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was without subject matter administrative denial of sur-
vivors' benefits under this subchapter to
city police officer; disagreeing
Russell v. Law Enforcement As-
9 F.2d 1255. *Tafoya v. U.S.*
Law Enforcement Assistance
84, 748 F.2d 1389.

review contained in sec-
tion; thus court of appeals had
certain petition filed by widow
review of administrative denial
v. Law Enforcement Assist-
C.A.4, 1980, 620 F.2d 35.

section extends to all police
officers of fatal injuries sustained
in determining what consti-
Law Enforcement Assistance
court should look to general
law as guide to develop-
and interpret job-relatedness
consistently with workers' com-
pensation there is significant pol-
Russell v. Law Enforce-
Administration, C.A.9, 1980, 637

officer killed in automobile
home from work was enti-
tled to benefits under this
section where officer was
in car on the job, he usually
worked on the road, he used
activities on the day of the
accident home he was rendering
aid by transferring piece of

Benefits on benefits

benefit be paid under this subchapter—
death was caused by the intentional misconduct of the public safety
officer's intention to bring about his death;
public safety officer was voluntarily intoxicated at the time of his

public safety officer was performing his duties in a grossly
manner at the time of his death;

individual who would otherwise be entitled to a benefit under this
subchapter whose individual's actions were a substantial contributing factor to
the death of the public safety officer; or

individual employed in a capacity other than a civilian capacity.

§ 1202, as added Pub.L. 96-157, § 2, Dec. 27, 1979, 93 Stat. 1220, and
Title II, § 204(a)(2), Aug. 30, 1984, 98 Stat. 1561; Pub.L. 98-473, Title II,
§ 2099.

section 1202 of Pub.L.
of Title VII of Pub.L.
enacted in 1968, is set out in
§ 18. Crimes and Criminal

prior section 3796a, Pub.
§ 1202, as added Pub.L. 94-
90 Stat. 1347, contained
this section as added by

law enforcement equipment, and, because as well
end duty detective he had to put in long hours,
was driving home at particularly dangerous time
late on Saturday night, when he was killed. *Rus-*
sell v. Law Enforcement Assistance Administration,
C.A.9, 1980, 637 F.2d 1255.

Although Denver police officers were required
to be on duty 24 hours a day, mother of deceased
police officer could not recover survivor's death
benefits under Public Safety Officers' Benefits Act
in the absence of evidence that her son was killed
while in the line of duty. *Tafoya v. U.S.*, 1985,
84-1 U.S. Ct. 256.

5. Rules and regulations

Since obvious and overwhelming cause of death
of fireman was preexisting, prolonged and degener-
ative heart disease, party seeking survivors' death
benefits under this subchapter was not entitled to
recover on basis of regulatory requirement that
any reasonable doubt arising from circumstances
of officer's death be resolved in favor of payment
of death benefits. *Morrow v. U.S.*, 1981, 647
F.2d 1099, 227 Ct.Cl. 290, certiorari denied 102
S.Ct. 475, 454 U.S. 940, 70 L.Ed.2d 247.

Lack of evidence as to smoke or carbon monox-
ide inhalation by firefighter who died of heart
failure in course of his duties while responding to
house fire did not result from absence of regula-
tions at time of firefighter's death subsequently
recognizing that type of evidence as injury trigger-
ing heart attack so as to render it compensable
under this subchapter; therefore, such regulations
were not retroactively applied to claim of firefigh-
ter's widow, for benefits under this subchapter
were denied on basis that firefighter's death was
not direct and proximate result of personal injury
within meaning of this subchapter. *North v. U.*
S., 1982, 555 F.Supp. 382.

1984 Amendment. Cl. (1). Pub.L. 98-473 re-
enacted existing provision.

Cl. (2). Pub.L. 98-473 substituted "if the pub-
lic safety officer was voluntarily intoxicated at the
time of his death" for "if voluntary intoxication of
the public safety officer was the proximate cause
of such officer's death".

Cl. (3). Pub.L. 98-473 added cl. (3). Former
cl. (3) redesignated (4).

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Cl. (4). Pub.L. 98-473 redesignated former cl.
(3) as (4) and substituted therein "individual" for
"person" and "individual's actions" for "person's
actions".

Pub.L. 98-411 added cl. (4), which excluded
payment of benefits to any person employed in a
capacity other than a civilian capacity.

Cl. (5). Pub.L. 98-473 added cl. (5).

Effective Date of 1984 Amendment. Amend-
ment by Pub.L. 98-473 effective Oct. 1, 1984, and
inapplicable with respect to injuries sustained be-
fore Oct. 1, 1984, see section 609AA(b)(1) of
Pub.L. 98-473, set out as an Effective Date note
under section 3711 of this title.

Repeals. Pub.L. 98-411, Title II, § 204(a)(2),
Aug. 30, 1984, 98 Stat. 1561, cited as a credit to
this section, was repealed by Pub.L. 98-473, Title
II, § 609Z, Oct. 12, 1984, 98 Stat. 2107, effective
Oct. 1, 1984.

Legislative History. For legislative history and
purpose of Pub.L. 96-157, see 1979 U.S. Code
Cong. and Adm. News, p. 2471. See, also, Pub.L.
98-473, 1984 U.S. Code Cong. and Adm. News, p.
3182.

§ 3796b. Definitions

As used in this subchapter—

(1) "child" means any natural, illegitimate, adopted, or posthumous child or
stepchild of a deceased public safety officer who, at the time of the public safety
officer's death, is—

(i) 18 years of age or under;

(ii) over 18 years of age and a student as defined in section 8101 of Title
5; or

(iii) over 18 years of age and incapable of self-support because of
physical or mental disability;

(2) "dependent" means any individual who was substantially reliant for
support upon the income of the deceased public safety officer;

(3) "Firefighter" includes an individual serving as an officially recognized or
designated member of a legally organized volunteer fire department and an
officially recognized or designated public employee member of a rescue squad or
ambulance crew who was responding to a fire, rescue or police emergency;

(4) "intoxication" means a disturbance of mental or physical faculties result-
ing from the introduction of alcohol into the body as evidenced by—

(i) a post-mortem blood alcohol level of .20 per centum or greater; or

(ii) a post-mortem blood alcohol level of at least .10 per centum but less
than .20 per centum unless the Bureau receives convincing evidence that the
public safety officer was not acting in an intoxicated manner immediately
prior to his death;

or resulting from drugs or other substances in the body;

(5) "law enforcement officer" means an individual involved in crime and
juvenile delinquency control or reduction, or enforcement of the laws, including,
but not limited to, police, corrections, probation, parole, and judicial officers;

(6) "public agency" means the United States, any State of the United States,
the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands
of the United States, Guam, American Samoa, the Trust Territory of the Pacific
Islands, the Commonwealth of the Northern Mariana Islands, and any territory
or possession of the United States, or any unit of local government, department,
agency, or instrumentality of any of the foregoing; and

Notes of Decisions

Line of duty 1

Prerequisites to recovery 2

1. Line of duty

Fact that police officer died as result of his own
negligence did not preclude finding that he died
within "line of duty" so that his widow was
entitled to benefits under this subchapter. *Harold*
v. U.S., 1980, 634 F.2d 547, 225 Ct.Cl. 168.

Proper focus in determining whether or not
officer was acting in line of duty, for purposes of
determining survivor's death benefits under Public
Safety Officers' Benefits Act [Omnibus Crime
Control and Safe Streets Act of 1968, §§ 701-704,
as amended, 42 U.S.C.A. §§ 3796-3796c] is the
nature of acts being performed by officer at time
of his death. *Tafoya v. U.S.*, 1985, 8 Cl.Ct. 256.

2. Prerequisites to recovery

Police officer's death following struggle with
suspect from coronary sclerotic hypertensive heart
disease with acute and healed myocardial infarcts
did not warrant award of survivor's death benefits
under this subchapter where no injury was suf-
fered. *Smykowski v. U.S.*, 1981, 647 F.2d 1103,
227 Ct.Cl. 284.

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(7) "public safety officer" means an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, or rescue squad or ambulance crew.

(Pub.L. 90-351, Title I, § 1203, as added Pub.L. 96-157, § 2, Dec. 27, 1979, 93 Stat. 1220, and amended Pub.L. 98-411, Title II, § 204(a)(3), Aug. 30, 1984, 98 Stat. 1561; Pub.L. 98-473, Title II, § 609F, Oct. 12, 1984, 98 Stat. 2099; Pub.L. 99-500, Title I, § 101(b), [Title II, § 207], Oct. 18, 1986, 100 Stat. 1783-56; Pub.L. 99-591, Title I, § 101(b), [Title II, § 207], Oct. 30, 1986, 100 Stat. 3341-56.)

Codification. Another section 1203 of Pub.L. 90-351, forming a part of Title VII of Pub.L. 90-351 as originally enacted in 1968, is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

Prior Provisions. A prior section 3796b, Pub.L. 90-351, Title I, § 703, as added Pub.L. 94-430, § 2, Sept. 29, 1976, 90 Stat. 1347, contained provisions identical to this section as added by Pub.L. 96-157.

1986 Amendments. Cl. (3). Pub.L. 99-500, § 101(b) [Title II, § 207(1)], added provisions relating to members of rescue squads or ambulance crews.

Cl. (7). Pub.L. 99-500, § 101(b) [Title II, § 207(2)], added provisions covering member of a rescue squad or ambulance crew.

Pub.L. 99-591 made identical amendments as Pub.L. 99-500 to cls. (3) and (7) of this section.

1984 Amendment. Cl. (1). Pub.L. 98-473 substituted "§" for "eighteen" in subcls. (i) to (iii).

Cl. (2). Pub.L. 98-473 substituted "any individual" for "a person".

Cl. (3). Pub.L. 98-473 substituted "firefighter" includes an individual" for "fireman" includes a person".

Pub.L. 98-411, § 204(a)(3)(A), substituted "firefighter" for "fireman", added subcl. (A), and designated existing provisions as subcl. (B).

Cl. (4). Pub.L. 98-473 inserted subcls. (i) and (ii) as evidencing intoxication by alcohol and substituted provision for intoxication resulting from drugs or other substances in the body for provision for such intoxication resulting from the introduction of drugs or other substances into the body.

Cl. (5). Pub.L. 98-473 substituted "an individual" for "a person" and "enforcement of the laws, including, but not limited to" for "enforcement of

the criminal laws. This includes, but is not limited to".

Pub.L. 98-411, § 204(a)(3)(B), substituted "(A) the duties of whose position include performing work directly connected with—" and "(i) the control of crime or juvenile delinquency" for "involved in" and "crime and juvenile delinquency control or reduction", respectively, designated existing provision as subcl. (A)(ii), added subcl. (A)(iii) and (B), and incorporated existing provision in text set out following subcl. (B).

Cl. (6). Pub.L. 98-473 included the United States, substituted "Virgin Islands of the United States" for "Virgin Islands", and deleted "combination of such States, or units, or any" following "local government".

Pub.L. 98-411, § 204(a)(3)(C), defined "public agency" to include the United States.

Cl. (7). Pub.L. 98-473 substituted "an individual" for "a person" and "firefighter" for "fireman".

Pub.L. 98-411, § 204(a)(3)(D), substituted "firefighter" for "fireman".

Effective Date of 1984 Amendment. Amendment by Pub.L. 98-473 effective Oct. 1, 1984, and inapplicable with respect to injuries sustained before Oct. 1, 1984, see section 609AA(b)(1) of Pub.L. 98-473, set out as an Effective Date note under section 3711 of this title.

Repeals. Pub.L. 98-411, Title II, § 204(a)(3), Aug. 30, 1984, 98 Stat. 1561, cited as a credit to this section, was repealed by Pub.L. 98-473, Title II, § 609Z, Oct. 12, 1984, 98 Stat. 2107, effective Oct. 1, 1984.

Legislative History. For legislative history and purpose of Pub.L. 96-157, see 1979 U.S. Code Cong. and Adm. News, p. 2471. See, also, Pub.L. 98-473, 1984 U.S. Code Cong. and Adm. News, p. 3182; Pub.L. 99-591, 1986 U.S. Code Cong. and Adm. News, p. 5627.

§ 3796c. Administrative provisions; rules, regulations, and procedures; use of State and local administrative and investigative assistance

(a) The Bureau is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this subchapter. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this subchapter. Rules, regulations, and procedures issued under this subchapter may include regulations governing the recognition of agents or other persons representing claimants under this subchapter before the Bureau. The Bureau may prescribe the maximum fees which may be charged for services performed in connection with any claim under this subchapter before the Bureau, and any agreement in violation of such rules and regulations shall be void.

(b) In making determinations under section 3796 of this title, the Bureau may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Bureau.

(Pub.L. 90-351, Title I, § 1204, as added Pub.L. 96-157, § 2, Dec. 27, 1979, 93 Stat. 1221, and amended Pub.L. 98-473, Title II, § 609F, Oct. 12, 1984, 98 Stat. 2100.)