediately the following shall be the policy and practice of the Public Safety Officers' Benefits Program, in determining whether there may be "competent medical evidence to the contrary":

1. Where there is nothing in the claim file that affirmatively suggests that something other than the line of duty may have caused the fatal heart attack or stroke, or that it was more likely than not that the heart attack or stroke was imminent, no medical-history records shall be requested of the claimant.
2. In determining what may make an affirmative suggestion described in 1, the mere presence of cardio-vascular disease/risk factors (even extremely severe) – such as might (for example) be discovered in an autopsy or mentioned in a coroner's report or death certificate – shall not be considered, unless information in the claim file itself affirmatively suggests that the claimant's decedent— (a) actually knew or should have known of such presence; and (b) appears to have worsened or aggravated the same by his own intentional and reckless behavior.
3. Any medical-history records requested of the claimant will be reviewed for mitigating evidence in favor of the claim.

Director

Date

10/2/07