



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: "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