This microfiche was produced from documents received for inclusion in the NCJRS data base. Since NCJRS cannot exercise control over the physical condition of the documents submitted, the individual frame quality will vary. The resolution chart on this frame may be used to evaluate the document quality.

Microfilming procedures used to create this fiche comply with the standards set forth in 41CFR 101-11.504.

Points of view or opinions stated in this document are those of the author(s) and do not represent the official position or policies of the U. S. Department of Justice.
CONTENTS

FROM THE DIRECTOR

"The FBI is committed to the allocation of investigative, training, and laboratory resources to the growing problem of 'arson-for-hire'."

1

FEDERAL DEATH AND DISABILITY BENEFITS FOR STATE AND LOCAL CRIMINAL JUSTICE EMPLOYEES, by Edwin D. Heath, Jr., Police Legal Adviser/Municipal Court Prosecutor, Richardson, Tex.

2

TRACER: COMPUTERIZED SERVICE FOR THE CRIMINAL JUSTICE SYSTEM, by J. W. Nixon, Data Processing Manager, and Ellen Posivach, Administrative Assistant, City of Norfolk, Norfolk, Va.

7

DESIGNING UNIVERSITY POLICE UNITS—AREAS OF CONSIDERATION, by Col. Edward R. Bridgeman, Chief, University of Cincinnati Police Division, Cincinnati, Ohio

7

FIREARMS TRAINING RANGE: A PRACTICAL CONSTRUCTION GUIDE, by Capt. Donald J. Cobb, Division of Police, Henrico County, Richmond, Va.

12

THE WARRANT REQUIREMENT IN CRIME SCENE SEARCHES (Conclusion), by Joseph R. Davis, Special Agent, Legal Counsel Division, Federal Bureau of Investigation, Washington, D.C.

22

INDEX TO ARTICLES PUBLISHED IN 1978

29

WANTED BY THE FBI

32

PERSONNEL

Federal Death and Disability Benefits for State and Local Criminal Justice Employees

By

EDWIN D. HEATH, JR.
Police Legal Adviser/Municipal Court Prosecutor
Richardson, Tex.

During the past decade there have been two special congressional enactments establishing Federal benefits for non-Federal, State, and local criminal justice employees who are killed or disabled as a result of enforcing Federal or State laws. These benefits are found in different sections of the U.S. Code and are, in some cases, difficult to ascertain in an individual case, thus this overview is provided.

In reviewing a possible claim for either death or disability benefits under these Federal laws, one must first determine if the deceased or disabled employee has entitlement status under a particular statute. Second, the entitlement status of any beneficiary must be determined, particularly in death cases, where the survivor benefits are strictly controlled by statute. While the surviving spouse and minor children are ordinarily the primary recipients of death benefits for deceased employees, in some cases, benefits may be payable to eligible dependents when there are no eligible children or an eligible spouse.

* Mr. Heath is the former Director of Police, Legal Liaison Division, Dallas, Tex., Police Department.
Entitlement status to Federal benefits under 42 U.S.C. 3796 and 5 U.S.C. 8301 et seq. are strictly controlled by statute and apply only to public employees. Employees in the private sector, such as licensed security guards, private special officers, etc., are not covered by the terms of these acts. Such employees may be entitled to benefits under the general provisions of the Social Security Administration Act and the Veterans Administration Act, if otherwise eligible.

The eligibility for the benefits under the Federal law must be closely reviewed on a case-by-case basis, and can be determined only by the given facts of the situation that caused the death or disability of the non-Federal criminal justice employee. (It should be noted that benefits received are exempt as taxable income under the Internal Revenue Code, title 20 U.S.C.)

Public Safety Officers' Benefits Act of 1976

The Public Safety Officers' Benefits Act of 1976 (U.S.C., title 42, sec. 3796), Public Law 94-403, was passed by the 94th session of Congress, signed by the President, and has been effective since September 29, 1976. The Federal Government, under the terms of this act, will pay a maximum of $50,000 to survivors of a non-Federal public safety officer for death or a death resulting from personal injury received in the line of duty. It is important to note that this act provides benefits only in cases resulting in the death of the employee. There are no provisions under the terms of this act for disability payments similar in scope to Workers' Compensation or title 5 U.S.C. benefits.

Section 704(7) defines a "public safety officer" to be a person serving with a public agency in an official capacity, with or without compensation as a law enforcement officer or as a fireman; section 704(5) defines a "law enforcement officer" to include police, corrections, probation, parole, and judicial officers.

The death or injury must be of a traumatic nature. A traumatic injury to the body would be one caused by external forces, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects, physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation and bacteria, but generally excluding stress and strain. Deaths directly attributable to exertion or stress, such as heart attacks and strokes encountered in the performance of duty, are not normally considered traumatic injuries, unless that stress or exertion resulted in or was caused by a traumatic injury or was a substantial factor in the officer's death, such as exertion or stress caused by effecting a lawful arrest.

The death or injury must be of a traumatic nature. A traumatic injury to the body would be one caused by external forces, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects, physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation and bacteria, but generally excluding stress and strain. Deaths directly attributable to exertion or stress, such as heart attacks and strokes encountered in the performance of duty, are not normally considered traumatic injuries, unless that stress or exertion resulted in or was caused by a traumatic injury or was a substantial factor in the officer's death, such as exertion or stress caused by effecting a lawful arrest.

Section 702 provides certain limitations to the benefits of this act. Benefits will be denied in any case where the death was caused by the intentional misconduct of the employee or in the case of suicide. Additionally, benefits will be denied when voluntary intoxication on the part of such employee is the proximate cause of death, or in cases where the beneficiary contributes to the death of the employee. Under this act, benefits are payable as follows: If there is no surviving child of the deceased officer, to the spouse of such officer; if there is no spouse, to the child or children in equal shares; if there are both a

"The Federal Government, under the terms of this act, will pay a maximum of $50,000 to survivors of a non-Federal public safety officer for death or a death resulting from personal injury in the line of duty."
spouse and one or more children, one-half to the spouse and one-half to the child or children in equal shares; if there is no survivor in these classes, to the dependent parent or parents in equal shares; and if no one qualifies as provided, no benefit shall be paid.

Section 703 provides that the term "child" means any natural, illegitimate, adopted, or posthumous child or stepchild of the deceased employee who, at the time of the officer's death, is 18 years of age or younger; over 18 years of age and a student as defined in U.S.C. title 5, sec. 8101; or over 18 years of age and incapable of self-support because of physical or mental disability.

This section provides for a reduction in benefits if the deceased employee is entitled to pension supplement benefits under U.S.C., title 5, sec. 8191, infra.

Claims should be sent to the following address:
Public Safety Officers' Benefit Program
Law Enforcement Assistance Administration
U.S. Department of Justice
633 Indiana Avenue
Washington, D.C. 20531
(202) 376-2691

Title 5, U.S. Code Benefits

Title 5, U.S.C., sec. 8101, et seq. as extended by sec. 8191, provides a monthly pension supplement for the survivors of a local law enforcement officer who is injured, disabled, or is killed, under the following conditions:

1. While engaged in the apprehension or attempted apprehension of any person who has committed a crime against the United States, or who at that time was sought by a law enforcement authority of the United States for the commission of a crime against the United States, or who at that time was sought as a material witness in a criminal proceeding instituted by the United States;

2. While engaged in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such a crime;

3. While engaged in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States.

It is immaterial that the deceased or disabled officer was not aware that they were enforcing a Federal law at the time of their death or injury, so long as it can be later determined that such was the case. Further it is immaterial whether the Federal crime results in a prosecution. The most common violation of Federal statutes resulting in the death or injury to a local law enforcement officer is the possession of a firearm by a convicted felon in violation of 18 U.S.C. 922-928 or possession of or possession for distribution of a federally controlled substance (21 U.S.C. 841a (1)).

Federal law enforcement agencies are most helpful in providing investigative assistance to determine eligibility under these statutes.

For death, the act has a complicated scale of monthly benefits, depending on who survives the deceased employee. If there is no eligible child, the surviving spouse gets a monthly pension up to 45 percent of the officer's pay at the time of his or her death. Dependent parents, grandparents, brothers, sisters, and grandchildren may be eligible for benefits in some cases, if there are no eligible spouse or minor children.

There is a set-off provision under these statutes. Benefits under these provisions are maximum benefits and are reduced by the receipt of any State or local pension or financial assistance payments to which the deceased was a contributing member.

Benefits for the spouse normally terminate on their death or remarriage. In the case of remarriage, the spouse is paid a 24-month final lump sum termination payment. Payments to surviving minor children, dependent grandchildren, or dependent brothers and sisters normally terminate upon the child reaching the age of 18, unless extended because such person is a student (to age 23 or 4 years beyond high school) or is incapable of self-support. Burial expenses not to exceed $1,000 are payable in any individual case.

This act also provides for a pension supplement in cases involving temporary total disability over 21 days and permanent disabilities incurred in the enforcement of a Federal law which causes a loss of earning capacity. These provisions are similar in scope to State Workmen's Compensation Acts. Compensation generally is payable at the rate of two-thirds the officer's salary if he or she has no dependents, or three-fourths of his or her salary if there are one or more dependents. Provisions for the payment of medical, surgical, hospital services, intensive care, and vocational rehabilitation are also provided.

Claims should be directed as follows:
Chief, Branch of Special Claims
Employee Standards Administration
Office of Federal Employees Compensation
U.S. Department of Labor
Washington, D.C. 20211
(202) 362-1221

Social Security Administration

Benefits

A maximum payment of $255 is authorized for the death of a qualified person under social security. Monthly payments to minor children are available when the deceased has contributed the proper number of qualifying quarters of social security payments.

One word of caution applies in all cases of death or disability. Although states and/or their political subdivisions normally participate in social security payments, the minor children of qualified deceased may be otherwise eligible through the deceased employee's prior employment, self-employment, or off-duty, part-time employment. In any case a claim should be filed. The Social Security Administration will determine if the deceased employee meets the eligibility requirements.

Monthly payments to disabled employees are available in cases of severe disability.
disability. The Social Security Administration standards for disability requirements are not necessarily the same as other agencies. Claims should be processed directly with the nearest office of the Social Security Administration.

Veterans Administration Benefits

A maximum of $400 is authorized for funeral expenses, etc., for a qualified veteran. Pension assistance for the surviving spouse and minor children may be available depending on the level of their income.

Non-service monthly disability payments are authorized. However, there is an income limit on the recipient’s income to be eligible for these payments.

Claims should be processed directly with the request office of the Veterans Administration.

Administrative Procedures For Claims

The administrative claim forms and the requirement for the submission of supporting evidentiary data will vary from one agency to another. However, certain basic documents are generally required in all cases:

General Documents
- Any claim or application form required by administering agency,
- Deceased employee’s birth certificate,
- Surviving spouse’s birth certificate,
- Birth certificate of all minor or otherwise dependent children when eligible (deed of adoption if applicable),
- Marriage license,
- Any divorce decree (if applicable),
- Certified copy of death certificate,
- Copy of the police offense, arrest, and other reports incidental to the death,
- An affidavit from the head of the employee’s agency certifying the employment status of the deceased employee,
- An affidavit describing the facts causing the death,
- Any necessary witness affidavits,
- In claims made to the Office of Federal Employees Compensation, a statement from a Federal law enforcement agency that the deceased employee was enforcing a Federal statute (the facts, circumstances, and statute involved, etc.),
- In the case of a female surviving spouse, a certificate from a licensed physician that she is or is not pregnant (this is required to protect the financial assistance rights of a posthumous child who may be eligible for benefits at birth),
- Such other documents as may be required by the appropriate administering agency, and
- Physician’s statements in cases of disability.

Special Requirements

Most Federal agencies require that all evidentiary documents be certified and bear the seal of the certifying agency on the documents submitted. Do not send a xerox or other picture copies of the document with a seal unless permitted by the agency.

It must be emphasized that benefits are paid on a case-by-case determination of the facts and circumstances of the death or injury of the employee. Law enforcement administrators should be alert to possible Federal benefits for their officers and their families. The fact that one Federal agency pays or denies benefits under the terms of one law does not mean that another agency will be bound by the determination. Each Federal benefit program is administered separately.

Applications must be processed separately to each agency where benefits are possible. The collection of personal claim documentation is in many cases slow and difficult. Officers will want their eligible beneficiaries to receive all entitlement benefits as soon as possible. They can assist their families and departmental officials who will be helping with these claims by keeping a current document file along with their will and insurance policies.
END