



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

November 30, 2009

Mr. James C. Duff
Director
Administrative Office of the United States Courts
Thurgood Marshall Federal Building Judicial Building
One Columbus Circle N.E.
Room 7-100
Washington D.C. 20544

RE: OPPOSITION TO PERFORMANCE PAY

Dear Director Duff:

As the National President of the Federal Law Enforcement Officers Association (FLEOA), I'm writing to you to follow up on an important issue that impacts our Probation and Pretrial Officer members. During our meeting in March, we discussed our members concerns regarding the implementation of the Court Personnel System. FLEOA has taken the position that pay-for-performance systems do not work well in federal law enforcement. We have asserted this position with the executive branch agencies, and have received great success. Under the previous administration, the Department of Homeland Security attempted to roll out a pay-for-performance system, but failed. More recently, the National Security Personnel System (NSPS) for Department of Defence employees was repealed. We are inspired by both Congress' and the Administration's support for the elimination of these faulty pay systems.

We now appeal to you to embrace the wisdom of the President and our Congress, and rescind the implementation of performance pay for our Probation and Pretrial Officers. This system is incompatible with the tenets of federal law enforcement. Probation and Pretrial Officers are exposed to a considerable amount of risk, and performance pay systems do not encourage or reward teamwork. Instead, this system views production as who has the fastest hands on the old Hollywood Charlie Chaplin assembly line. We recognize the importance of individual motivation, but not at the expense of officer safety.

FLEOA believes this cost containment strategy, which reduces an officer's salary progression from 1 percent to .75 percent, and reduces the default step increases to two-

step increases in the developmental range and one-step increases in the full-performance range, is in effect a salary reduction for Probation and Pretrial Services Officers.

Altering the Court Personnel System salary progression and policy will deteriorate our system and will lead to the inability to recruit top-level officers, difficulty in retaining experienced officers (as officers will likely use their position as a “stepping-stone” to more lucrative employment with other federal law enforcement agencies), and an overall decrease in the morale and professionalism of the United States Probation and Pretrial Services system. These negative impacts will lead to a decrease in the quality of services provided to the Court.

As of today, FLEOA can find several areas where the Administrative Office is at odds with its own policy on implementation of Performance Pay. First, as cited in Charlotte G. Peddicord’s (Assistant Director, Administrative Office of Human resources) memorandum to unit executives (dated September 18, 2009) she found that CPS positions were being classified above the new benchmarks. This clearly shows that the altered CPS system is being incorrectly applied and manipulated by individual districts and managers. FLEOA also notes that while the AO is cutting officers’ salaries, AO unit executives and judges are seeking wage increases. Moreover, the Federal Judiciary Administrative Improvements Act of 2009 (S.1782) seeks a pay increase for specific court unit executives within the judiciary. Is the funding for these pay increases made at the expense of Probation and Pretrial Services officers’ salaries?

It is clear to FLEOA that the message now being sent to the judiciary workforce is resulting in unfairness, confusion, and doubt. The NSPS was eliminated because its managers developed a system that was unfair, unmanageable, and alienated managers and employees. The objectives were too broadly defined to be measured in a meaningful way. This gave managers subjective latitude when it came to rating performance. Furthermore, performance pay cultivates a negative environment between the officer and the manager which at times can be viewed as favoritism. FLEOA views performance pay as forced distribution of ratings and causes employees’ confidence in the system to be undermined. It is very difficult to counter the distrust that comes from having an employee’s salary reduced and having him or her depend in part on the manager’s subjective judgment.

Currently, U.S. Probation and Pretrial Services Officers are the only federal law enforcement agency to be implementing performance pay on the field level. We are also the only federal law enforcement agency which does not receive Law Enforcement Availability Pay (LEAP), or its equivalent. While it is understood that the purpose of performance pay is to contain costs within the judiciary, the judiciary has not had its budget reduced by Congress, and in fact, Congress has looked favorably upon the efficiency of the U.S. Probation and Pretrial Services Officers. Any savings would be outweighed by the negative effects upon the integrity, professionalism, and unity of our system. Performance pay is a subjective process and allows for far too much discrepancy between judicial districts, vagueness as to what a “budget emergency” consists of, and the use of officer appraisal instruments. As a federal law enforcement agency, U.S.

Probation and Pretrial Services offices should be operated and managed as one entity. Performance pay will create a division between officers and managers as well as the 94 judicial districts in the United States.

FLEOA's advocacy regarding performance pay has and will consist of direct negotiations with the Administrative Office, Congress and the Office of the President. Additionally, our legal counsel will be asked to explore options for officers whose performance and salary were affected by the performance pay standards. FLEOA is committed to representing its 26,000 members to ensure their salaries are not diminished while workloads are increased.

I look forward to hearing from you regarding this important matter. If there is anything that FLEOA can do to assist you or if we can respond to any of your questions, please do not hesitate to contact me at 202-367-8923 or by e-mail at jadler@fleo.org.

Respectfully yours,

Jon Adler

J. Adler