



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

7945 MacArthur Boulevard ▪ Suite 201 ▪ Cabin John, MD 20818

Phone: 202-870-5503 ▪ Fax: 202-870-5504 ▪ www.fleoa.org

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**Statement of Patrick P. O'Carroll, Executive Director
Federal Law Enforcement Officers Association**

On

“Oversight of the Secret Service”

Before the

House Committee on Oversight and Government Reform

Good Morning Mr. Chairman, Ranking Member Cummings, and Members of the Committee. On behalf of the membership of the Federal Law Enforcement Officers Association (FLEOA), thank you for the opportunity to appear before you here today. FLEOA is the largest nonpartisan, nonprofit professional association exclusively representing more than 27,000 active and retired federal law enforcement officers across 65 different agencies.

Over the years, we have greatly appreciated the opportunity to work with this Committee in a bipartisan fashion on a number of significant issues confronting the federal law enforcement community and the brave men and women who fill its ranks. Most recently, this has included legislation to address overtime compensation for officers with U.S. Customs and Border Protection's Air and Marine Operations Division. We are grateful for the speed with which the Committee acted in moving this legislation through the House and we hope the Senate will push it across the finish line over the next several weeks. These matters also include the issue which I would like to discuss in my testimony today: the challenge faced by U.S. Secret Service Special Agents who have worked hundreds of hours of uncompensated overtime during the course of the 2016 campaign season. This is an issue with which I am intimately familiar, having served as a Special Agent on presidential candidate details as well as permanent assignments on both the Presidential and Vice Presidential Protective Divisions over my 24-year career.

As all of us are well aware, law enforcement is not a 9-5, Monday through Friday occupation; and the work federal law enforcement officers perform does not lend itself to regular schedules. The United States Secret Service (USSS) is no exception, and is actually unique in that it is the only federal law enforcement agency with the dual mission of investigation of crimes and the protection of officials and dignitaries. While most investigations can be managed and controlled, the protective schedules and events are usually driven by current events in the nation and the world. With the exception of the government officials the USSS is assigned to protect on a regular basis, the number of other individuals it will pick up as protectees from year to year cannot be anticipated or planned for in advance. This presents an unusual situation for the USSS when it comes to effectively planning its yearly budget request. During a campaign year, add in the multiple and often last minute campaign stops, multiple primary and general election debates, and the national conventions, and what you have is an agency that is always forced to “react and handle” rather than “plan and execute” its mission.

The pace and demands of the protective functions of the USSS are also a function of the authority provided by Congress, which mandates that the agency protect the President, Vice President and their families; all former Presidents and First ladies for life, as well as any children under the age of 16; the Secretary of the Treasury, Secretary of Homeland Security, Deputy Secretary of Homeland Security, the White House Chief of Staff, National Security Advisor, and other government officials; all visiting foreign heads of state and government which, during the United Nations General Assembly in New York, could total 190 dignitaries plus their spouses; and distinguished visitors like Pope Francis. Over the past year, the USSS has executed protection for approximately 7,000 protective stops. This total does not include the two foreign trips and nearly 30 domestic stops scheduled for the President and Vice President in the last two months of 2016.

Every four years, the USSS takes on the added responsibilities associated with providing protection to several presidential and vice presidential nominees and their families. Like its other protective functions, the burdens associated with a presidential election campaign fall squarely on the shoulders of USSS Special Agents. During this one year, exceptional sacrifices of family, friends, and life are required as Special Agents are forced to work inordinate amounts of overtime under an operational tempo that is not unlike a military deployment. The 2016 presidential campaign has been no exception, and has proven to be one which, by most measures, was unprecedented. Just over the course of the past year, many USSS Special Agents have spent over 200 nights on the road, worked 16 or more hours per day, and likely not spent more than one night in the same bed. Without them, however, this sacred process we go through every four years may not happen safely.

Yet despite the unusual demands placed upon USSS Agents this campaign season, many of these same federal law enforcement officers will not receive full compensation for the long hours they have worked. They have lost and will continue to lose a significant amount of overtime compensation this year because law enforcement overtime is considered “premium pay” under current federal law and subject to biweekly and annual caps that limit the amount of pay that a USSS Special Agent can receive. Under 5 USC 5547, USSS and other General Schedule (GS) employees can only earn premium pay to the extent that the sum of their basic and premium pay does not exceed the greater of the pay for GS-15 step 10 or Level V of the Executive Schedule. The total amount of the cap varies by the locality pay area in which the individual is employed. For 2016 in the Washington, D.C. – Baltimore region and most major cities, the annual pay cap is imposed on any pay above \$159,764 for the calendar year, which is at the top end of the scale. In general, the range is between \$152,000 and \$159,764 per year. USSS Agents are fully aware of when they reach the cap because they see it every two weeks printed in black and white on their biweekly pay stubs.

As of today, it is our understanding that a large portion of the agency’s senior agents have already exceeded the annual pay cap, including most Special Agents in the GS-13 to GS-15 range. These are the same individuals who are required to work the “command” assignments in protective details as Detail and Shift Leaders and hold “life and death” decision positions. Anecdotally, we have heard that more than 60-70 percent of the agency will exceed the pay cap by year’s end. The amounts by which they will exceed the pay cap range from \$20,000-\$60,000 for the year. This is not free money or a bonus, but money earned logging 16-hour days for

weeks on end with back-to-back rotations between campaign travel and investigative details. The current situation has become not just a recruitment and retention issue, but a fundamental matter of fairness to those who willingly place themselves in harm's way for the long hours spent carrying out their sworn duty to protect and serve.

To highlight the impact that the pay cap and excessive hours of overtime are having on rank-and-file Agents, I would like to share the following stories that have recently been conveyed to our organization:

- “I am \$25,000 over the cap and if my candidate wins I'll approach \$40,000. My average work week is 90 hours per week on a CNOS [campaign nominee operations section] rotation and I'm away from my family for weeks at a time missing out on various functions of my school age children. My wife feels as though she's a single mother and there is no financial benefit to being away. The burden is actually greater since we have to spend more money on childcare since I can't help while I'm traveling.”
- “I maxed out as of July 10th. I am currently \$19,000 above the pay cap as of right now. I worked more overtime hours in April and September than regular work hours. I've been averaging one day off a month since February 2016. I also average 43 days between days off.”
- I've done every [campaign] rotation and by May was nearing the pay cap. Around July/August, I hit the annual pay cap but continued on my campaign rotations. By the end of the year, I will have exceeded the pay cap by close to \$30,000. During this year, I've missed holidays, birthdays and other life events. Often when I've been back off my campaign rotation, I'd been grabbed for In-Town protective assignments or out of town assignments for POTUS and VPOTUS. In total, I've been out of district and away from home for close to eight months...this year.”

Fortunately, a solution that will ensure compensation for these and other USSS Special Agents affected by the pay cap this year is in sight. Thanks to the efforts of Chairman Chaffetz, Ranking Member Cummings, and your colleagues on the Homeland Security and Governmental Affairs Committee and the House and Senate Appropriations Committees, Congress is close to finalizing language that will provide the USSS with a temporary waiver of the pay cap. Language has been included in both the House and Senate versions of the Fiscal Year 2017 Homeland Security Appropriations Act to waive the pay cap up to Level III of the Executive Schedule (ES) for either 2016 (in the House bill) or for 2016 and 2020 (in the Senate bill). This will certainly provide some measure of relief to those affected Agents. We understand that discussions are underway to increase the pay cap waiver to the ES-II Level, and FLEOA fully supports and encourages those efforts.

Although this last election season was unprecedented in many respects, we do not believe it will prove to be unique in the years ahead. The possibility of multiple candidates requiring protection earlier in a campaign year or an extended presidential primary season is very real and presents valid staffing concerns for the agency. So while FLEOA greatly appreciates your

efforts, Mr. Chairman and Mr. Cummings, we would also like to stress the importance of working together to find a permanent solution to the effect that the pay cap has on the USSS. Such a solution could include granting the Director of the Secret Service the authority to waive the application of the pay cap as necessary during a calendar year to meet the demands of the agency's protective functions and, at a minimum, during a presidential campaign year. The amount of the pay cap waiver—whether at the ES-II or -I Level, or up to the Vice President's salary—should be based on a thorough review of the USSS overtime numbers from the current calendar year. This would provide a sufficient baseline for determining the appropriate level of the cap to ensure that Special Agents do not have to forego any overtime compensation for overtime hours worked.

In conclusion, Mr. Chairman, I would just like to thank you and Ranking Member Cummings again for working with us to address this important issue. As a nation, we expect a lot from the small group of patriotic men and women in the USSS who voluntarily choose to stand between anarchy and order to ensure the leaders of our Republic are able to perform their jobs free from threats or the fear of assault. At its core, it is a fundamental matter of fairness to ensure that these individuals are fully compensated for the duties they perform on a daily basis and we greatly appreciate your efforts to do just that.

Thank you again for the opportunity to appear before you today. I would be pleased to answer any questions you may have at this time.