



Law Enforcement Pay and Benefits

Working for America

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT



Message from the President

“America's men and women in law enforcement carry different responsibilities and serve different jurisdictions. Yet, in all of those jobs, we look for the same basic qualities of character: for personal discipline, alertness of mind, and courage. Our country and our neighborhoods depend on such people. And fortunately for us all, they keep coming forward.”

- George W. Bush



Message from the Director



“The men and women in law enforcement who put their lives on the line each day to protect the public should be given fair and consistent treatment in regard to pay and benefits.”

- Kay Coles James

Scope of Report

- Congress required OPM to submit a report with recommendations to eliminate disparities in classification, pay, and benefits of Federal law enforcement personnel throughout the Government
- OPM focused on three areas: retirement benefits, classification and basic pay, and premium pay
- OPM report addresses employees who have status as law enforcement officers (LEOs) under the retirement laws and others who have arrest authority



Guiding Principles

- **Mission**: Does the proposal contribute to the Federal Government's overall law enforcement mission?
- **Strategic Human Capital Needs**: Does the proposal address a demonstrated strategic human capital management need (e.g., problems with recruitment and retention)?



Guiding Principles (Continued)

- **Governmental and Employee Interests:** Does the proposal balance the Federal Government's human resource needs and the interests of employees?
- **Administrative Effectiveness:** Does the proposal facilitate effective and efficient administration?
- **Cost:** Is the proposal cost-effective?



Need For Integrated Approach

- Retirement and pay provisions for “law enforcement officers” are complex
- Piecemeal legislation addressing pay and retirement have resulted in patchwork of pay provisions and inconsistent application of LEO retirement coverage
- Report addresses pay and retirement issues separately, but a comprehensive solution is needed

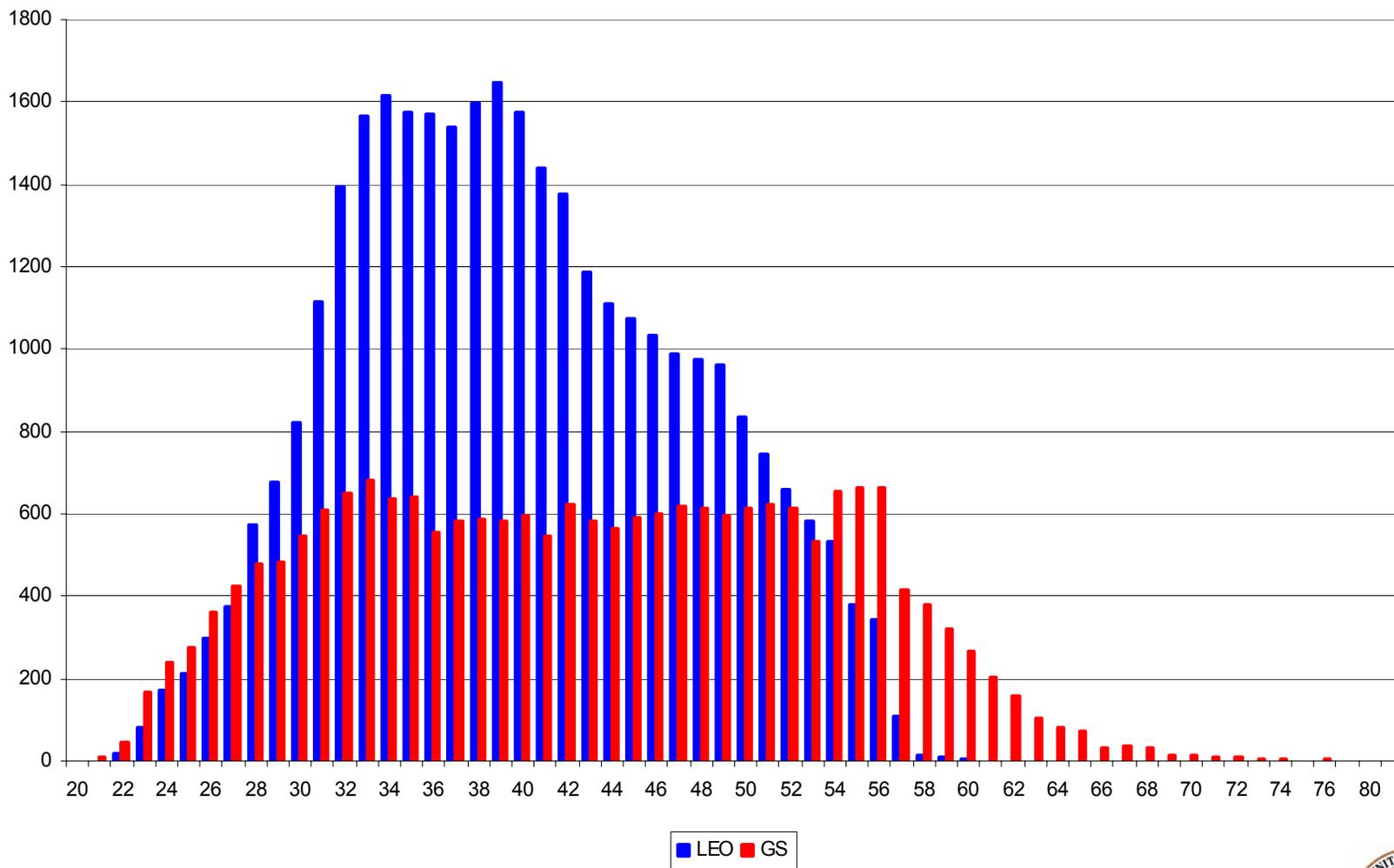


Retirement Background

- Enhanced retirement benefits first provided in 1948
- LEO retirement provisions (i.e., maximum entry age, voluntary early retirement with an enhanced annuity computation, and mandatory retirement) maintain a young and vigorous LEO workforce.



LEO vs. GS Age Distributions



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Retirement Benefits Findings

- The differences in LEO retirement benefits among law enforcement stem primarily from three sources: The statutory definition of “law enforcement officer,” piecemeal legislation, and litigation.
- The LEO retirement definition has a narrow meaning. To be a LEO, an employee’s duties must be *primarily* the “investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.”



Retirement Benefits Findings (Continued)

- Piecemeal legislation extending preferential retirement benefits to certain Federal uniformed police officers (i.e., Capitol Police, Supreme Court Police, U.S. Secret Service Uniformed Division, and Park Police) has exacerbated differences in retirement coverage of similarly situated police forces.
- Administrative and judicial decisions interpreting the LEO definition have created inconsistencies in LEO retirement coverage and weakened the program as a management tool.



Retirement Benefits Findings (Continued)

- Early retirement and mandatory retirement provisions do not distinguish among the physical requirements of different law enforcement occupations
- Law enforcement personnel are able to work longer today than previously, but LEO retirement provisions encourage experienced LEOs to retire at an early age



Example: Ability of LEOs to Continue Working

About 950 Secret Service special agents retired from January 1, 1993, through December 31, 2002. As of March 2003, 352 (approximately 37 percent) of these retirees had been re-employed by the Federal Government. These statistics do not include the number of retired Secret Service special agents who were employed by State or local governments or by private sector firms in a law enforcement capacity.

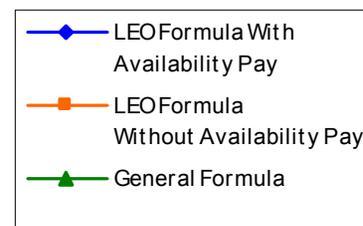
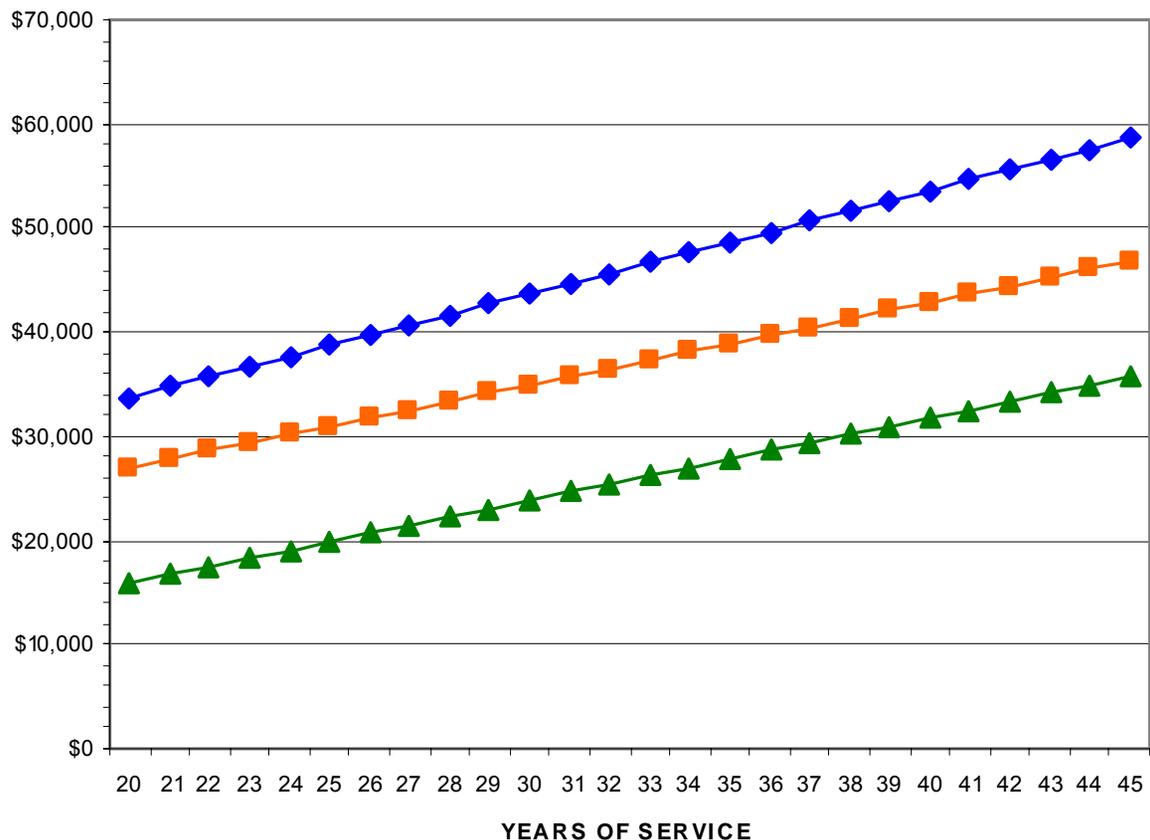


Retirement Benefits Findings (Continued)

- LEO retirement coverage and pay issues are interrelated.
 - LEO definition for pay purposes, refers to the retirement definition of LEO
 - Basic pay for retirement includes standby pay, AUO pay paid to an LEO, and availability pay.
 - CBP inspectors receive overtime pay as basic pay for retirement (up to 50% of statutory maximum \$30,000) .



EXAMPLE: GS-13 LEO vs. NON-LEO ANNUITIES (FERS)



The annual annuity rates shown in this chart are derived from the 2001-2003 average pay of a GS-13/7 in the Washington-Baltimore, DC-MD-VA-WV locality pay area. The 2001-2003 average pay of a non-LEO GS-13/7, or a LEO GS-13/7 without availability pay in the Washington-Baltimore locality pay area is \$79,399. The 2001-2003 average pay of a GS-13/7 Criminal Investigator receiving availability pay in the Washington-Baltimore locality pay area is \$99,249.



Retirement Benefits Findings (Continued)

- Whether LEO benefits are extended prospectively or retroactively could affect staffing levels (due to early and mandatory retirement), and could result in the unintended loss of experienced personnel. Providing retroactive service credit would also be very costly.



Retirement Benefits Recommendations

- OPM authority to modernize LEO retirement in consultation with agencies and other stakeholders and with concurrence of the Attorney General
- Administrative and judicial review structured similar to classification review



Retirement Benefits Recommendations (Continued)

- LEO retirement as a workforce management tool to ensure recruitment and retention of capable personnel
- Option under consideration—Second tier of law enforcement retirement benefits between current LEO benefits and regular retirement benefits



Classification and Basic Pay Background

- Vast majority of LEOs covered by standard title 5 basic pay systems
 - Major exceptions: Judicial branch, Capitol Police, Postal Service, Park Police, Secret Service Uniformed Division, and TSA
- National Advisory Commission on Law Enforcement (1990)
- 1990 law: LEO pay enhancements such as special rates at grades GS-3 through GS-10 and geographic adjustments



Classification and Basic Pay Background (Continued)

- 1993 OPM report on LEO pay
- FAA/TSA, DHS, DoD
- Bills introduced in Congress to establish new LEO geographic adjustments and eliminate availability pay caps



Classification and Pay Findings

- Inflexible, 50+ year old GS classification and basic pay system does not address law enforcement-specific classification and pay problems
- Staffing problems among Federal law enforcement employees vary by occupation, grade level, and location.
 - Above average quit rates exist for certain law enforcement occupations at the entry/developmental level
 - Law enforcement employee quit rates are general low at the full performance level



Classification and Pay Findings (Continued)

Turnover Data

- In FY 2001-2003, the overall average annual quit rate for LEO occupations was 2.2 to 2.5 percent. By comparison, the overall quit rate for all GS employees ranged from 1.6 to 2.1 percent.
- From FY 2001 to 2003, the overall average quit rate was 6.3 percent for police officers and 2.1 percent for immigration and customs inspectors.
- FY 2002 transfer rates for LEOs and non-LEOs increased by 1 - 2 percent, largely as a result of the build-up of the FAA/TSA Federal air marshal workforce in that year.



Turnover Data by Occupation and Grade (FY 2001- 2003)

Grade	Correctional Officer GS-0007	Criminal Investigator GS-1811	Border Patrol GS-1896	Police Officer GS-0083	Immigration Inspector GS-1816	Customs Inspector GS-1890
GS-5	14.3	2.7	44.2	10.1	6.5	12.1
6	9.8			6.7		
7	2.6	3.0	10.4	3.0	2.7	6.8
8	0.8			1.6		
9	0.6	2.7	2.1	2.1	2.1	1.6
10				1.2		
11	0.1	1.4	0.6	0.4	0.9	0.4
12		0.7	0.1	0.9	0.4	0.2
13		0.4	0.1		0.4	0.1
All Grades	3.3	0.8	5.6	6.8	2.1	2.1



Classification and Pay Findings (Continued)

- Complexities associated with the pay competitiveness with non-Federal employers:
 - varies by occupation, level, and location
 - lack of occupation-specific market data
 - impact of regular overtime supplement
- Differences in pay flexibilities among agencies can harm morale, create staffing disruptions, and increase Government costs unnecessarily; agencies without flexibilities are left at a disadvantage



Classification and Pay Findings (Continued)

- GS basic pay system provides special entitlement to LEOs, including some whose primary duties are outside the law enforcement field (e.g., prison support staff), but excludes other employees who have arrest authority and whose primary duties involve law enforcement (e.g., police officers)
- Pending legislative proposals provide across-the-board approaches to problems that require far more targeted solutions; those approaches are unnecessarily costly and produce unintended negative consequences



Premium Pay Background

- The vast majority of law enforcement employees are covered by the standard Governmentwide premium pay provisions established in title 5, United States Code
- Types of premium pay include overtime, Sunday premium pay, night differentials, holiday premium pay, administratively uncontrollable overtime (AUO), and law enforcement availability pay (LEAP)
- AUO versus LEAP
- Customs Officer Pay Reform Amendments (COPRA)



Premium Pay Findings

- Most Federal law enforcement employees are covered by standard title 5 premium pay provisions, but some LEOs and other law enforcement personnel are covered by nonstandard premium pay provisions that result in perceptions of inequity
- Aggregate premium pay caps for FLSA-exempt employees serve important purposes but lead to pay compression; pending legislative proposals to bar caps on availability pay for criminal investigators would result in excessive pay increases, produce pay inversions, and create new inequities
- Codifying premium pay rules precludes rapid response to changing agency mission requirements



Premium Pay Recommendations

- Given the strong sentiment among agencies and law enforcement employees for consistency in premium pay entitlements, all law enforcement employees generally should be covered by a Governmentwide framework of premium pay rules established and administered by OPM
- OPM would exercise authority in close coordination with employing agencies and other stakeholders and with the concurrence of the Attorney General
- OPM could develop appropriate solutions to existing problems associated with premium pay caps or other premium pay provisions



An Integrated Approach

- Recommendations should be acted on as a package, providing an integrated solution based on common principles. Some issues cross policy areas and require integration, such as system coverage and premium pay retirement-credibility
- In evaluating competitive position of job in labor market, may need to consider combined value of retirement benefits, pay levels
- Common theme among recommendations is need for OPM to have greater flexibility to establish law enforcement pay and benefits policies in consultation with employing agencies and other stakeholders and with the concurrence of the Attorney General



An Integrated Approach (continued)

- Recommendations will support more strategic, mission-centered approach that recognizes that these policies are management tools for achieving mission goals
- Will allow Government to target and tailor solutions rather than apply them bluntly (and at great cost) across the board
- Current state of affairs has actually diffused accountability and has resulted in policies that are inconsistent and not sufficiently focused on mission results and Governmentwide interests
- Through coordination and collaboration with key stakeholders, OPM will be able to consider and balance agency and Governmentwide interests in establishing retirement and pay policies for law enforcement employees



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