

FEDERAL LAW ENFORCEMENT PAY AND BENEFITS

REPORT TO THE CONGRESS

Working for America



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Kay Coles James, Director
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A MESSAGE FROM THE DIRECTOR OF THE OFFICE OF PERSONNEL MANAGEMENT

I am pleased to present the Office of Personnel Management's (OPM's) report to Congress on law enforcement classification, pay, and benefits. This report responds to section 2(b) of the Federal Law Enforcement Pay and Benefits Parity Act of 2003, Public Law 108-196, which calls for OPM to submit a report to Congress providing a comparison of classification, pay, and benefits among Federal law enforcement personnel throughout the Government and to make recommendations to correct any unwarranted differences.

The issues we address in this report are critical in light of the many dramatic challenges that face the Federal law enforcement community in the wake of the terrorist attacks of September 11, 2001, and the Oklahoma City bombing of April 19, 1995, as well as our Nation's ongoing all-out war on terrorism. The specter of those horrific events and ongoing need to secure our homeland demand we pay careful attention to the strategic management of our Federal law enforcement personnel.

The report provides relevant background information on the current state of affairs in Federal law enforcement pay and benefits and an analysis of the key factors that must be considered in making policy judgments about three critical areas: (1) retirement benefits, (2) classification and basic pay, and (3) premium pay.

At present, considerable and sometimes confusing differences exist among law enforcement personnel in those three areas. We believe these differences, often the result of incremental legislation and litigation, are counterproductive to the 21st Century Federal law enforcement mission. In particular, disparities between agencies that have pay flexibilities and those that do not can harm morale, create staffing disruptions, and increase costs unnecessarily.

We recommend that Congress provide OPM with broad authority to establish a Governmentwide framework for law enforcement retirement, classification and basic pay, and premium pay systems. This framework would be established in consultation with employing agencies and with the concurrence of the Attorney General and would be tailored specifically for law enforcement jobs and their mission requirements. It would provide the flexibility to make strategic decisions that support mission accomplishment in a cost effective manner. Both agency interests and Governmentwide interests would be considered and balanced.

The issues surrounding this topic are extremely difficult and complex. Few topics are as emotional and important to a workforce as pay and benefits, and any time you tackle something this big it is going to be challenging. On behalf of the Administration, OPM stands ready to work with Congress to enact legislation that will modernize the Federal law enforcement retirement and compensation systems.

Kay Coles James
Director

Executive Summary

This report responds to section 2(b) of the Federal Law Enforcement Pay and Benefits Parity Act of 2003, Public Law 108-196 (December 19, 2003), which calls for OPM to submit a report to Congress providing a comparison of classification, pay and benefits among Federal law enforcement officers throughout the Government and making recommendations to correct any unwarranted differences. This report comes at a pivotal time when the demands on Federal law enforcement agencies and their personnel are global, changing, and increasing; however, the systems of pay and benefits do not reflect this reality and remain fragmented and inflexible. LEOs today are covered by a rigid retirement structure rooted in the 1940s, an archaic classification and basic pay system that is market- and performance-insensitive, and a complex and confusing system of premium payments.

The report focuses on these critical areas: retirement benefits (Part II), classification and basic pay (Part III), and premium pay (Part IV). In addition, we concentrate our analysis on two categories of employees with law enforcement responsibilities: (1) those employees who qualify as law enforcement officers (LEOs) under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) laws and regulations and (2) those other law enforcement employees who have authority to make arrests under Federal law (or an equivalent authority to detain persons under military law) but who do not otherwise qualify as LEOs.

In this report, we make a case for a comprehensive, integrated Governmentwide approach for addressing the above three areas. We recommend a framework established and administered by OPM in consultation with employing agencies and with the concurrence of the Attorney General. Such a framework will permit agencies to tailor systems to meet their diverse mission requirements. All agencies would have the flexibility to make strategic decisions that support mission accomplishment in a cost-effective manner. Both agency interests and Governmentwide interests would be considered and balanced. The Attorney General's concurrence will ensure that law enforcement personnel Governmentwide are deployed in the most efficient and effective manner.

Retirement Findings

- Legislation has extended enhanced retirement benefits to some Federal uniformed police officers within the broader law enforcement community but not others, exacerbating differences in retirement coverage of similarly situated police officers.
- Merit Systems Protection Board and Federal court decisions have created unwarranted differences in LEO retirement coverage and administrative problems for employing agencies.
- LEO retirement provisions encourage experienced LEOs to retire at an early age, when it may be in the interest of the Government to retain these employees. In fact, a significant percentage of retired LEOs do return to work in Federal LEO positions.

- The mission of Federal law enforcement has expanded over the years, especially since the terrorist attacks of 9/11. Federal law enforcement, inspection, and police forces currently include highly-trained, specialized units. Further, the merger of legacy customs inspection, immigration inspection, and border protection positions into a unified customs and border protection position at the Department of Homeland Security shows that law enforcement missions are continuing to expand in the post-9/11 world. This evolution in law enforcement has exacerbated the difficulty of applying the definition of “law enforcement officer” to modern missions and work situations.

Classification and Basic Pay Findings

- The 50+-year old General Schedule (GS) classification and basic pay system does not provide sufficient flexibility to address law enforcement-specific classification and pay problems which may vary by occupation, grade level, location, and level of performance.
- Differences in pay flexibilities among agencies can harm morale, create staffing disruptions, and increase Government costs unnecessarily. With the creation of new basic pay systems for employees of DHS and DOD on the horizon, we anticipate that roughly 50,000 law enforcement employees will be converted from the GS system to more flexible basic pay systems that are more sensitive to the labor market and to performance, leaving other agencies at a disadvantage.
- Pending legislative proposals (i.e., H.R. 466, H.R. 1676, and S. 985) 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 Findings

- While most Federal law enforcement employees are covered by the standard premium pay provisions established in title 5 of the United States Code, some LEOs and other law enforcement personnel are covered by nonstandard premium pay provisions that result in perceptions of inequity.
- Caps on aggregate premium pay for FLSA-exempt employees serve important purposes but also lead to pay compression. However, pending legislative proposals to bar their application to availability pay for criminal investigators would result in excessive pay increases for affected employees, produce pay inversions, and create new inequities by providing special treatment for one category of employees.
- Codifying premium pay rules in law precludes rapid response to changing agency mission requirements. In recent years, Congress has provided such administrative authority to the Federal Aviation Administration, the Transportation Security Administration, and (with OPM) the Department of Defense. Such administrative authority provides a distinct advantage in flexibility.

Recommendation

We recommend that Congress provide OPM with broad authority to establish a Governmentwide framework for law enforcement retirement, classification and basic pay, and premium pay systems, in consultation with employing agencies and with the concurrence of the Attorney General. This framework would be tailored specifically for law enforcement jobs. It would provide the flexibility to make strategic decisions that support mission accomplishment in a cost-effective manner. Both agency interests and Governmentwide interests would be considered and balanced. Such a framework would provide all agencies with similar flexibilities that could potentially avoid morale problems, staffing disruptions, or unnecessary cost increases. We believe the existence of such a framework also would reduce the likelihood that particular groups would obtain higher pay and benefits through the legislative process in piecemeal fashion. More importantly, such a framework provides an opportunity to create contemporary and effective human resources systems for the critical cadre of Federal law enforcement personnel—systems that will better support the Federal Government’s law enforcement missions, which have become even more essential in the post-September 11 world.

With respect to retirement, this framework would allow for consistency throughout the Federal Government, but the structure could accommodate changing special circumstances under which needless consistency would be counterproductive. While continuing to acknowledge the Government’s need for a young and vigorous law enforcement workforce, this approach will provide OPM with the ability to establish a more responsive benefits structure that will give agencies maximum flexibility for recruitment and retention of experienced personnel.

With respect to the classification and basic pay system, this framework concept would be much like the framework envisioned for the Department of Homeland Security and the Department of Defense National Security Personnel System, but would require OPM coordination with all agencies employing law enforcement personnel and the concurrence of the Attorney General. It would allow for the establishment of contemporary and effective pay systems. It would provide the flexibility to make strategic pay decisions that target specific occupations based on labor market conditions and other factors. Pay ranges and pay adjustments would be coordinated among affected agencies. However, within the framework, agencies would have considerable flexibility to deal with their unique law enforcement human capital challenges—e.g., to design systems for performance management and individual performance-based pay adjustments.

With respect to premium pay, the framework would provide a flexible administrative authority so that premium pay rules can be more easily modified to address current mission-based needs, emerging prevailing practices, or policy/administrative problems that surface. While similar rules would apply to similarly situated employees, the new system would provide the flexibility to establish special rules designed for unique circumstances based on specific mission requirements.

An Integrated Approach to Resolving LEO Retirement and Pay Issues

While we have separately examined each policy area—retirement benefits, classification and basic pay, and premium pay—we believe our recommendations should be acted on as a

package, providing an integrated solution based on common principles. We note that some issues cross policy areas and require integration, such as issues related to system coverage or to the retirement-credibility of premium pay. Also, in evaluating how competitive a job is in the labor market, the Government may need to consider the combined value of retirement benefits and pay levels.

OPM needs to have greater flexibility to establish law enforcement pay and benefits policies in coordination with agencies and in collaboration with key stakeholders. These recommendations will support a more strategic, mission-centered approach that recognizes that these policies are management tools for achieving mission goals. Such an approach will allow the Government to target and tailor solutions rather than apply them bluntly (and at great cost) across the board.

OPM understands that with greater authority and flexibility comes greater accountability. We are ready to accept that responsibility and believe focusing accountability will result in a better system. We are convinced that the 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 with employing agencies and with the concurrence of the Attorney General, OPM will be able to ensure that both agency and Governmentwide interests are considered and balanced in establishing retirement and pay policies for law enforcement employees.

Federal Law Enforcement Pay and Benefits

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I. Introduction

A. Report Requirement

Section 2(b) of the Federal Law Enforcement Pay and Benefits Parity Act of 2003, Public Law 108-196 (December 19, 2003), calls for the Office of Personnel Management (OPM) to conduct a study comparing the job classifications, pay, and benefits of Federal law enforcement officers and to make recommendations for ensuring, to the maximum extent practicable, the elimination of disparities for law enforcement officers throughout the Federal government.

In his December 19, 2003, signing statement, the President noted certain reservations concerning the implementation of Section 2(b) of the Act. The President stated the following:

To the extent that section 2(b)(2) of the Act calls for submission by the executive branch of legislative recommendations, the executive branch shall implement the provision in a manner consistent with the President's constitutional authority to supervise the unitary executive branch and to submit for the consideration of the Congress such measures as the President judges necessary and expedient.

In keeping with that requirement, this report contains recommendations regarding pay and retirement benefits for employees with law enforcement duties. The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report.

B. Scope of Report

Last year, in response to a joint request from the House Committee on the Judiciary, the Committee on Government Reform, and the Subcommittee on Crime, Terrorism and Homeland Security, OPM prepared a report on the pay and retirement benefits of Federal employees with law enforcement duties. That report (hereafter referred to as the June 2003 report) surveyed law enforcement personnel in all three branches of Government (including the U.S. Postal Service as part of the executive branch), but excluded employees in the intelligence agencies. The report separated law enforcement employees into two broad groupings: (1) those holding positions that qualify as law enforcement officer (LEO) positions under the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS) laws and regulations¹ and (2) other employees with authority to make arrests under Federal law (or an equivalent authority to detain persons under military law).

Consistent with an agreement with the requesting committees, the June 2003 report provided statistical data, descriptions of law enforcement officers (LEOs) and other employees with arrest authority, a listing of standard pay and benefits, a catalog summarizing nonstandard pay and benefits applicable to LEOs and other employees with arrest authority, and detailed information about LEO retirement benefits (including historical legislative documents). This

¹ Some employees may serve in qualified CSRS/FERS LEO positions but lack law enforcement officer retirement coverage because of certain transfer requirements. However, these employees are entitled to special LEO pay entitlements. (See 5 U.S.C. 5541(3)).

year's report provides a further discussion of the information provided in the June 2003 report. Specifically, this report contains sections on retirement benefits, classification and basic pay systems, and premium pay for LEOs and other employees with arrest authority (i.e., the same groups that were the focus of the June 2003 report). However, for the purpose of this report, the term "LEO" includes non-LEO groups that have enhanced retirement benefits equivalent to those for LEOs—i.e., Capitol Police and Supreme Court Police. In addition, throughout this report we have used the term "other law enforcement personnel" or "other law enforcement employees" to characterize employees who have arrest authority, but whose positions are not approved for enhanced LEO retirement benefits.²

C. Structure of Report

A separate part is devoted to each area of study: Part II – retirement, Part III – classification and basic pay, and Part IV – premium pay. In each part, the report provides relevant background information, an analysis of key issues that must be considered in making policy judgments, and a description and justification of our recommendation. The concluding part, Part V, presents these recommendations as an integrated concept.

D. Principles

In determining the relative merit of various options and recommendations, OPM assessed each against the following 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)?
- **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?

E. Past Studies of Law Enforcement Employees

Past studies regarding the pay and benefits of Federal law enforcement employees include the following:

² This report does not cover groups such as Assistant U.S. Attorneys, Transportation Security Administration airport screeners, and Internal Revenue Service revenue officers because they do not have arrest authority.

Report of the National Commission on Law Enforcement (April 1990, OCG-90-2)

In 1990, the National Advisory Commission on Law Enforcement (NACLE) issued a report to the President and Congress on pay, benefits, and other issues related to the recruitment and retention of Federal law enforcement officers. NACLE was chaired by the Comptroller General of the United States and included in its membership selected Members of Congress, certain agency heads and other high-level officials, and leaders of certain employee organizations. The NACLE report focused on employees who were covered by the special retirement provisions for LEOs.

The NACLE report made a number of findings and recommendations, including the following:

- LEO recruitment and retention problems are linked to the lack of competitive pay; thus, pay rates should be increased generally at the entry level, and locality pay differentials should be established in certain high-cost areas.
- The classification factors used in determining the value of law enforcement work should be reexamined; a new job evaluation and pay system should be considered.
- A consistent overtime pay policy should be developed; the title 5 cap on overtime hourly rates should be removed.
- Agencies should have authority to provide relocation bonuses, retention bonuses, and foreign language bonuses.
- The mandatory retirement age for LEOs should be raised from 55 to 57.
- Federal retirement benefits for LEOs were generally comparable to those provided by State and local governments, especially when Federal cost-of-living adjustments are considered, and did not require changes.

A number of the NACLE recommendations were adopted in whole or in part in the Federal Employees Pay Comparability Act of 1990 (FEPCA) (section 529 of Public Law 101-529, November 5, 1990). For example, FEPCA provided (1) LEO special rates at grades 3 through 10, (2) locality pay for all GS employees (with temporary geographic adjustments for LEOs in some areas); (3) foreign language bonuses for LEOs; (4) recruitment, relocation, and retention payments for all GS employees; (5) an increase in the LEO mandatory retirement age to 57; and (6) a guarantee that the GS-10, step 1, cap on overtime hourly rates could not cause an FLSA-exempt LEO's overtime hourly rate to fall below the officer's regular rate (this was extended to all employees covered by the title 5 overtime pay rules through the enactment of Public Law 108-136 in 2003).

OPM Report to Congress: *A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers* (September 1993)

In response to a statutory requirement (FEPCA, section 412), OPM issued a report to Congress on the possibility of a separate pay and job evaluation system for Federal law enforcement officers. OPM established an advisory committee that included agency and employee representatives. OPM held meetings with the advisory committee, conducted site visits and interviews, reviewed the NACLE findings, and collected additional data. The OPM report included the following findings and recommendations:

- The pay enhancements provided by FEPCA (described in the previous subsection), and by Public Law 101-173 (which removed the GS-10, step 1, cap on administratively uncontrollable overtime (AUO) pay effective in October 1990), had a significant impact on the pay problems cited by NACLE. OPM's analysis of the NACLE salary study, updated to reflect the FEPCA pay enhancements, showed that entry level and minimum full performance level pay gaps had been significantly reduced or eliminated and that future increases in locality pay should address any remaining gaps. OPM also reported that NACLE data on maximum full performance level pay showed that the Federal Government generally provided significantly higher maximum pay potential for law enforcement officers compared to State and local governments.
- Quit rates for Federal law enforcement officers were generally low, especially at the full performance level, and had dropped further in the most recent period of study (1992). High quit rates for certain occupations at the entry/developmental level did not appear to be attributable to pay issues.
- OPM should develop a job evaluation and pay system tailored to law enforcement employees—including employees whose primary duty was to function as a police officer, but excluding those in positions in prisons whose primary duties were in non-law enforcement fields. The pay ranges should be linked to General Schedule ranges (including LEO special rate ranges) and should be supplemented by the same locality payments applicable to GS employees. Pay differentials could be used in appropriate circumstances to recognize the ancillary law enforcement duties held by certain excluded employees, such as prison support staff and border inspectors.

The 1993 OPM report made no recommendations regarding which groups of employees should be covered by the law enforcement officer retirement provisions or the level of retirement benefits. The report also recognized concerns regarding inconsistencies in overtime pay practices, but did not put forward a specific recommendation in that area.

GAO Report: *Federal Uniformed Police: Selected Data on Pay, Recruitment, and Retention at 13 Police Forces in the Washington, D.C. Metropolitan Area* (June 2003, GAO-03-658)

This GAO report provided information on pay, retirement, recruitment, and retention of Federal uniformed police. The report was limited in scope to entry level Federal uniformed police in the 13 Federal police forces in the Washington, DC, metropolitan area. GAO noted that the data discussed in the report could not be projected nationwide and that the report did not

survey criminal investigator or general inspection occupations in all three branches of Government.

GAO stated that it could not draw conclusions concerning the relationship between the differences in pay and retirement benefits of Federal police officers and the recruitment and retention of police officers. The GAO report noted that within the 13 Federal police forces reviewed, there was “no clear pattern evident between employee pay and turnover rates during fiscal year 2002” and that “no clear pattern existed regarding turnover among police forces receiving Federal law enforcement retirement benefits and those receiving traditional Federal retirement benefits” (GAO report, pages 17-18). The main finding of the GAO report was that although 9 of the 13 Federal police forces reported difficulties in recruiting officers to some extent, none of the police forces used important human capital recruitment flexibilities (e.g., recruitment bonuses, student loan repayments) to boost recruitment and retention during FY 2002.

OPM Report to Congress: *Report on Federal Employees with Law Enforcement Duties* (OPM, June 30, 2003)

In its June 2003 report, OPM provided comprehensive information on the pay and retirement benefits of LEO and other employees with arrest authority. (See Section B.)

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II. Retirement Benefits

A. Overview

This part presents an analysis of the issues associated with enhanced LEO retirement benefits. At present, only LEOs receive such enhanced benefits in recognition of the need to ensure a “young and vigorous” corps of officers. However, over the years, the definition of LEO in the retirement laws has been muddled by piecemeal legislation and litigation, leading to numerous inconsistencies. At the same time, the work of Federal LEOs and other law enforcement personnel is continuing to rapidly evolve—especially since the horrific events of September 11, 2001. Accordingly, we recommend that OPM be given the authority necessary to modernize LEO retirement benefits. Our findings and recommendations are summarized in more detail below.

Findings

- The special retirement provisions for LEOs are intended to permit the Government to maintain a young and vigorous workforce through youthful career entry, continuous service, and early separation. Several provisions work in combination to accomplish these goals. These include a maximum entry age for LEOs, voluntary early retirement of LEOs with an enhanced annuity computation, and a mandatory retirement age. OPM data indicate that LEOs are, on average, younger than their non-LEO counterparts.
- The differences in LEO retirement benefits among groups of law enforcement employees stem primarily from three sources: the application of the statutory definition of “law enforcement officer,” legislation extending LEO retirement benefits to new employee groups, and differences resulting from litigation.
- The LEO retirement definition has a more restrictive meaning than the commonly understood concept of “law enforcement officer.” The main element of the definition is that the 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.” Groups that generally do not meet this definition (because they prevent or detect violations instead of investigate them) include police officers, guards, and inspectors (including customs inspectors and immigration inspectors).
- Piecemeal legislation extending preferential retirement benefits to certain Federal uniformed police officers within the broader law enforcement community 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.
- With increases in life expectancies, employees with law enforcement responsibilities are able to work longer today than previously. A significant percentage of retired LEOs are

still able to work, and many retired LEOs return to Federal LEO or other positions. LEO retirement provisions encourage experienced LEOs to retire at an early age, when these employees may still be effective. Early retirement and mandatory retirement provisions do not distinguish among the physical requirements associated with different law enforcement occupations.

- LEO retirement coverage issues and pay issues are interrelated. The rationale for an enhanced, financially viable LEO annuity benefit is inextricably linked to early and mandatory retirement of LEOs. However, the relationship between retirement coverage and pay issues is often overlooked. The basic pay and premium pay entitlements provided to various LEOs and other law enforcement personnel vary significantly from group to group. Differences in pay provided to the various groups by legislation have complicated efforts to standardize pay and retirement benefits for LEOs and other law enforcement employees on a Governmentwide basis.
- Whether LEO benefits are extended prospectively or retroactively to new groups of law enforcement personnel could affect the staffing levels of these positions as a result of turnover due to early and mandatory retirement. Extension of LEO retirement coverage to new groups could result in the unintended loss of experienced LEO personnel. In addition, providing retroactive service credit for retirement purposes would be very costly.

Recommendations

We believe the law enforcement retirement program should be modernized to reflect the reality of today's law enforcement workforce. Therefore, we recommend that OPM be given the authority necessary to modernize LEO retirement benefits. OPM would use this authority, in consultation with employing agencies and with the concurrence of the Attorney General, as a workforce management tool to modernize LEO retirement and make it more flexible and adaptable to the rapidly evolving needs of the law enforcement community. In light of our findings regarding the variation in the physical demands associated with different law enforcement occupations and the expansion of the law enforcement mission in the aftermath of the 9/11 terrorist attacks, one option we are considering would be for OPM to use its new authority to establish a second tier of law enforcement benefits. Under such a system, the second tier of retirement benefits could fall somewhere between current LEO benefits and regular retirement benefits. Of course, OPM would not undertake any modification of LEO retirement benefits without fully consulting agency and employee stakeholders in order to arrive at a mutually acceptable LEO retirement system.

B. The Definition of "Law Enforcement Officer" for Retirement Purposes

To better understand why a new approach to LEO retirement is necessary, it is useful to review the statutory definition of "law enforcement officer" and the multiplicity of issues that surround law enforcement retirement benefits. The definition of "law enforcement officer" for Civil Service Retirement System (CSRS) purposes is set out in 5 U.S.C. 8331(20). The Federal

Employees Retirement System (FERS) definition of “law enforcement officer” is set out in 5 U.S.C. 8401(17).

For CSRS purposes, a “law enforcement officer” is an employee whose primary duties are the “investigation, apprehension, and detention of individuals suspected or convicted of offenses against the criminal laws of the United States.” The CSRS definition of “law enforcement officer” also includes (1) employees primarily performing “investigation, apprehension, and detention” duties who transfer to supervisory and administrative positions and (2) employees who have “frequent and direct” contact with convicted criminals, such as prison support staff.³

The main provision of the FERS LEO definition parallels the CSRS LEO definition. A FERS “law enforcement officer” is an employee whose primary duties are the “investigation, apprehension, and detention of individuals suspected or convicted of offenses against the criminal laws of the United States.” Like the CSRS definition, the FERS definition also includes employees primarily performing “investigation, apprehension, and detention” duties who transfer to supervisory and administrative positions and employees who have “frequent and direct” with convicted criminals, such as prison support staff. However, the FERS definition of “law enforcement officer” is more restrictive than the CSRS LEO definition in that it expressly includes a rigorous duty standard at 5 U.S.C. 8401(17)(A)(ii), which provides that LEO positions must be sufficiently rigorous that “employment opportunities should be limited to young and physically vigorous individuals.” This provision effectively mandates that an individual must pass maximum entry age and physical fitness and medical standards to be hired as a law enforcement officer. The regulatory definition of “rigorous position” at 5 CFR 842.802 requires agencies to establish such standards.

The FERS definition of “law enforcement officer” also includes two new employee groups not included in the CSRS definition. Under 5 U.S.C. 8401(17)(A)(i)(II), employees engaged in “protection of officials of the United States against threats to personal safety” are included in the FERS definition of “law enforcement officer.” Further, under section 8401(17)(B), the FERS definition of “law enforcement officer” extends to Department of the Interior Park Police and members of the U.S. Secret Service Uniformed Division (employees who were placed in the D.C. Police Officers and Firefighters Retirement Plan before the creation of FERS).

In terms of occupational groups, LEOs under CSRS include FBI special agents, Secret Service special agents, Border Patrol agents, U.S. marshals, deputy U.S. marshals, and Bureau of Prisons correctional officers. Prison support staff in a wide variety of occupations are defined as

³ In 1956, Congress granted enhanced LEO retirement benefits to prison support staff primarily for equity reasons. Specifically, before the enactment of Public Law 84-854 that year, Congress noted that prison support staff were in frequent and direct contact with dangerous prisoners and therefore were in the same hazardous environment as correctional officers. Congress also noted that prison support staffs were called upon to perform detention tasks in emergency situations, such as prison escape attempts. In theory, prison support staff are subject to the same “young and vigorous” standards as criminal investigators and other LEOs. Under the FERS LEO definition, prison support staff are subject to maximum entry age and rigorous physical requirements comparable to those applicable to other LEOs.

“law enforcement officers” for retirement purposes based on having frequent direct contact with convicted criminals. LEOs under FERS include all of the groups covered by the CSRS LEO provisions, plus Secret Service Uniformed Division officers, Park Police officers, and employees primarily engaged in the “protection of officials of the United States against threats to personal safety.”

The groups that are generally not within either the CSRS or FERS definition of “law enforcement officer” include certain police officers, guards, and U.S. Customs and Border Protection officers (including legacy customs inspectors and legacy immigration inspectors).

C. Review of Types of Retirement Systems/Benefits

Regular Retirement Under CSRS and FERS

Under CSRS, regular employees pay retirement contributions at 7.0 percent of basic pay, and agencies make a matching 7.0 percent payment. The normal cost for a regular CSRS employee is 24.4 percent⁴ of basic pay; therefore, the CSRS regular benefit is underfunded by 10.4 percent of basic pay.

A regular CSRS employee can retire voluntarily at age 55 with 30 years of service, at age 60 with 20 years of service, or at age 62 with 5 years of service. As established by 5 U.S.C. 8339(a), the regular CSRS annuity formula is:

(1.50%) x (high-3 average basic pay) x (service up to 5 years); plus
(1.75%) x (high-3 average basic pay) x (service between 5 and 10 years); plus
(2.00%) x (high-3 average basic pay) x (service over 10 years).

Under FERS, regular employees pay retirement contributions at 0.8 percent of basic pay. Agencies pay 10.7 percent of the employee’s basic pay. The combined employee and agency shares total 11.5 percent, the current normal cost for a FERS regular employee.⁵

A regular FERS employee may retire voluntarily without an annuity reduction at Minimum Retirement Age (MRA) with 30 years of service, at age 60 with 20 years of service, or at age 62 with 5 years of service. As established by 5 U.S.C. 8415(a) and (g), the regular FERS annuity formula is:

(1% or 1.1%)⁶ x (high-3 average basic pay) x (creditable years of FERS service).

⁴ The normal cost for CSRS regular employees will increase to 25.0 percent after September 30, 2004.

⁵ The normal cost for FERS regular employees will increase to 12.0 percent after September 30, 2004.

⁶ The 1.1% accrual rate applies only to a regular employee who retires under the immediate retirement provisions and who is at least 62 and has at least 20 years of service at retirement. The 1.1% accrual rate does not apply in the case of a congressional employee, military technician (dual status), law enforcement officer, member of the Supreme Court Police, firefighter, nuclear materials courier, or air traffic controller.

Law Enforcement Officer Retirement Under CSRS and FERS

Under CSRS, LEOs pay retirement contributions at 7.5 percent of basic pay, and agencies make a matching 7.5 percent payment. The normal cost for a CSRS LEO is 38.9 percent⁷ of basic pay; therefore, the CSRS LEO benefit is underfunded by 23.9 percent of basic pay.

Under CSRS, an employee may retire at age 50 with a minimum of 20 years of law enforcement officer, firefighter, or nuclear materials courier service. Under 5 U.S.C. 8339(d)(1), the CSRS LEO annuity formula is:

$(2.5\%) \times (\text{high-3 average basic pay}) \times (\text{LEO service up to 20 years}), \text{ plus}$
 $(2.0\%) \times (\text{high-3 average basic pay}) \times (\text{service over 20 years}).$

Under FERS, LEOs pay retirement contributions at 1.3 percent of basic pay. Agencies pay 22.7 percent of the employee's basic pay. The combined employee and agency shares total 24.0 percent, which is the current normal cost for a FERS LEO.⁸

Under 5 U.S.C. 8412(d), a FERS employee may retire at age 50 with a minimum of 20 years service as a law enforcement officer, member of the Capitol or Supreme Court Police, firefighter, or nuclear materials courier, or at any age with at least 25 years of such service. Under 5 U.S.C. 8415(d), the FERS LEO annuity formula is:

$(1.7 \%) \times (\text{high-3 average pay}) \times (\text{LEO service up to 20 years}), \text{ plus}$
 $(1.0 \%) \times (\text{high-3 average pay}) \times (\text{service over 20 years}).$

CSRS and FERS LEOs are subject to mandatory retirement.⁹ In order to be subject to mandatory retirement, an employee must be eligible for retirement under the LEO provisions. That is, a law enforcement officer is subject to mandatory retirement when he or she is age 57 or older *and* has at least 20 years of law enforcement service. An agency head may retain a law enforcement officer until age 60 if the agency head finds that the LEO's continued service is in the public interest (5 U.S.C. 8335(b) and 5 U.S.C. 8425(b)). A CSRS law enforcement officer may be retained beyond age 60 with OPM's permission. (See section 1(3) of Executive Order 11228, June 14, 1965. In that order, the President delegated to the Civil Service Commission, the predecessor of OPM, his authority under 5 U.S.C. 8335(e) to exempt an employee covered by the Civil Service Retirement System from automatic separation.) A FERS LEO may be retained beyond age 60 with the permission of the President.

Agencies also set maximum entry age requirements for LEOs. Agencies typically set the maximum entry age of LEOs based on the age and service requirements for LEO mandatory retirement, which is generally age 57 with at least 20 years of LEO service. Thus, maximum

⁷ The normal cost for CSRS LEO employees will increase to 40.3 percent after September 30, 2004.

⁸ The normal cost for FERS LEO employees will increase to 25.1 percent after September 30, 2004.

⁹ The mandatory retirement age for CSRS LEOs was first established at age 55 by Public Law 93-350. Subsequently, the mandatory retirement age for law enforcement officers was raised to age 57 by Public Law 103-283.

entry age is typically age 37 because it allows an employee to achieve 20 years of LEO service at age 57, the mandatory retirement age.

DC Police Officers and Firefighters Retirement Plan

While most Park Police officers, U.S. Secret Service Uniformed Division (USSSUD) officers and Secret Service special agents are covered by FERS, a group of approximately 233 Secret Service employees, including officers and special agents, are covered by the DC Police Officers' and Firefighters' Retirement Plan (DCPOFP). Before FERS was established, Park Police officers and USSSUD officers were covered by DCPOFP. Also, CSRS-covered Secret Service special agents are eligible to transfer to DCPOFP (based on having 10 or more years of service directly related to the protection of the President). New Park Police officers, USSSUD officers, and Secret Service special agents, hired after January 1, 1984, are covered by the FERS LEO provisions.

DCPOFP provides that a USSSUD officer, a USSS special agent, or a Park Police officer with at least 20 years of service under DCPOFP can retire voluntarily at any age. Average base pay is the average of the employee's highest base pay during any 12 consecutive months. The annuity formula is:

$(2.5\%) \times (\text{highest 12 month average base pay}) \times (\text{police service through the first 20 years})$
plus,
 $(3.0\%) \times (\text{highest 12 month average base pay}) \times (\text{police service after 20 years})$ plus,
 $(2.5\%) \times (\text{highest 12 month average base pay}) \times (\text{years of other creditable service}).$

The annual regular retirement benefit is capped at 80 percent of the employee's final salary. The cap may be exceeded when credit is added for unused sick leave.

Section 5-712(b) of the D.C. Code provides that any member of the United States Secret Service Uniformed Division, the United States Park Police force, or Secret Service special agents covered by DCPOFP, after having attained 20 years of creditable police service, are subject to mandatory retirement at age 60, with service beyond age 60 permitted at the discretion of the agency head.

Park Police and Secret Service retirees covered by DCPOFP are not subject to the reemployed annuitant pay offset requirements that apply generally to CSRS and FERS retirees who are employed by the Federal Government (5 U.S.C. 8344 or 8468). In addition, Park Police and Secret Service retirees covered by DCPOFP are entitled to annuity adjustments based on changes in the salary of active employees (called the "equalization provision"), while CSRS/FERS retirees receive cost-of-living adjustments (COLAs) based on the consumer price index.¹⁰

¹⁰ Formerly, DC police were covered by such an equalization provision; however, all DC police who retired on or after February 15, 1980, receive COLAs instead of an equalization adjustment.

Retirement Provisions for Capitol Police

U.S. Capitol Police are employed by Congress under 5 U.S.C. 2107, and as such, make retirement contributions, in accordance with 5 U.S.C. 8334(c) and 8422(a), as congressional employees. Consequently, as congressional employees, Capitol Police are subject to retirement contributions of either 7.5 percent (CSRS), or 1.3 percent (FERS). These are the same contribution rates applicable to LEOs under CSRS and FERS.

The Capitol Police Retirement Act (Public Law 101-428, October 15, 1990) added Capitol Police to the retirement statutes as a new group subject to special retirement provisions equivalent to those applicable to LEOs. Public Law 101-428 did not include Capitol Police in the CSRS or FERS definition of “law enforcement officer” set out at 5 U.S.C. 8331(20) and 8411(17). Instead, Capitol Police were added to the retirement provisions as a distinct group, separate from law enforcement officers. For the purpose of this report, Capitol Police are considered to be LEOs. However, it should be noted that the LEO quit rate and transfer rate data discussed elsewhere in this report do not include Capitol Police. Since Capitol Police are employees of the legislative branch, OPM’s Central Personnel Data File does not contain information on this group.

Capitol Police are entitled to early retirement, an enhanced annuity computation (at the same accrual rate as other LEOs), and maximum entry age and mandatory retirement provisions that are similar to the LEO provisions. A member of the Capitol Police may retire at age 50 with 20 years of LEO service or, under FERS, at any age with 25 years of LEO service. A Capitol Police officer is subject to mandatory retirement when the officer reaches age 57 and has at least 20 years of LEO service. If the Capitol Police Board finds that it would be in the public interest, the Board may exempt a member of the Capitol Police from mandatory retirement until age 60.

Retirement Provisions for Supreme Court Police

The Supreme Court Police were granted enhanced retirement benefits by Public Law 106-553 (December 21, 2000). This law made amendments to chapters 83 and 84 of title 5, United States Code, to allow members of the Supreme Court Police to be treated as “law enforcement officers” for retirement purposes. For the purpose of this report, Supreme Court Police are considered to be LEOs. However, it should be noted that the LEO quit rate and transfer rate data discussed elsewhere in this report do not include Supreme Court Police. Since Supreme Court Police are employees of the judicial branch, OPM’s Central Personnel Data File does not contain information on this group.

Supreme Court Police are entitled to early retirement, an enhanced annuity computation (at the same accrual rate as other LEOs), and maximum entry age and mandatory retirement provisions that are similar to the LEO provisions. A member of the Supreme Court Police may retire at age 50 with 20 years of LEO service, or, under FERS, at any age with 25 years of LEO service. A Supreme Court Police officer is subject to mandatory retirement when the officer reaches age 57 and has at least 20 years of LEO service. If the Marshal of the Supreme Court finds that it would be in the public interest, he or she may exempt a member of the Supreme Court Police from mandatory retirement until age 60.

D. Retirement Benefits Issues

The differences in retirement benefits provided to Federal employees in the broad law enforcement community stem primarily from three sources: the application of the statutory definition of “law enforcement officer,” legislation that has extended LEO retirement benefits to certain employee groups, and disparities in LEO retirement coverage as a result of litigation. However, other issues, such as agency staffing, the interrelationship of pay and retirement, and the cost of extending retirement benefits, also warrant consideration.

Issue: Statutory Definition of “Law Enforcement Officer”

The current definition of “law enforcement officer” lacks the flexibility needed to respond to the reality of law enforcement work as it is today. That definition can be traced back to choices made as early as 1948. In 1948, Congress and the Civil Service Commission faced a dilemma. One year earlier, Congress had extended enhanced retirement to FBI special agents, a clearly identifiable group of employees. Almost immediately, other groups of Federal criminal investigators¹¹ came forward seeking enhanced benefits on equity grounds. Congress wanted to extend enhanced retirement to other criminal investigators and considered two alternative means of doing so: (1) specifically name each employee group that would receive enhanced coverage, or (2) draft a general definition that would encompass all of the employee groups that would receive coverage.

The first alternative promised to clearly limit enhanced retirement coverage to the intended group of employees. However, given the constantly changing duties of existing positions and agency missions, the list would become obsolete rather quickly and would require constant updates. On the other hand, the second alternative, a general definition, was flexible. Employees could move into and out of the general definition as their duties changed. However, the application of the general definition was not clear-cut in every case. The former Civil Service Commission advocated the general definition approach. Congress agreed. (Extract from *Hearings before a Subcommittee of the Committee on Post Office and Civil Service*, House of Representatives, Eighth Congress, 2nd Session, on H.R. 5401 and H.R. 5523 (March 31, 1948).)

The statutory definition of “law enforcement officer” which was ultimately adopted by Congress, and which has remained largely unaltered over the years, has a meaning that is more restrictive than the commonly understood notion of the term. This has created a false perception that the definition of “law enforcement officer” includes more employee groups than it actually does. The disparity between the commonly understood concept of who is a law enforcement officer and the limited retirement definition of this term has fostered litigation and administrative difficulties. Further, the statutory definition of “law enforcement officer” has not kept pace with the evolution of the Federal law enforcement workforce. The definition imposes an out of date, black-and-white concept of law enforcement and criminal investigation on the broad continuum of law enforcement duties of the present day.

¹¹ The term “special agent” is the vernacular that many agencies use to describe those falling under the GS-1811 series criminal investigator definition.

As a general matter, an employee meets the definition of “law enforcement officer” when the employee’s duties are primarily the “investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States.” LEO retirement coverage does not depend on the classification of a position within an occupational series (e.g., Police Officer GS-0083) or the law enforcement mission of a particular agency.

The strict, legal definition “law enforcement officer” does not include employees whose primary duties involve maintaining law and order, protecting life and property, guarding against or inspecting for violations of law, or investigating persons other than persons who are suspected or convicted of offenses against the criminal laws of the United States. In addition, duties such as routine patrolling, securing crime scenes, and interviewing or detaining witnesses for interrogation are not criminal investigation duties that fall within the limited definition of “law enforcement officer.” In this regard, groups that are generally excluded from the CSRS and FERS definitions of “law enforcement officer” are police officers, guards, and inspectors (including legacy customs inspectors and legacy immigration inspectors).

Issue: Inconsistent Extension of Enhanced Retirement Benefits to Particular Groups

As discussed in the previous section, Federal uniformed police generally do not have LEO retirement coverage because they are excluded from the statutory definition of “law enforcement officer.” In response, Congress has enacted special legislation that has extended preferential retirement benefits to certain Federal uniformed police within the broad law enforcement community, but not to other similarly situated groups.

For example, Congress has extended special retirement coverage to U.S. Secret Service Uniformed Division officers, U.S. Park Police, U.S. Capitol Police, and U.S. Supreme Court Police (see Section C). However, their standard police work—maintaining law and order, protecting life and property—falls outside the definition of “law enforcement officer” for retirement purposes (i.e., their duties are not *primarily* the “investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States”). While U.S. Secret Service Uniformed Division officers, U.S. Park Police officers, U.S. Capitol Police officers, and U.S. Supreme Court Police officers receive enhanced retirement benefits under the laws listed above, arguably similarly situated Federal police officers, such as police officers at the Department of Defense, the Department of Veterans Affairs, the U.S. Mint, the Bureau of Engraving and Printing, and the Department of Homeland Security, are not entitled to the same treatment.

This patchwork approach to extending law enforcement benefits has created disparities within the broad law enforcement community. Legislative changes directed at select groups of employees are not responsive or flexible enough to adjust to the changing nature of law enforcement work.

Issue: Disparities in LEO Retirement Coverage as a Result of Litigation

Both the Merit Systems Protection Board (MSPB) and the U.S. Court of Appeals for the Federal Circuit have issued decisions that have created additional disparities within the broad law enforcement community and weakened the LEO retirement program as a management tool.

As previously noted, the statutory definition of “law enforcement officer” sacrifices specificity in favor of flexibility and has resulted in litigation that has exacerbated differences in retirement coverage among groups of employees. At one time, LEO retirement coverage was decided solely on the basis of duties assigned to a position (i.e., a “position-oriented” approach). However, administrative and judicial decisions have shifted coverage determinations to an individual, case-by-case coverage approach. The shift to individual determinations can be traced back to the decision in *Ellis v. United States*, 610 F.2d 760 (Ct.Cl.1979). In *Ellis*, the Court of Claims overturned the longstanding policy that special retirement eligibility could be based only on the official duties of an employee’s position of record. Instead, *Ellis* held that an employee could earn enhanced retirement credit, despite the fact that his position was not approved for enhanced coverage, based on the fact that his actual duties qualified for enhanced service credit. Thus, *Ellis* emphasized an “incumbent-oriented” approach as an alternative to the “position-oriented” approach set out in OPM’s LEO retirement regulations. As a result of *Ellis*, agencies must make thousands of individual service credit determinations. Since these determinations are made on an individual, fact-intensive, case-by-case basis, the resulting decisions tend to be inconsistent when viewed across employee groups.¹²

After the *Ellis* decision, MSPB considered various criteria for determining whether the actual duties of an individual claimant satisfy the statutory and regulatory requirements for LEO coverage. In a line of cases beginning with *Hobbs v. Office of Personnel Management*, 58 M.S.P.R. 628 (1993), MSPB developed seven factors or indicia to determine whether an individual was a “law enforcement officer.” MSPB determined that a “law enforcement officer” within the definition contemplated by statute commonly (1) has frequent direct contact with criminal suspects; (2) is authorized to carry a firearm; (3) interrogates witnesses and suspects, giving *Miranda* warnings when appropriate; (4) works for long periods without a break; (5) is on call 24-hours a day; (6) is required to maintain a level of physical fitness; and (7) is exposed to hazard. See *Hobbs v. Office of Personnel Management*, 58 M.S.P.R. 628 (1993); *Sausser v. Office of Personnel Management*, 59 M.S.P.R. 489 (1993); *Peek v. Office of Personnel Management*, 63 M.S.P.R. 430 (1994), *aff’d*, 59 F.3d 181 (Fed. Cir. 1995); *Bingaman v. Department of the Treasury*, 127 F.3d 1431 (Fed. Cir. 1997); *Hannon v. Department of Justice*, 82 M.S.P.R. 315 (1999), *aff’d*, 234 F.3d 674 (Fed. Cir. 2001).

The seven-factor test attempted to standardize the “incumbent-oriented” approach to LEO coverage decisions. Ultimately, however, MSPB found the “incumbent-oriented” approach and the seven-factor LEO test to be unworkable. In 2000, MSPB reassessed this approach, and in *Watson v. Department of the Navy*, 86 M.S.P.R. 318 (2000), announced that it would no longer use it. Instead, MSPB decided that it would give due weight to the reasons put forward by the

¹² For example, the Department of Homeland Security has four Federal Protective Service (FPS) police officers who have been granted law enforcement officer retirement through appeals to MSPB, while hundreds of other FPS police officers do not enjoy such coverage.

agency for the creation and existence of the position. On review, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) found that MSPB's "position-oriented" approach conformed to law (*Watson v. Department of the Navy*, 262 F.3d 1292 (Fed. Cir. 2001) (noting that under the statutes, an employee may only receive LEO retirement credit if the position he or she occupies primarily involves certain specified duties). The Federal Circuit also noted the weaknesses of the seven-factor test MSPB had used under the obsolete "incumbent-oriented" approach. Specifically, the Federal Circuit noted that many elements of the seven-factor test actually had little probative value in LEO retirement coverage determinations. *Watson v. Department of the Navy*, 262 F.3d 1292, 1302.

Thus, the history of litigation of LEO coverage cases shows that MSPB and the Federal Circuit have traveled full circle from a "position-oriented" approach to an "incumbent-oriented" approach, and back again. This litigation history shows the difficulties MSPB and the Federal Circuit have encountered in applying the statutory definition of "law enforcement officer."

Treating law enforcement retirement benefits strictly as an entitlement undermines the value of these benefits as a workforce management tool. OPM and employing agencies should determine the structure of the Federal law enforcement workforce in accordance with policy goals set out by Congress and the Administration. Administrative and judicial review should be structured to maximize long-term utility, flexibility, consistency, and continuity.

Issue: Difficulties Encountered by Agencies

The shifting interpretations by MSPB and the courts, coupled with the limited nature of the general definition of "law enforcement officer," have made it difficult for agencies to apply this definition. Agencies are responsible for drafting position descriptions and for deciding which positions merit LEO retirement coverage. As discussed above, deciding whether a position should receive LEO retirement coverage involves consideration of a variety of criteria. In many cases, the mix of duties assigned to a position is not easily categorized as constituting primarily LEO or non-LEO duties, considering the limited nature of the definition and the shifting legal precedents.

Agencies also face the challenge of keeping pace with the evolution of their law enforcement missions. Currently, law enforcement and related positions encompass a range of activities that are far removed from those that existed in the 1940s and 1950s. From 1947 to the present, Federal police forces and Federal inspection employees have been adapting to new threats. Federal law enforcement, inspection, and police forces currently include such units as SWAT teams; bomb detection and explosive ordinance disposal (EOD) teams; K-9 teams; nuclear, chemical, biological and hazardous material decontamination and disposal teams; and airborne surveillance units. This evolution in law enforcement has exacerbated the difficulty of applying the definition of "law enforcement officer" to modern missions and work situations.

Issue: Loss of Experienced Law Enforcement Officers

The current early voluntary retirement provisions may operate to prematurely deprive the Government of its most experienced personnel. Further, the mandatory retirement provisions

applicable to current LEOs may be inappropriate if applied uniformly across the full spectrum of law enforcement positions.

To maintain a “young and vigorous” LEO workforce, the LEO retirement provisions permit a law enforcement officer to retire in his or her early 50s, or in the case of FERS, in his 40s if the LEO has at least 25 years of LEO service. These provisions encourage LEOs to retire when they have attained a great deal of experience. However, LEO life expectancy and reemployment statistics indicate that the Government is losing these highly experienced LEOs at a point in their careers when they are still capable of effectively serving the Government.

Retirement statistics indicate that a significant percentage of retired LEOs return to LEO positions with the Federal Government. Based on March 2003 data, approximately 950 Secret Service special agents (GS–1811) 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. Furthermore, the average life expectancy for male law enforcement retirees under CSRS has increased, from 77.81 in 1971 to 82.70 in 2002. Clearly, the working conditions and the length of a typical LEO career is not the same as it was in the past.

Further, a law enforcement officer is forced to retire at age 57, or shortly thereafter. All employees in the broad Federal law enforcement community are not exposed to the same physical demands. The physical demands of Federal law enforcement vary from occupation to occupation because the duties of the various occupations span a range of law enforcement activities. For example, the physical demands of a position primarily engaged in the investigation of financial crimes are not as arduous as in a position which involves frequent all-night stake-outs. The work of each position is important, but the nature of the duties of each position influences the length of the typical career of employees engaged in those duties.

Issue: Cost and Retirement Creditable Basic Pay

LEO retirement coverage issues and pay issues are interrelated, and changes in the pay area must take into account the impact on retirement.¹³

Certain special pay provisions apply to employees who are covered by the LEO retirement provisions. General Schedule employees who have LEO retirement coverage are entitled to special LEO statutory special rates at GS grades 3 through 10. Thus, if LEO retirement coverage were to be extended to new groups of employees, retirement-creditable basic pay could increase, which would result in a higher annuity. Also, for employees who currently receive annual premium pay for administratively uncontrollable overtime (AUO) work, coverage under the LEO retirement provisions would mean that their AUO pay is treated as retirement-creditable basic pay (5 U.S.C. 8331(3)(D)). This could result in an increase in retirement

¹³ Specifically, the definition of “law enforcement officer” at 5 U.S.C. 5541(3), which is used in determining eligibility for certain LEO pay entitlements in the premium pay law as well as other pay provisions, incorporates references to the definitions of “law enforcement officer” at 5 U.S.C. 8331(20) and 8401(17).

benefits of up to 25 percent, even before considering the effect of the enhanced LEO annuity computation formula.

Under both CSRS and FERS, the law provides a higher annuity for law enforcement officers than that provided for regular employees. At age 50 with 20 years of service, a CSRS LEO's annuity is about 38 percent higher than the annuity of a regular employee (Appendix A1). Under FERS, the defined benefit is 70 percent higher for LEOs (Appendix A2). However, since the FERS defined benefit is at a lower accrual rate and because it is one part of a three-part retirement program (along with Social Security and the Thrift Savings Plan), the actual amount of the defined benefit is a less significant part of retirement for a FERS retiree than the defined benefit component is for a CSRS retiree. On the other hand, these percentages are based on the annuity calculation formula only and do not take into account the higher average salary resulting from the inclusion of certain overtime or premium pay that law enforcement officers may count as basic pay for retirement and which, in the case of a FERS employee, may also be contributed to the Thrift Savings Plan and form the basis for Social Security benefits. These early benefits are not reduced for age, as they would be for a regular employee retiring under standard early retirement rules.

In addition, the rationale for an enhanced annuity formula is inextricably tied to early and mandatory retirement of LEOs. When the mandatory retirement requirement for CSRS LEOs was added to the law in 1974, concerns were raised that the annuity formula would not provide LEOs subject to mandatory retirement with a sufficient annuity. Since a law enforcement officer could be subject to mandatory retirement at an early age with as little as 20 years of service, there was a risk that the annuity would not be financially viable. Because of this concern, the current enhanced annuity formula for CSRS LEOs was added to the law in 1974 to enable the mandatory retirement requirement while avoiding the possibility of economic hardship. The enhanced benefit was intended to provide a retiring LEO with a benefit approximately equal to the annuity of a regular employee retiring under the general civil service age and service requirements.

The interrelationship between retirement coverage and pay issues is sometimes overlooked. The significant effect that retirement creditable premium pay has on annuity rates is illustrated by the charts at Appendix A1 and Appendix A2. These charts illustrate hypothetical examples of how premium pay increases the annual annuity of a law enforcement officer. Retirement creditable premium pay, combined with the enhanced LEO annuity formula, provides LEOs with an annuity greater than the annuity of a regular employee retiring with 30 years of service.

The basic pay and premium pay provided to the various occupational groups in the Federal law enforcement community varies significantly. In general, criminal investigators receive up to 25 percent of basic pay as enhanced retirement creditable premium pay (e.g., standard pay plus law enforcement availability pay) and enhanced retirement benefits. Police officers receive some additional pay (e.g., OPM approved special pay rates for police officers),

and some police forces receive enhanced retirement, primarily due to special legislation.¹⁴ Legacy customs inspectors generally are entitled to enhanced retirement creditable premium pay but not enhanced retirement under the Customs Officer Pay Reform Amendments (COPRA). That law gives a legacy customs inspector credit for overtime pay as basic pay for retirement, but has been limited to 50 percent of the statutory maximum (\$30,000 in recent years). Therefore, for retirement purposes a legacy customs inspector may include up to \$15,000 of overtime pay in annual basic pay for retirement purposes.

Given the interrelationship between pay and retirement, it is critical that any changes in either area be closely coordinated with the other.

Issue: Related Staffing and Funding Concerns

Any extension of LEO retirement coverage to new groups of employees, whether prospective or retroactive, would entail significant costs. An extension of LEO coverage could also affect staffing. Generally, when designing or adjusting employee benefits provisions, it is OPM's longstanding policy that any changes should be prospective only. However, in the case of LEO retirement provisions, we face a particular design challenge.

Under the current retirement eligibility provisions, a law enforcement officer must have at least 20 years of LEO service for entitlement to the enhanced LEO annuity computation. Further, an agency cannot mandatorily retire an employee until the employee has completed 20 years of LEO service. If LEO retirement coverage were to be granted on a prospective basis to a class of employees, absent other significant statutory changes, most employees in the class would have to work an additional 20 years to accrue sufficient LEO service for entitlement to the enhanced annuity computation. Therefore, if the LEO retirement provisions are simply extended to new groups on a prospective basis, many employees in the new groups would have difficulty achieving 20 years of LEO service for entitlement to an enhanced LEO retirement. In addition, because many employees would have less than 20 years of LEO service at age 57, many employees would work beyond the mandatory retirement age 57, which would be contrary to the presumed need for a young and vigorous workforce, unless the mandatory retirement age was modified.

Alternatively, if LEO retirement coverage were to be granted retroactively to a class of employees, some portion of the class would immediately become subject to mandatory separation (i.e., at age 57 with 20 years of law enforcement service) or would be eligible for early retirement with a significantly enhanced benefit. This could result in the loss of experienced personnel, unless the mandatory retirement age and early retirement eligibility requirements were modified.

The age distribution charts in Appendix A3 provide some information on the number of law enforcement personnel age 57 or older who could be subject to immediate mandatory separation under the current LEO provisions.

¹⁴ These police forces are the U.S. Supreme Court Police, U.S. Capitol Police, U.S. Secret Service Uniformed Division, and U.S. Park Police. The Library of Congress police force is in the process of being incorporated into the U.S. Capitol Police.

As of September 30, 2003, FERS-covered employees constituted about 85 percent of the current workforce of immigration inspectors and customs inspectors and 92 percent of non-LEO police officers. The Federal Government employed only about 3,139 CSRS-covered immigration inspectors, customs inspectors, and police officers as of September 30, 2003. The average age and service of these CSRS-covered employees was approximately age 54 with 29 years of service. As of September 30, 2003, about 32 percent of the CSRS-covered immigration inspectors, customs inspectors, and police officers were eligible for retirement under the retirement eligibility and computation provisions for regular employees. By September 30, 2005, the percentage of these employees eligible for retirement will increase to about 49 percent.

In addition, if LEO retirement coverage were to be granted to a class of employees under FERS, the employees in the class would be immediately and prospectively subject to physical and medical standards applicable to law enforcement officers. The imposition of physical and medical standards could result in a certain number of employees being deemed physically or medically unfit for further service as a law enforcement officer, which could also result in the unintended loss of experienced personnel.

Extension of prospective or retroactive LEO coverage to new groups also would entail significant costs for the Government. If coverage is extended prospectively, agencies would immediately assume the FERS cost in higher payroll expenditures in the form of increased agency retirement contributions. This increase would be due to the higher normal cost associated with law enforcement retirement. The difference between the FERS normal cost for a regular employee and a law enforcement employee is 12.5 percent of basic pay. If retroactive coverage is granted, the CSRS unfunded liability and the FERS supplemental liability of the Civil Service Retirement and Disability Fund would increase significantly.

E. Retirement Benefits Recommendations

The existing retirement program for LEOs has served its intended purpose well. Over the past half century it has allowed the Federal Government to maintain a young and vigorous corps of LEOs. However, not only have the nature and scope of law enforcement activities and missions evolved dramatically during that same period, they continue to do so. As a result, we believe the current program should be modified to provide the flexibility to fully accommodate that continuing evolution.

Many individuals have made major life choices based upon the LEO retirement system as it has long existed. While changes may be necessary, we must not let those changes unfairly affect those that are covered by the current structure. Further, we must also be fair to those who must absorb the costs, both directly (agencies) and ultimately (the taxpayers).

As noted throughout this report, the bright-line distinction that existed between FBI special agents in the late 1940s and other Federal law enforcement-related personnel has blurred with time—the result of legislation and litigation, on the one hand, and changes in the Federal law enforcement missions on the other. When special retirement provisions for criminal investigators were first enacted over a half century ago, Federal law enforcement missions were

more straightforward than they are today. There was a clear distinction between personnel who needed to be young and vigorous to perform their duties effectively and those who did not. A uniform retirement structure was well-suited to fulfill the associated human capital needs. In terms of law enforcement, even the world of 1974 (when law enforcement retirement was last substantively revised) was much closer to that of the late 1940s than it is to today's world.

The world today is a very different and much more complex place, and the physical requirements in the field of law enforcement are much more varied and demanding, particularly in light of the 9/11 terrorist attacks. Further, the distinctions among crime prevention, antiterrorist activities, and criminal investigation work are not as clear cut as they once were. In that post-9/11 world, Federal police and inspectors have assumed new duties critical to the war on terrorism. Police forces that were once guard-like in nature now include highly-trained and specialized units, such as SWAT teams, bomb detection squads, and airborne surveillance units. Similarly, U.S. Customs and Border Protection officers now need to detect and defend against weapons of mass destruction and terrorism and must contend with an added element of risk and danger. Many of these employees undergo much of the same law enforcement training as current LEOs. Thus, while not all positions within the Federal law enforcement community require the same level of physical vigor currently required of many LEOs, it is clear that greater flexibility is needed in the LEO retirement program to deal with these variations. In short, the Federal law enforcement retirement system must be modernized to reflect and address the challenges of our post-9/11 world.

In this regard, it no longer makes sense to consider criminal investigation as a unique and isolated function, to be performed after crimes have been committed. We must accept and work with the reality that there are no longer clear, black-and-white dichotomies among LEOs and other law enforcement personnel, but that there are in fact shades of gray both in the duties they perform and the level of physical fitness needed to perform them. It is necessary to look at law enforcement as it has become (and is becoming), not as it once was. The Federal law enforcement community must be able to adapt to these new realities, with tools sufficiently flexible to accommodate the much more complex and evolving environment in which they must operate.

Thus, the question is not whether modification of the current structure is necessary, but how the new system can operate in such a manner that is able to be effectively responsive to a changing world on a timely basis. We believe that this can be achieved by granting the Office of Personnel Management authority to establish the structure of law enforcement retirement by regulation in consultation with agencies and with the concurrence of the Attorney General. Therefore, we recommend that OPM be given the authority necessary to modernize LEO retirement benefits, with appropriate modifications to the judicial review process that would maximize long-term utility, flexibility, consistency, and continuity. OPM would use this authority, in consultation with employing agencies, as a workforce management tool to make LEO retirement more flexible and adaptable to the rapidly evolving needs of the law enforcement community. This proposal would permit human capital needs to be addressed in a cost-effective manner that is fair to both employees and the taxpayers. In light of our findings regarding the variation in the physical demands associated with different law enforcement occupations and the expansion of the law enforcement mission in the aftermath of the 9/11

terrorist attacks, one option we are considering would be for OPM to use its new authority to establish a second tier of law enforcement benefits. Under such a system, the second tier of retirement benefits could fall somewhere between current LEO benefits and regular retirement benefits. Of course, OPM would not undertake any modification of LEO retirement benefits without fully consulting agency and employee stakeholders in order to arrive at a mutually acceptable LEO retirement system.

Where appropriate, consistency would be ensured throughout the Federal Government, but the framework could also accommodate changes or special circumstances. At the same time, it would allow flexibility in establishing retirement eligibility standards and mandatory requirements that would allow agencies to recruit and retain experienced personnel. We believe broad regulatory authority is the best approach for dealing with these issues. Provisions for early retirement and mandatory retirement should take into account the physical demands associated with the duties performed, while also preventing the imposition of overly restrictive hiring barriers or forced retirements that unnecessarily constrain staffing options. This approach maximizes agency flexibility for recruitment and provides a tool to retain experienced personnel that may be responsive to agency needs. We believe broad regulatory authority is the best approach for dealing with these issues.

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III. Classification and Basic Pay

A. Overview

This part presents an analysis of issues associated with the classification and basic pay systems that apply to Federal LEOs and other law enforcement personnel. While many of these employees are today covered by the General Schedule (GS) classification and pay system, more and more are being covered by paybanding systems that provide agencies with greater flexibility. Accordingly, we recommend that OPM should be given regulatory authority to establish, with the concurrence of the Attorney General, a flexible basic pay framework for Federal law enforcement employees throughout the Government that provides greater flexibility and market- and performance-sensitivity, comparable to the framework proposed for DHS. Our findings and recommendations are summarized in more detail below. (Note: The term “basic pay system” as used in this part includes the classification or job evaluation system that is used to determine the relative “value” of various job duties and responsibilities, as well as the system for setting and adjusting basic pay ranges and individual employee rates of basic pay.)

Findings

- The GS basic pay system which covers most LEOs and other law enforcement personnel is outdated, inflexible, market-insensitive, and performance-insensitive. In particular, the GS classification and pay provisions do not function well for law enforcement employees. Because of its inflexible structure, the GS system invites broad (and therefore wasteful) solutions to problems that actually are narrower in scope.
- The GS basic pay system provides special entitlements 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).
- Disparities in pay flexibility among agencies can harm morale, create staffing disruptions, and increase Government costs unnecessarily. With the creation of new basic pay systems for employees of DHS and DOD on the horizon, we anticipate that roughly 50,000 law enforcement employees will be converted from the GS system to more flexible basic pay systems that are more sensitive to the labor market and to performance, leaving other agencies at a disadvantage.
- 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 (although some quits may not be attributable to pay levels). At the full performance level, law enforcement employee quit rates are generally very low. The build-up of the Federal Aviation Administration/Transportation Security Administration law enforcement workforce, with its payband structure, resulted in a spike in transfer rates in FY 2002 for some law enforcement jobs, which demonstrates the problems that can result when one agency enjoys greater pay-setting flexibilities.

- The GS pay system does not provide sufficient flexibility to address specific pay competitiveness problems (e.g., low entry/developmental rates) among law enforcement occupations in a targeted manner. The degree of pay competitiveness varies by occupation, level, and location.

Recommendations

OPM should be given authority to establish a flexible basic pay framework for Federal law enforcement employees throughout the Government, in consultation with employing agencies and with the concurrence of the Attorney General. Consistent with the paybanding framework that has been proposed for DHS, this Governmentwide framework would include a common structure of law enforcement occupations, a structure of bands or rate ranges for various levels of work, and provisions for establishing and adjusting those rate ranges. Within that framework, Federal law enforcement agencies would have considerable flexibility to design tailored systems for performance management and individual employee pay adjustments.

Covering all law enforcement employees under the standard pay systems is not the solution, since those systems—in particular, the GS system—are in need of reform to make them more flexible, market-based, and mission-centered. With respect to law enforcement employees, the GS system is particularly problematic in that its rigid classification factors may not adequately value lower-level law enforcement work. Pending legislative proposals that attempt to “fix” the GS system for law enforcement employees are flawed. They would provide across-the-board solutions to problems that require a more targeted approach. For example, providing the same pay increase to all LEOs in a given location, regardless of occupation or grade level, would result in paying some LEOs well above labor market rates. Furthermore, these proposals would have serious unintended consequences—e.g., new inequities, pay compression/inversion problems, and unfunded costs—which outweigh any benefits. (See Appendix D.)

Under a framework established by OPM, the Federal Government would have the flexibility to adopt targeted approaches tailored to meet the needs of specific categories of LEOs, taking into account occupation, level, and location. This would allow a strategic mission-centered and market-based approach to setting and adjusting pay ranges so that payroll dollars are used as effectively as possible. That framework would also ensure that individual basic pay increases would be based on performance, with agencies afforded considerable flexibility to establish policies in this area. The Government would be able to respond more quickly to new conditions and circumstances than it can under rigid statutory systems. Through coordination with employing agencies and with the concurrence of the Attorney General, OPM would be able to ensure that both agency interests and Governmentwide interests are considered and balanced.

B. Standard Basic Pay Systems

The standard Governmentwide basic pay systems include the GS system, the Federal Wage System (FWS), and the pay schedules established for senior-level and scientific or professional positions and members of the Senior Executive Service. These systems are established under chapters 51 and 53 of title 5, United States Code. In some cases, special pay provisions within these systems provide higher rates of pay for some law enforcement personnel.

Most LEOs and other employees with arrest authority are covered by standard basic pay systems. Out of a total of roughly 106,000 Federal LEOs, about 91,000 are covered by standard basic pay systems (including 86,000 GS employees and 4,500 FWS employees). Groups covered by nonstandard basic pay systems include about 7,000 LEOs in the judicial and legislative branches and about 2,000 LEOs in the U.S. Postal Service. (See Section C.) Out of roughly 29,000 law enforcement employees who do not have LEO retirement coverage, about 24,500 are covered by standard basic pay systems (almost all under the GS system). Groups covered by nonstandard basic pay systems include about 1,300 Bureau of Diplomatic Security special agents who are in the Foreign Service and about 1,200 postal police officers. (See Section C.)

However, this will change in the near future. DHS and DOD, which together employ about 32,000 LEOs and about 22,000 other law enforcement personnel, have been given authority to establish new basic pay systems. (See 5 U.S.C. 9701 and 9902.) Thus, when these DHS and DOD employees are removed from the standard pay systems, this will dramatically change the current situation. DHS and OPM jointly issued proposed regulations for a new basic pay system for DHS employees on February 20, 2004. (See 69 FR 8030.)

LEOs within the GS system are entitled to higher rates of basic pay at grades GS-3 through GS-10, which increase pay by 3 to 23 percent depending on grade level. Currently, approximately 32,000 LEOs are entitled to these LEO special rates. These LEO special rates were established by section 403 of the Federal Law Enforcement Pay Reform Act of 1990 (which is found in section 529 of Public Law 101-509, November 5, 1990, as amended). These LEO special rates are used as base rates in computing locality payments. The conference report on the authorizing legislation stated that Congress was acting to address severe recruitment and retention problems caused by discrepancies in pay and benefits between Federal and State/local law enforcement personnel. (See House Conference Report 101-906, October 20, 1990, accompanying H.R. 5241, pages 90-92.) The special rates at grades GS-3 through 10 also might be interpreted as reflecting a judgment that lower-level LEO work was not properly valued under the GS classification system.

Under 5 U.S.C. 5305, OPM has authority to establish higher rates of basic pay, otherwise known as “special rates,” for GS employees to address recruitment or retention problems. Employees are entitled to the higher of the special rate or the applicable GS locality-adjusted rate of pay. Only a small percentage (less than 2 percent) of LEOs receive such OPM-established special rates; most of these LEOs are medical personnel working at correctional institutions. A significant number (about 3,100) of non-LEO police officers are covered by OPM-established special rate schedules. At some grades and locations, the police special rates exceed the locality-adjusted rates for LEOs at grades GS-3 through 10.

While Department of Veterans Affairs (VA) police officers are covered by the GS system, they may receive higher special rates of basic pay established by VA under its title 38 special rate authority, subject to OPM’s concurrence. (See 38 U.S.C. 7455 and Executive Order 12797, April 3, 1992.) VA police officers are entitled to the higher of the title 38 special rate or the applicable GS locality-adjusted rate of pay. As of September 2003, 1,075 VA police officers out of a total of 2,350 (about 46 percent) were covered by title 38 special rates.

C. Nonstandard Basic Pay Systems

Certain LEOs and other employees with arrest authority are covered by basic pay systems that are not among the standard Governmentwide systems described in Section B of this part. Congress provided independent authority for these systems. The provisions of these systems may be established directly in law, by administrative action, or by collective bargaining.

The LEO groups not covered by the GS system include those employed by the Transportation Security Administration (TSA), the U.S. Secret Service Uniformed Division (USSSUD), the U.S. Park Police, the U.S. Postal Service, the U.S. Capitol Police, and the judicial branch. Under a 1996 law, postal inspectors and Office of Inspector General criminal investigators in the U.S. Postal Service are paid at rates of basic pay that are comparable to those for GS employees.

Among law enforcement employees who do not have LEO retirement coverage, we find more variation in basic pay entitlements, especially among police officers. Some of these variations go back many years, while others are more recent.

Following are brief summaries of the major nonstandard basic pay systems for LEOs and other law enforcement personnel. Additional details regarding these systems and information on other systems for smaller groups of employees are provided in Appendix C. Also, Appendix G provides full performance level salary ranges for some of the occupations listed below.

LEOs Covered by Nonstandard Basic Pay Systems

- **Judicial Branch Pay Plans.** The judicial branch has several pay plans that cover probation and pretrial services officers and Supreme Court police (including the Marshal and Deputy Marshals who supervise those police). The Supreme Court Police pay plan is basically identical to the pay plan for Capitol Police (see below). Supreme Court Police officers are not covered by the definition of “law enforcement officer” in the retirement laws but receive equivalent retirement benefits and thus are included in the LEO category in this report.
- **Capitol Police.** By law, the basic pay plan for Capitol Police is established and maintained by the Capitol Police Board. The pay schedule for Capitol police is significantly higher than that for GS police officers and is higher than the schedules for USSSUD and Park Police officers. The pay range for Capitol Police at the Private First Class rank ranges from \$49,851 to \$81,168; in contrast, the pay range for a GS police officer in Washington, DC, at the most common GS-6 grade, ranges from \$37,839 to \$49,196 (special rate schedule 983D). Basic pay is based on rank with years of total service determining the step rate within the rank. Capitol Police officers are not covered by the definition of “law enforcement officer” in the retirement laws, but receive equivalent retirement benefits and thus are included in the LEO category in this report. (Note: Library of Congress police officers, who currently are not LEOs and who are covered by the GS system, eventually will be folded into the Capitol Police force.)

- **U.S. Postal Service.** The U.S. Postal Inspection Service has special basic pay systems for postal inspectors and executives. The U.S. Postal Service also has a separate basic pay authority for its Office of Inspector General. As required by 1996 law, these systems are comparable to the systems that apply to GS criminal investigators.
- **Transportation Security Administration.** TSA has a pay banding system for GS-equivalent employees, including Federal air marshals and criminal investigators. (Federal air marshals have been detailed to the Bureau of Immigration and Customs Enforcement but remain covered by the TSA pay system.) These LEOs are in a specialized law enforcement job category with a specific banding structure. The TSA pay bands are open ranges without steps. This TSA system, which is modeled after the FAA pay plan, has higher pay ranges than the GS system. For Federal air marshals in TSA Band I, maximum pay in Washington, DC., is currently \$96,175, as compared to \$93,742 for GS-13 criminal investigators (about 3 percent higher, down from a gap of 7 percent prior to the GS adjustment; note that the TSA pay schedule may be adjusted later in 2004). Also, the cap on locality-adjusted rates is the rate for level III of the Executive Schedule (EX-III), as compared to the rate for EX-IV for GS employees. TSA also has a pay plan for its senior executives, which is capped at the rate for EX-II.
- **U.S. Secret Service Uniformed Division and U.S. Park Police.** The pay system for USSSUD officers and Park Police officers provides higher pay than is available for GS police officers. The pay range for USSSUD/Park Police at the Private rank ranges from \$42,129 to \$75,864 in Washington, DC. In contrast, the pay range for a GS police officer in Washington, DC, at the most common GS-6 grade, ranges from \$37,839 to \$49,196 (special rate schedule 983D). Basic pay is based on rank with step rate within the rank based on years of total service.

(Note: Among the additional categories of LEOs who are covered by nonstandard basic pay systems are Internal Revenue Service criminal investigator senior managers and criminal investigators in various financial regulatory agencies, such as the Federal Deposit Insurance Corporation. See Appendix C for additional information.)

Other Law Enforcement Personnel Covered by Nonstandard Basic Pay Systems

- **Bureau of Diplomatic Security (DS) Special Agents.** DS special agents in the State Department are covered by the Foreign Service pay system. They are not considered LEOs for the purpose of this report, since they are covered by the Foreign Service Retirement System, rather than CSRS or FERS. However, DS special agents have been treated as LEOs for other purposes, such as premium pay. (See 5 U.S.C. 5541(3)(D)(ii).)
- **U.S. Postal Service Police.** The U.S. Postal Security Force personnel are paid from nonstandard basic pay schedules for both bargaining unit employees compensated under the Postal Police officers' schedule and officers (supervisors/managers) compensated under the standard Postal Service Executive and Administrative Schedule. In January 2003, Postal Police pay ranged from \$29,917 to \$45,004; in contrast, the 2003 pay range

for a GS police officer in Washington, DC, at the most common GS-6 grade, ranged from \$36,843 to \$47,896 (special rate schedule 983D).

- **Bureau of Engraving and Printing and U.S. Mint Police.** The Bureau of Engraving and Printing (BEP) and U.S. Mint police officers are covered by a pay system administered by the Secretary of the Treasury. The rate of basic pay for these police may not be less than the minimum rate for GS-7 or more than the maximum rate for GS-15. The current BEP/Mint police pay schedule sets pay significantly above GS rates for comparable police officers, but below the rates for USSSUD officers and Park Police officers.
- **Defense Protective Service (DPS) Police.** The Secretary of Defense administers a special pay system for DOD/DPS police officers who protect the Pentagon and surrounding areas. DOD has administratively adopted the same pay plan that applies to USSSUD and Park Police officers.
- **National Security Agency (NSA) Police.** NSA police officers are covered by an NSA-administered pay plan that generally mirrors the GS system.
- **Government Printing Office (GPO) Police.** The GPO police officers are paid from pay schedules that correspond to GS grades, each with 10 steps like the GS, but with higher pay levels. The normal journey level for GPO police officers is grade 5, which had a rate range of \$34,369 to \$43,206 in 2003.

(Note: VA police who are in the GS pay system but covered by title 38 special rates could also be considered as having a nonstandard system. Among the additional categories of other law enforcement personnel who are covered by nonstandard basic pay systems are National Zoological Park Police and police employed in various personnel demonstration projects. See Appendix C for additional information.)

D. Classification and Basic Pay Issues

The following issues are key to an analysis of classification and basic pay issues as they relate to Federal LEOs and other law enforcement personnel:

- Should law enforcement employees be covered by a separate basic pay framework tailored for law enforcement occupations in lieu of coverage under any other basic pay system, such as the GS system?
- Which law enforcement employees should be covered by a law enforcement basic pay framework?
- How can the problem of interagency competition for law enforcement employees be addressed through a new law enforcement basic pay framework? How do we balance the need for agency flexibility with the Governmentwide interest in consistency?

- To what extent are Federal agencies experiencing recruitment and retention problems among law enforcement employees, and how can such problems be addressed through a new law enforcement basic pay framework?
- To what extent is Federal law enforcement pay competitive with non-Federal pay, and how can any competitiveness problems be addressed through a new law enforcement basic pay framework?

Issue: Need for a Basic Pay System Tailored for Law Enforcement Employees

Since the GS basic pay system covers the vast majority of Federal law enforcement employees, a central issue is whether that system is functioning well for law enforcement occupations. We find that, in addition to the general problems with the GS system, specific problems associated with law enforcement employees justify the establishment of a separate basic pay system or framework tailored specifically for Federal law enforcement employees.

Among the general problems with the GS system identified by OPM are (1) lack of occupation-specific market sensitivity, (2) lack of emphasis on individual performance, (3) excessive reliance on rigid, one-size-fits-all rules, and (4) insufficient flexibility to make strategic decisions that support mission accomplishment. Of particular relevance to law enforcement employees is the specific problem that the GS system provides the same locality payment to all occupations and all grade levels in the same geographic area. In other words, the system pretends that pay disparities within a location are equal across all occupations and grade levels. Thus, GS locality adjustments result in some jobs being paid below the labor market and other jobs being paid above the market.¹⁵

The continued coverage of law enforcement employees by the GS system has been the focus of considerable study over the years. (See Section I.E.) For example, the 1990 Report of the National Advisory Commission on Law Enforcement (NACLE) recommended that the Government explore the feasibility of a new system for LEOs. In OPM's 1993 report to Congress, "A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers," OPM recommended a separate job evaluation and pay system for Federal law enforcement employees (defined to include non-LEO police officers, but to exclude prison support staff). Both of these reports cited the fact that the GS system is focused on traditional white-collar work and may not adequately address or value factors that are important in law enforcement work, such as physical requirements, responsibility to use deadly force, the need to make critical split-second decisions without supervisory guidance, and the need to approach or remain in dangerous situations rather than retreat from them. The 1993 OPM report found that the problems with the application of GS classification factors to law enforcement jobs were especially pronounced at the lower GS grades. (Law enforcement officers obtain higher grades

¹⁵ See April 2002 OPM informational discussion paper entitled "A Fresh Start for Federal Pay: The Case for Modernization." The views expressed in this paper are those of OPM and not necessarily of any other individuals or organizations.

based primarily on knowledge-related skills that are more similar to those possessed by other types of employees.)¹⁶

Since enactment of the Federal Employees Pay Comparability Act of 1990, the GS system has included special rates of basic pay at grades 3 through 10 for employees who (1) meet the definition of “law enforcement officer” (LEO) in the retirement laws or (2) are not covered LEOs but serve in an approved secondary position, as defined in the retirement system regulations. These LEO special rates replace the GS rates with rates that are 3 to 23 percent higher, with higher increases at lower grades. Locality pay is paid on top of these LEO special rates. The legislative history of this provision indicates that the rates were established to close the gap in pay that existed between Federal and State/local law enforcement personnel at lower grades. Congress relied on the 1990 NACLE report, which found significant pay gaps at LEO entry-level grades and identified recruitment and retention difficulties at these same levels. As already discussed above, the NACLE report also noted concerns regarding whether the GS classification factors assigned adequate weight to law enforcement work. Thus, the special rates at lower grades can also be viewed as addressing concerns regarding the valuation of law enforcement work at lower grades.

Through the LEO special rates at grades 3 through 10, the GS system has already been significantly “torqued” in an attempt to make the system work for law enforcement employees. However, problems remain. The general flaws in the GS system—market insensitivity, performance insensitivity, etc.—still exist. The LEO special rates were provided as a simple, broad, one-size-fits-all solution to a problem that was actually more complex in nature. Since the LEO special rates do not address the differing needs of specific law enforcement occupations, we still have some situations where entry/developmental rates are too low for particular occupations in particular locations. Also, the LEO special rates apply only to employees in positions approved as LEO retirement positions, which includes prison support staff and excludes other law enforcement personnel, such as most GS police officers. In 2003, OPM administratively established special rates under 5 U.S.C. 5305 for many GS police officers. These special rates provide large increases at lower grades like the LEO special rates. Thus, what we see emerging is an ever more complicated and difficult-to-administer pay system as we attempt to modify it to address fundamental deficiencies. We believe the Government needs a simpler, more flexible system for LEO occupational groups that allows pay needs generally to be addressed as part of normal system operation, instead of through “special solutions.”

Based on the above analysis, we conclude that law enforcement employees should be covered by a separate basic pay framework established and maintained by OPM. This framework would be tailored specifically for law enforcement jobs. It would provide the flexibility to make strategic pay decisions that target specific occupations based on labor market conditions and other factors. Pay ranges and pay adjustments would be coordinated with all agencies, while still providing considerable agency flexibility within the framework to design pay systems that deal with agency-specific needs and challenges. (See “Issue: Disparities in Pay

¹⁶ Most Federal law enforcement personnel are covered by occupational series in the GS-1800 job family. Within the limits of the statutory grade level definitions codified in chapter 51 of title 5, United States Code, OPM is also in the process of modernizing the occupational structure and classification standards for these series based on many of the findings outlined in this report.

Flexibilities Among Agencies” for further discussion of this issue.) Finally, the new framework would allow for greater emphasis on pay progression based on performance.

Issue: Defining Which Law Enforcement Employees Are Covered

A key issue in analyzing basic pay for law enforcement personnel concerns which employees should qualify for coverage by any basic pay framework for law enforcement employees. Do we rely on the definition of “LEO” used in the retirement laws, or do we modify that definition for the purpose of basic pay entitlements? The definition of “LEO” under the retirement laws is discussed in Part II of this report. Any changes in the retirement definition may affect conclusions regarding which employees should be subject to any basic pay framework. At the same time, different definitions for retirement and pay system coverage may be justified, since those systems are established for different purposes.

The current GS pay system includes certain special provisions that apply to employees who meet a statutory definition of “law enforcement officer,” which is linked to the definition in the retirement laws. For example, as already noted, LEO special rates apply at GS grades 3 through 10. However, these LEO special rates do not apply to certain other employees, such as non-LEO police officers, even though they have law enforcement duties and skills that are similar to State/local law enforcement personnel that are part of the law enforcement labor market.

On the other hand, the LEO retirement definition covers certain support personnel in correctional institutions who have frequent, direct contact with convicted criminals, even though their primary duties and skills are outside the law enforcement field. For example, we find prison support staff covered by LEO retirement who serve in such occupations as secretary, nurse, human resources specialist, recreation specialist, cook, and maintenance mechanic. The 1990 NACLE report (page 119) noted that it may be appropriate to place LEOs holding support positions in prisons under different pay provisions than other LEOs. In particular, the NACLE report noted that it may not make sense to include such LEOs in a special classification system that is designed for those whose primary duties are actual law enforcement.

We believe OPM should be authorized to issue regulations that define which employees are covered by a basic pay framework for law enforcement employees based on labor market and other factors and the nature of their primary duties.

Issue: Disparities in Pay Flexibilities Among Agencies

As described in Section C, certain LEOs and other law enforcement personnel are covered by nonstandard basic pay systems. Many of these nonstandard systems are established under a flexible administrative authority rather than by specific statutory provisions. Agencies with pay flexibilities have an advantage over agencies without such flexibilities.

For example, many agencies whose law enforcement employees were covered by the standard pay systems expressed concern about being at a competitive disadvantage vis-à-vis TSA while it was building its law enforcement workforce in 2002 and 2003. TSA administratively

established pay levels for Federal air marshals that exceeded the pay levels for certain other law enforcement employees.

Another example is the pay authority for police officers at the Department of Treasury's U.S. Mint and the BEP who were removed from the GS system by statute in 1990 and became entitled to higher rates of pay than GS police officers. Today, these Mint and BEP police officers continue to be paid at higher levels than GS police officers, but they are paid less than USSSUD officers who protect the White House (among other duties). The rates for Mint and BEP police officers are set administratively by the Secretary of the Treasury (subject to a GS-15, step 10, salary ceiling). The rates for USSSUD officers are set by statute. (USSSUD was formerly part of the Department of Treasury; it is now part of the Department of Homeland Security.)

With the prospect of large numbers of DHS and DOD law enforcement employees being converted to more flexible pay systems, we may have reached a "tipping point." Given the critical nature of law enforcement work, we believe it is essential that law enforcement employees in all other agencies have access to new flexibilities. We believe all law enforcement employees can be accommodated under a framework that provides for general consistency in pay structure, while providing considerable agency flexibility in setting and adjusting individual rates of pay within that structure.

Issue: Recruitment and Retention of Law Enforcement Employees

An important factor in determining appropriate basic pay solutions for Federal law enforcement employees is the level of recruitment and retention difficulty agencies are experiencing. As explained below, we find that recruitment and retention difficulties among law enforcement employees vary by occupation, grade level, and location. For example, we present quit rate data showing that the Government generally does not have problems in retaining law enforcement employees at the full performance level. This supports providing a flexible basic pay authority to respond in a strategic, targeted manner to recruitment and retention problems where they exist.

It is true that the success or failure of agency recruitment and retention efforts may be related to factors other than pay, such as the mission of the agency, nature of the work itself, working conditions, location of the worksite, availability of training and growth opportunities, the existence of family-friendly policies (e.g., flexible work schedules), employee morale, general labor market conditions, agency recruitment programs, early retirement provisions, etc. Nonetheless, we believe recruitment and retention statistics can provide valuable insights regarding a pay strategy.

Agencies have not reported significant general problems in recruiting law enforcement personnel, with the exception of non-LEO GS police officers. OPM established special salary rates for many of these GS police officers in 2003. Since agencies have not requested new or higher special rates in recent years for other types of law enforcement employees, we are left to conclude that recruitment is not a major problem area, except perhaps for some jobs in cities with extremely high labor costs, such as New York, San Francisco, and Los Angeles. However,

we acknowledge that the quality of applicants and newly hired employees is affected by the level of starting salaries and that this is an area where greater flexibility might be appropriate. For example, the proposed pay system for DHS would establish broad pay ranges for entry/developmental employees and provide more flexibility in setting starting salaries compared to the GS system. With this flexibility, DHS would be more market-sensitive in setting starting salaries and would enhance its ability to attract high-quality applicants.

OPM has considerable data regarding retention or turnover rates from its Central Personnel Data File. For the purpose of this report, we generated data for fiscal years 2001 through 2003. We focused our analysis on quits (voluntary resignations) and transfers (movements to other Federal agencies), since those are the components of turnover that are most significant in evaluating basic pay issues. (We do not address retirement rates. We note that LEO retirement rates are largely a function of past hiring patterns and the design of the LEO retirement benefit, which encourages early retirement and generally requires separation at age 57.) We arrayed quit and transfer data by selected variables, including LEO retirement status, occupational series, grade, agency, and geographic location. Quit rates were expressed as an average annual percentage of the average employee population under consideration. Some of the key findings are summarized below. (Appendix B provides a more detailed summary of our findings.)

LEO Quit and Transfer Rates

- Overall annual quit rates for employees who qualify as LEOs under the retirement law definitions ranged from 2.2 to 2.5 percent, which are relatively low. These rates are close to the overall quit rates for all GS employees in all occupations, which ranged from 1.6 to 2.1 percent. There is no indication of a trend toward higher quit rates. (By comparison, a 1993 OPM report showed the average LEO quit rate for the FY 1984-1990 period was 3.0 percent, so current quit rates are relatively low in historical terms.)
- Quit rates varied by occupation as shown in the table below:

Selected LEO Occupations	Range of Annual Quit Rates (Percent) FY 2001 – 2003
GS-0007 Correctional Officers	2.7 – 3.9
GS-0025 Park Rangers	0.9 – 1.6
SP-0083 Park Police	1.5 – 2.3
LE-0083 Secret Service Uniformed Officer	3.2 – 5.2
GS-1811 Criminal Investigators	0.7 – 0.8
GS-1896 Border Patrol Agents	5.2 – 5.8

Generally, the higher quit rates for certain occupations were largely attributable to higher quit rates at entry/developmental grades. In some cases (e.g., Border Patrol agents), the higher quit rates at entry/developmental grades can be associated with resignations in response to failure to meet the training requirements. Such quits are not attributable to a pay problem.

- LEO quit rates varied significantly by grade level, with quit rates decreasing at higher grades. Quit rates were about 10-20 percent at grades GS-4 and 5, about 7-8 percent at GS-6, about 1-4 percent at GS-7 through 9, and generally 1 percent or less at grades GS-11 through GS-15. LEO quit rates at grades GS-6 and below were significantly higher than the average quit rates at those grades for all GS occupations. (Note: The high average LEO quit rates at low grades primarily involve correctional officers at GS-5 and GS-6 and Border Patrol agents at GS-5 and GS-7.)
- LEO quit rates were lowest at GS grades representing an occupation's nonsupervisory full performance level(s) or higher (e.g., GS-11 and above for Border Patrol agents and GS-12 and above for criminal investigators). Generally, these quit rates were less than 1 percent. (See tables showing quit rates by occupation and grade in Appendix B.) We note that most LEOs reach the full performance level within 2-4 years of being hired.
- The average transfer rates for LEOs were 1 percent or less in FY 2001 and FY 2003 but were 3.3 percent FY 2002. The higher LEO transfer rate in FY 2002 is largely attributable to the build-up of the FAA/TSA Federal air marshal workforce in that year. Now that the Federal air marshal workforce has stabilized, transfer rates appear to have returned to lower levels. (See General Note 10 in Appendix B regarding the definition of "transfer.")
- The FY 2002 transfer rates varied by occupation. LEO occupations with particularly large transfer rates included GS-1896 Border Patrol agents (8.2 percent), LE-0083 Secret Service Uniformed officers (14.8 percent), and Park Police officers (9.2 percent).

Non-LEO Police Officers Quit and Transfer Rates

- Overall annual quit rates for non-LEO police officers in the 0083 occupational series ranged from 5.8 to 6.9 percent during the FY 2001-2003 period. This group consisted of about 7,000 GS police officers and about 1,200 non-GS police officers. The quit rates for GS police officers were slightly higher, ranging from 6.1 to 7.4 percent. These quit rates are significantly higher than the average GS quit rates for all occupations. However, as a general matter, average GS quit rates for all occupations are low when compared to other employers. There is a slight trend toward increasing quit rates. (OPM established higher special rates for many GS police officers in FY 2003 and will monitor GS police quit rates to see if the higher pay rates begin to reduce quit rates.)
- For GS police officers, quit rates varied by GS grade. The quit rates were high at grades GS-3 through GS-5, ranging from about 15 to 20 percent at GS-3 and GS-4, which are lowly populated entry/developmental grades, and from about 8 to 11 percent at GS-5, which is an entry/developmental grade for some officers and a full performance level for others. At the most populated full performance level, GS-6, the quit rates were about 6 to 7 percent. At GS-7, the quit rates were about 3 percent. At GS-8 and above, the rates were generally about 2 percent or lower. (We note that quit rates at entry/developmental levels can sometimes be associated with factors other than pay, such as failure to meet training requirements or an employee's realization that the nature of the work does not meet expectations.)

- Transfer rates for GS police officers were 2.1 percent in FY 2001, 3.6 percent in FY 2002, and 2.6 percent in FY 2003. The peak in FY 2002 likely reflects transfers to FAA/TSA.

Non-LEO Border Inspector Quit and Transfer Rates

- Overall annual quit rates for GS-1816 immigration inspectors and GS-1890 customs inspectors ranged from 1.7 to 2.4 percent during the FY 2001-2003 period, which corresponds closely to the overall average quit rates for all GS employees.
- Border inspector quit rates varied by GS grade level as shown in the table below:

GS Grade	Range of Annual Quit Rates (Percent) FY 2001 – 2003	
	GS-1816 Immigration Inspector	GS-1890 Customs Inspector
5	4.9 – 8.3	10.7 – 13.1
7	1.3 – 3.9	6.5 – 7.1
9	1.8 – 2.3	1.3 – 1.9
11	0.6 – 1.2	0.4
12	0.0 – 0.8	0.2
13-15	0.0 – 0.7	0.0 – 0.3

In August 2002, the normal nonsupervisory full performance level for these inspectors was increased from GS-9 to GS-11. Prior to that time, only certain nonsupervisory inspectors could hold a GS-11 grade. As shown above, quit rates are low at the full performance level and higher.

- Border inspector transfer rates were less than 1 percent except in FY 2002, when the transfer rates were 2.2 percent for customs inspectors and 3.7 percent for immigration inspectors. Again, the peak in FY 2002 is largely attributable to transfers to FAA/TSA.

In summary, it appears that quit rates for LEOs and selected other law enforcement employees are generally low at the full performance level or higher. However, quit rates for non-LEO police officers are above GS averages at the GS-5 and GS-6 full performance levels. This indicates that, except for non-LEO police officers, pay levels at normal full performance levels may generally be adequate. Since OPM recently established special rates for most non-LEO police officers, this situation bears further monitoring.

In certain law enforcement occupations, we find high quit rates at entry or developmental grades which apply during the first 2-4 years after an employee is hired. These rates may be affected by nonpay factors such as failure to meet training requirements or an employee’s reevaluation of a career choice after exposure to the work. However, it may also be the case that more flexibility in setting starting rates is needed to make Federal agencies more competitive in specific local labor markets and to attract higher quality employees who have a greater commitment to the career in question.

We found a spike in turnover rates for law enforcement employees in FY 2002, which appears to be largely attributable to the build-up of the Federal air marshal workforce by FAA and

then TSA. Available evidence indicates that the transfer rates returned to lower levels in FY 2003. However, this experience spotlights how an agency with a more generous pay structure can produce staffing problems for agencies under standard pay systems.

Issue: Pay Competitiveness with Non-Federal Employers

Another key issue concerns pay competitiveness. Are pay levels for Federal law enforcement employees competitive with the pay levels for comparable non-Federal law enforcement employees? How should a pay system be designed so that market-based pay disparities are identified and addressed appropriately? As explained below, we find that pay relationships between Federal and non-Federal law enforcement personnel vary by occupation, level, and location. Also, making salary comparisons presents a number of practical challenges that require room for judgment. Accordingly, we believe the Government needs a more flexible pay framework that will support reasoned solutions strategically tailored to address specific problems.

It is generally not appropriate to evaluate salary competitiveness for Federal law enforcement employees on an across-the-board basis. The law enforcement field consists of a variety of different occupations and levels of work. Since GS grades were established in law and were not assigned based on labor market value, the salary competitiveness of different law enforcement jobs can vary significantly. Salary comparisons should be targeted to specific occupational categories. Proposals that provide general, across-the-board increases to all law enforcement-related jobs, regardless of occupation or level, should be evaluated carefully to determine whether the increases are actually warranted for all jobs.

Also, it is important to make comparisons at several work levels (e.g., entry level, normal journey or full performance level, etc.) and in different geographic locations. Equal pay increases should not be provided at all work levels or in all locations if the actual pay disparities are limited to certain narrower situations. For example, available data indicate that pay disparity problems for certain Federal law enforcement officers may lie primarily at the entry/developmental level in certain high-cost labor markets and that the Federal Government is generally competitive at the journey level or higher. (See Appendix H.) This suggests a targeted remedy that focuses on entry/developmental pay for specific occupations in specific locations.

Another factor to consider in measuring salary competitiveness is that many Federal criminal investigators and other LEOs regularly receive a 25 percent supplement for overtime work—either administratively uncontrollable overtime (AUO) pay or law enforcement availability pay. While this supplement is a stable addition to salary, it is appropriately not included in salary comparisons, which compare non-overtime salary rates. However, we cannot ignore the fact that providing a virtually guaranteed 25 percent supplement gives the Federal Government a competitive advantage over non-Federal employers who do not guarantee such an overtime supplement.

We believe most job seekers give great weight to the total regular pay they would receive in a job, since it is that total pay that determines their standard of living. While the value of AUO pay and availability pay may not be as great as the overtime rates paid by non-Federal employers on an hourly basis, those supplements are highly valued as stable additions to salary.

Furthermore, since the AUO pay and availability pay received by Federal LEOs is creditable as basic pay in determining retirement and certain other benefits, the value of these payments is even greater. For example, an availability pay recipient will receive a defined benefit pension that is 25 percent higher than another employee at the same salary level. Also, Thrift Savings Plan holdings will be proportionally larger as an availability pay recipient is entitled to a larger Government match than another employee at the same salary level.

In comparing entry salary rates, it is important to remember that the GS pay system generally offers more rapid pay progression in the years immediately after entry because employees commonly receive regular (generally annual) promotions until they reach the full performance level. These promotion increases can be very significant. For example, a Border Patrol Agent hired at GS-5 is generally promoted to GS-7 after 6 months and then to GS-9 after another 6 months, which results in a 27 percent increase after just 1 year. After another year, the agent can be promoted to GS-11 and thus receive another 17 percent increase. In other words, in just 2 years an agent will move from GS-5, step 1, to GS-11, step 1, and receive a total salary increase of almost 50 percent. One policy issue is whether the Government's interests would be better served by having a system that allows higher starting salaries while providing smaller increases during the developmental phase of an employee's career. Such an approach might help attract higher quality employees from the outset without the need to increase full performance level salaries.

Appendix H provides an analysis of the competitiveness of Federal law enforcement pay compared to pay for State and local law enforcement personnel based on available data. We analyzed data for comparable law enforcement occupations by geographic region and by level. That data support the conclusion that pay relationships between Federal and State/local law enforcement employees vary by occupational category, level, and location. For certain occupations in various locations, Federal pay appears to be competitive or even superior at the full performance level. We find that the most significant problem is low pay at the entry/developmental level for certain law enforcement occupations, with the degree of the problem varying by geographic region. Also, we found evidence that some Federal law enforcement occupations, like non-law enforcement occupations, may have less significant pay disparities at the full performance level in several areas with extremely high labor costs—in particular, San Francisco, New York City, and Los Angeles.

The complexities associated with making salary comparisons point to the need for a pay framework that provides flexibility to target pay increases where the increases are determined to be most needed. The Government needs flexibility to determine pay adjustments based on salary data, staffing data, other labor market factors, mission-related concerns, budget conditions, and other relevant factors. Setting pay using a rigid, formula-driven approach is not effective and is not standard practice among non-Federal employers. Salary data can be incomplete or erratic. The basic assumption underlying any salary survey—namely, that the jobs being compared are actually similar in terms of work type and level—is always subject to question. Salary surveys are not a precise science, but merely a tool that can help guide the application of informed judgment.

Based on the above analysis, we conclude that proposals for general, across-the-board increases for all law enforcement employees, or for all law enforcement employees in a given locality area, are unnecessary and unwise. For example, certain proposed bills now pending before Congress—H.R. 1676, H.R. 466, and S. 985—would establish higher geographic adjustments for LEOs generally without regard to occupation or level. As shown in the preceding analysis of recruitment and retention and in this analysis of pay competitiveness, the primary problems appear to exist at the entry/developmental level and those problems vary by occupation. Problems at the entry/developmental level should not drive unwarranted increases at the full performance level. Targeted solutions should be devised for specific problems as they exist in reality so that the Government's limited resources are used wisely and effectively. (In Appendix D, OPM provides a detailed analysis of the three proposed bills.)

In sum, we find compelling arguments for a flexible law enforcement pay framework that allows for pay adjustments that are tailored to the needs of specific occupational categories in specific locations, with separate consideration of the entry/developmental level and the full performance level. The proposed DHS pay system is such a flexible system, but the concept needs to be extended to all other agencies.

E. Classification and Basic Pay Recommendations

In formulating a recommendation on classification and basic pay for law enforcement employees, we considered past studies (such as the 1990 NACLE report and the 1993 OPM report), current legislative proposals, as well as the findings and analyses included in this report. As discussed in Section D, the issues relating to law enforcement classification and basic pay vary by occupation, grade level, and location. Many of these issues are related to general inflexibilities associated with the GS pay system.

We carefully reviewed several pending legislative proposals—H.R. 466, H.R. 1676, and S. 985—which would establish new LEO geographic adjustments and remove caps that limit the payment of availability pay. As documented in Appendix D, we find that these bills are flawed in many respects and that they would produce negative effects that greatly outweigh any positive outcomes. The bills provide overly broad solutions to more narrow problems and in the process create unnecessary costs and new inequities.

Based on our analysis, the key problems relating to law enforcement classification and basic pay are the following:

- The GS basic pay system, which covers most LEOs and other law enforcement personnel, is outdated, inflexible, market-insensitive, and performance-insensitive. In particular, the GS classification and pay provisions do not function well for law enforcement employees, as demonstrated by the establishment of special rates for lower-graded law enforcement employees. Because of its inflexible structure, the GS system invites across-the-board (and therefore wasteful) solutions to problems that require a more targeted approach.

- The GS basic pay system provides special entitlements 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).
- Disparities in pay flexibilities among agencies can harm morale, create staffing disruptions, and increase Government costs unnecessarily.
- Above-average quit rates exist for certain law enforcement occupations at the entry/developmental level (although some quits may not be attributable to pay levels). The build-up of the FAA/TSA law enforcement workforce resulted in a spike in transfer rates in FY 2002 for some law enforcement jobs.
- The GS pay system does not provide sufficient flexibility to address specific pay competitiveness problems among law enforcement occupations in a targeted manner. Entry- and developmental-level pay rates for some LEO jobs are not competitive in a number of local labor markets, with more severe disparities in areas with the highest labor costs (such as San Francisco, Los Angeles, and New York City). The GS locality pay system does not provide adequate flexibility to adjust rates so that larger increases can be provided to LEOs in high labor-cost areas and lesser increases to LEOs in locations where Federal LEO pay already is competitive or superior.

OPM concludes that the kind of authority Congress recently provided jointly to OPM and the Departments of Homeland Security and Defense strikes a reasonable balance between the goals of consistency and flexibility -- namely, more modern and flexible pay systems operating under an OPM-established framework that provides some controls, but also offers considerable agency flexibility in administering individual employee pay.

A critical part of the DHS and DOD authorities is the role provided to OPM to ensure that Governmentwide interests are protected. DHS and OPM have proposed a flexible system for DHS employees that allows rate ranges to be set strategically for specific occupational categories as necessary to meet labor market requirements and agency needs, subject to coordination with OPM. Under proposed rules issued jointly by DHS and OPM (69 FR 8030, February 20, 2004), DHS would have considerable flexibility to determine individual pay adjustments and pay administration rules. While the proposed pay system applies to all GS employees employed by DHS, it offers flexibilities that would allow DHS to address the pay problems faced by specific categories of law enforcement employees in a targeted manner. However, the system also provides for OPM involvement and coordination in those elements that may impact other agencies.

Another advantage of a system like the one proposed for DHS is the ability to establish broad band or pay ranges, which would (1) allow fewer work level distinctions, (2) simplify job evaluation, and (3) provide the opportunity to place greater emphasis on pay progression based on individual performance (instead of on duties and longevity). We note that the merit system principle that equal pay should be provided for work of equal value (5 U.S.C. 2301(b)(3)) includes the concept that employees should be recognized for excellence in performance (i.e., individual equity).

Accordingly, we recommend that Congress enact legislation giving OPM authority to establish a basic pay framework for Federal law enforcement employees throughout the Government, including the legislative and judicial branches (since their law enforcement personnel are covered by CSRS and FERS), in consultation with employing agencies and with the concurrence of the Attorney General. The legislation should provide OPM the authority to play a central coordinating role in working with agencies to devise a system with a basic level of consistency in terms of pay levels and key governing principles, while allowing for flexibility in evaluating and rewarding employee performance—areas where agency flexibility is most important. Finally, because the new law enforcement pay framework would not be based on rigid statutory rules, it would be easier to modify over time to address problems that surface or to keep pace with changes in mission and/or human resources practices.

We recommend a more strategic, mission-centered approach to setting pay for Federal law enforcement employees—an approach that will allow the Government to prioritize needs and problems based on mission demands and to establish policies and allocate resources consistent with those priorities. We will be better able to provide targeted and tailored solutions rather than across-the-board approaches that apply resources in a wasteful manner or create new problems. We will have the ability to more quickly respond to new conditions and circumstances. Through coordination with employing agencies and with the concurrence of the Attorney General, OPM will be able to ensure that both agency interests and Governmentwide interests are considered and balanced in designing and adjusting the framework.

IV. Premium Pay

A. Overview

This part provides a review of issues related to the premium pay provisions that apply to Federal LEOs and other law enforcement personnel. The vast majority of LEOs and many other law enforcement personnel are covered by the standard Governmentwide premium pay provisions established in title 5, United States Code (including provisions that reflect overtime pay entitlements under the Fair Labor Standards Act (FLSA) for covered nonexempt employees). However, separate nonstandard premium pay provisions apply to certain LEOs and other law enforcement personnel, and additional flexibility has been provided to the Federal Aviation Administration, the Transportation Security Administration, and the Department of Defense to modify premium pay entitlements generally. We recommend that OPM be given regulatory authority to establish a Governmentwide framework of premium pay rules for Federal law enforcement employees in consultation with employing agencies and with the concurrence of the Attorney General. Our findings and recommendations are summarized in more detail below.

Findings

- Some Federal agencies have been given authority to establish their own premium pay rules (e.g., the Federal Aviation Administration, the Transportation Security Administration, and the Department of Defense), while others are covered by special law enforcement premium pay provisions established in law. Such disparities in premium pay entitlements can produce confusion, administrative problems, perceptions of inequity, and staffing disruptions.
- There is a strong sentiment among agencies and law enforcement employees for consistency in premium pay entitlements. However, codifying standard premium pay rules in law is problematic. This leads to rigidity and an inability to respond to changing conditions and evolving practices in the non-Federal workforce.
- Caps on aggregate premium pay for FLSA-exempt employees serve important purposes and pending legislative proposals to bar their application to availability pay for criminal investigators would result in excessive pay increases for affected employees, produce pay inversions, and create new inequities by providing special treatment for one category of employees.
- Availability pay has certain features that are inherently complex and have resulted in anomalies that are difficult to fix in legislation.
- There are no consistent principles that determine when and how much premium pay should be creditable for retirement; instead Congress has taken an ad hoc approach that has resulted in perceptions of inequitable treatment.

Recommendations

OPM should be given regulatory authority to establish a framework of premium pay rules for Federal law enforcement employees throughout the Government, in consultation with employing agencies and with the concurrence of the Attorney General. This approach would ensure that any changes are reasonable and consider all interests. Working with Federal law enforcement agencies and the Attorney General, OPM could develop appropriate solutions to existing problems associated with premium pay caps or other premium pay provisions.

In reaching this conclusion, we considered (a) covering all law enforcement employees under a single statutory premium pay authority, (b) providing each agency with independent administrative authority to establish premium pay rules, or (c) continuing the status quo, under which agencies are covered by a patchwork of different premium pay statutes or are given broad administrative authority. We found none of these options appealing. Our recommendation balances the need for flexibility with the need for consistency. Allowing OPM to play a central, coordinating role, working closely with law enforcement agencies and the Attorney General, will result in premium pay policies that are more supportive of agency mission requirements, while still providing the kind of consistency needed to satisfy Governmentwide interests. This is particularly the case with respect to retirement credit for overtime pay, given OPM's role as administrator of the Federal civilian retirement systems.

B. Summary of Standard Premium Pay Provisions

The standard premium pay provisions under title 5, United States Code, are described below. For the purpose of applying premium pay rules, a "rate of basic pay" includes any applicable locality payment or special salary rate. These standard premium pay provisions apply unless the employee is covered by nonstandard provisions, as described in Section C.

Overtime Pay

FLSA-covered employees receive 1.5 times their hourly regular rate for overtime hours. FLSA-exempt employees receive 1.5 times their hourly rate of basic pay, subject to an overtime hourly rate cap. The overtime hourly rate cap is the greater of (a) 1.5 times the GS-10 step 1 hourly rate of basic pay or (b) the employee's rate of basic pay. An employee is entitled to at least 2 hours of "call-back" overtime pay or compensatory time off when the employee is required to perform irregular overtime work on a day when work was not scheduled for him or her, or when irregular overtime work requires an employee to return to the worksite on a regular workday after the employee has gone home.

Compensatory Time Off

Compensatory time off may be granted to employees for an equal amount of time spent in irregular overtime work or, for an employee under a flexible work schedule, irregular or regularly scheduled overtime work. When the compensatory time off is used, the employee is excused from his or her non-overtime regular work schedule and receives the regular rate of basic pay for that time off.

Sunday Pay

Full-time employees are entitled to 25 percent of their hourly rate of basic pay for each non-overtime hour that is part of a regularly scheduled tour that falls in whole or in part on Sunday.

Night Pay Differential

White-collar employees receive a 10 percent night pay differential for all regularly scheduled hours between 6:00 p.m. and 6:00 a.m. Blue-collar employees under the Federal Wage System receive 7.5 percent or 10 percent night differential, depending on whether the majority of hours in the work shift are between 3 p.m. and midnight or between 11 p.m. and 8 a.m.

Holiday Premium Pay

Employees are entitled to 100 percent of their hourly rate of basic pay for each non-overtime hour of work on a Federal holiday in addition to regular holiday pay; thus, the total pay on the holiday is 2 times the normal amount. Employees who are required to perform any work during basic (non-overtime) holiday hours are entitled to a minimum of 2 hours of holiday premium pay.

Premium Pay Caps

Premium pay generally may not be paid during a biweekly pay period to the extent it causes the sum of an employee's basic pay and premium pay to exceed the applicable biweekly rate for GS-15, step 10, or the biweekly rate for level V of the Executive Schedule (\$128,200 in 2004), whichever is higher. An annual premium pay cap must be applied instead of a biweekly cap when OPM or the employing agency determines that an emergency involving a direct threat to life or property exists and an employee is performing work in connection with the emergency or its aftermath. Heads of agencies also have discretionary authority to approve the use of an annual premium pay cap whenever the agency determines that an employee is performing mission-critical work and that an annual cap is needed. However, certain types of regular and recurring premium pay (e.g., AUC pay and law enforcement availability pay) remain subject to a biweekly cap, even while other types of premium pay are simultaneously subject to an annual cap.

Administratively Uncontrollable Overtime (AUO) Pay

At agency discretion, certain employees (e.g., Border Patrol agents) may receive administratively uncontrollable overtime pay equal to 10-25 percent of their basic pay (subject to the biweekly premium pay cap). Most AUO recipients receive a rate of 25 percent based on working an average of at least 9 hours of irregular overtime hours per week. AUO pay may be approved for an employee who occupies a position in which the hours of duty cannot be controlled administratively and which requires substantial amounts of irregular overtime work. AUO recipients receive regular hourly overtime pay for regularly scheduled overtime hours. Also, FLSA-covered AUO recipients receive an extra half rate for irregular overtime hours in

addition to AUO pay. AUO pay is treated as basic pay for retirement and life insurance purposes for LEOs only. Entitlement to retirement-creditable AUO pay is based strictly on the definition of “law enforcement officer” in the retirement laws at 5 U.S.C. 8331(20) and 8401(17).

Law Enforcement Availability Pay

Criminal investigators and certain similar law enforcement employees generally are entitled to receive law enforcement availability pay equal to 25 percent of their rate of basic pay (subject to the biweekly premium pay cap). Availability pay is compensation for (a) all irregular overtime hours, (b) any regularly scheduled overtime hours that are part of the first 2 overtime hours on any regular workday, and (c) certain non-work hours during which an employee is placed in availability status. Availability pay recipients are not covered by the FLSA. Availability pay is basic pay for purposes of retirement benefits, life insurance, and severance pay. This means it generally increases an LEO’s retirement annuity by 25 percent.

C. Summary of Nonstandard Premium Pay Provisions

Following is a summary of the nonstandard premium pay entitlements applicable to major groups of LEOs and other law enforcement personnel. For this purpose, “nonstandard” refers to provisions authorized outside of 5 U.S.C. chapter 55, subchapter V. (See Appendix C for additional information regarding these premium pay provisions and other smaller groups with nonstandard premium pay entitlements.)

LEOs

U.S. Secret Service Uniformed Division (USSSUD) and U.S. Park Police officers receive overtime and other premium pay under the provisions established in the District of Columbia code. Officers at the lower ranks receive overtime pay at a rate of 1.5 times their rate of basic pay, and Lieutenants and above receive their rate of basic pay for each hour of overtime work. USSSUD officers are subject to a premium pay cap equal to the lesser of (a) 150 percent of the rate of basic pay for GS-15, step 1 (including locality pay), or (b) the rate for level V of the Executive Schedule.

The Transportation Security Administration (TSA) has independent authority to establish premium pay rules for its employees, including its law enforcement employees (i.e., TSA criminal investigators, as well as Federal air marshals who are detailed to the Bureau of Customs and Immigration Enforcement). However, except for premium pay for Sunday and night work, TSA is following rules that mirror the title 5 premium pay rules with respect to its LEOs. TSA employees receive 25 percent Sunday pay only for non-overtime hours that actually fall on Sunday. The TSA rule is less generous than the title 5 rule which provides 25 percent Sunday pay for each non-overtime hour that is part of a tour of duty that falls in whole or part on Sunday. TSA employees receive a 10 percent night pay differential (same as title 5 employees), except that TSA employees may not receive a night pay differential during paid leave hours. The TSA rule is less generous than the title 5 rule which provides night pay for paid leave hours during night hours, as long as the total hours of paid leave during the pay period are less than 8 hours. TSA generally follows the title 5 premium pay caps, but the agency has “grandfathered” some

employees who were hired before it decided to apply those caps. Federal air marshals are entitled to retirement-creditable availability pay on the same basis as criminal investigators under the regular title 5 rules. However, their availability pay is governed by TSA rules instead of by title 5 rules.

U.S. Capitol Police officers receive overtime and other premium pay under a separate statutory authority. These officers are subject to rules that parallel the title 5 rules for night, holiday, and Sunday premium pay. Premium pay generally may not be paid during a biweekly pay period to the extent that it causes the sum of basic pay and premium pay to exceed \$5,885.46 (which is the biweekly rate that corresponds to the annual rate of \$153,022). Officers at the rank of Lieutenant or higher may earn compensatory time off for overtime work, but they are not entitled to overtime pay. However, the Capitol Police Chief may establish policies providing for overtime compensation for officers at the rank of Lieutenant and above, consistent with the overtime rules for USSSUD and Park Police officers.

U.S. Postal Service inspectors receive premium pay (including law enforcement availability pay) in the same manner as GS criminal investigators. Also, postal inspectors are subject to premium pay caps that mirror those in 5 U.S.C. 5547. However, the Postal Service administers these pay provisions for postal inspectors, instead of OPM. Postal Service Inspector General criminal investigators also receive premium pay (including availability pay) in the same manner as GS criminal investigators, subject to the same caps.

Certain GS-1816 immigration inspectors have duties that qualify them as LEOs and may receive overtime pay under the “1931 Act” for any inspectional work they perform. (See discussion in the next subsection on immigration inspectors who receive overtime and other premium pay under the 1931 Act provisions. The 1931 Act is the Act of March 2, 1931, 46 Stat. 1467, which is codified at 8 U.S.C. 1353a and 1353b.)

Other Law Enforcement Employees

Customs officers (currently defined to include customs inspectors and canine enforcement officers) receive overtime and other premium pay under the Customs Officer Pay Reform Amendments (COPRA), which were enacted in Public Law 103-66 (August 10, 1993). (See 19 U.S.C. 261 and 267.) These employees receive overtime pay under COPRA at the rate of 2 times the basic hourly rate—a 100-percent premium. They receive a 50-percent premium for Sunday work, which is defined as non-overtime hours on a Sunday that is not a Federal holiday. They receive a 15-percent or 20-percent premium for night work, depending on their hours/shifts based on a majority-of-hours-in-tour concept. They also receive a 100-percent premium for non-overtime work on a Federal holiday (same as title 5). Finally, these employees are entitled to “commuting time pay” equal to 3 times the employee’s rate of basic pay when they are called back to work within 16 hours of their last regular shift. Under COPRA, overtime pay and other forms of premium pay have been subject to a \$30,000 annual cap in recent years. COPRA overtime and premium payments are not subject to title 5 premium pay caps. (See Appendix F.)

Immigration inspectors receive overtime and other premium pay under the 1931 Act.¹⁷ These inspectors receive overtime pay at the rate of 4 hours of basic pay for each 2 hours (or fraction thereof) of inspection overtime work between 5:00 p.m. and 8:00 a.m., Monday-Saturday and anytime on Sunday or a holiday. They receive overtime pay under title 5 for overtime inspection work between 8:00 a.m. and 5:00 p.m., Monday-Saturday and for non-inspection overtime work outside these hours. When performing certain inspection work on a Sunday or a holiday, immigration inspectors receive premium pay at a rate of 2 days of pay for any amount of time less than 9 hours worked—roughly a 100-percent premium plus possible credit for hours not worked. They receive a 10-percent night pay differential for work between 6:00 p.m. and 6:00 a.m. All overtime pay and 1931 Act premium pay are currently subject to a \$30,000 annual cap. Overtime and premium payments under the 1931 Act are not considered in applying title 5 premium pay caps.

Nonsupervisory Postal Security Force (PSF) officers receive overtime pay under rules established by collective bargaining agreement. PSF supervisors at or below level 18 of the Postal Service Executive and Administrative Schedule are eligible for additional straight-time pay when they are authorized to work more than 8.5 hours per scheduled work day, or at any time on a non-scheduled work day. All time worked that exceeds the normal work schedule is paid at the straight time rate if the authorized work exceeds one half-hour per day. PSF supervisors receive additional straight time pay for all authorized time worked on a non-scheduled work day.

D. Premium Pay Issues

A review of the premium pay entitlements for law enforcement employees reveals a number of issues that must be fully considered before formulating any policy recommendations. Issues include the following:

- Should all similarly situated law enforcement employees be covered by the same premium pay provisions?
- Should premium pay rules be codified in law or should they be established under an administrative authority?
- Should premium pay be subject to caps? If caps are appropriate, should current caps be raised?
- Should the rules governing availability pay be reexamined? Should employees receiving administratively uncontrollable overtime (AUO) pay be converted to availability pay?
- Under what circumstances should premium pay be creditable as basic pay for retirement purposes?

¹⁷ On June 24, 2004, DHS issued final regulations revising the definition of “customs officer” to reflect its plan to merge the customs inspector and immigration inspector occupations into a single new occupation entitled “Customs and Border Protection Officer” (see 69 FR 35229). Under the new definition of “customs officer,” which becomes effective on July 24, 2004, all employees in the new occupation will be covered by the COPRA premium pay provisions.

Issue: Consistency

A central issue is whether LEOs and other law enforcement personnel should be subject to a common set of premium pay rules. Inconsistency in premium pay entitlements can produce confusion, administrative problems, and perceptions of inequity. Many agencies and law enforcement employees indicate a preference for the ideal of equal premium pay entitlements for all. However, dealing with existing inconsistencies presents challenges. OPM believes premium pay rules for law enforcement employees throughout the Government should be established under a Governmentwide framework so that consistency among similarly situated employees can more easily be achieved and so that special exceptions in entitlements or mode of payment are limited to cases where there is a compelling mission-based justification.

As discussed in Sections B and C of this part, most law enforcement employees are covered by the standard premium pay provisions in title 5, United States Code, and many of those not covered by title 5 actually have similar premium pay entitlements. In particular, premium pay entitlements among employees that have LEO status for retirement purposes are very consistent. The main groups of law enforcement employees with nonstandard premium pay entitlements are non-LEO GS-1816 immigration inspectors and GS-1890 customs inspectors. These inspectors have had special, more generous premium pay provisions for decades.

The argument for consistency can be compelling, except when special premium pay provisions can be shown to be necessary to support mission accomplishment. However, demonstrating a clear link between mission and a particular form or level of premium pay may be difficult. Frequently, the arguments made in support of special treatment are not unique to the occupation in question, but could also apply to other occupations in similar circumstances. Current inconsistencies do not necessarily reflect differences in work or mission requirements, but may be merely the result of ad hoc decisions over time. For example, the differences between night pay for white-collar employees and blue-collar employees in title 5 were the result of two separate pieces of legislation enacted at different times.

Even within title 5 premium pay, there are some special premium pay provisions for special groups of employees, such as administratively uncontrollable overtime (AUO) pay for employees who have particular types of overtime work requirements and availability pay for criminal investigators and certain other employees. However, aside from the retirement-credibility aspect (which is discussed separately below), the value of these special overtime payments does not exceed the value of regular overtime pay on an hourly basis. Differences in method of payment that do not provide significantly more generous pay may not present the same concerns about equity and consistency.

An OPM authority to administer a Governmentwide framework for premium pay will result in a consistent approach to premium pay while at the same time providing flexibility to respond to unique agency mission requirements. (See discussion of flexibility issue below.)

Issue: Flexibility

Currently, premium pay rules that apply to Federal law enforcement employees are generally codified in law. Inherently, codified rules tend to be rigid, and not easily changed. However, at times, the legislative process can produce piecemeal changes that do not fully consider Governmentwide equities and implications and create new inconsistencies. Thus, while we believe consistency is important, we do not believe consistency needs to be set in the “concrete” of statute. An alternative is the more pliable foundation of administrative regulation.

In fact, Congress has given certain agencies authority to establish their own premium pay rules administratively. In recent years, such authority has been given to the Federal Aviation Administration, the Transportation Security Administration, and the Department of Defense. Giving some agencies such flexibility, while leaving other agencies under rigid statutory rules, is problematic. We believe OPM, with the concurrence of the Attorney General, should be authorized to extend similar flexibilities to other agencies under a Governmentwide framework established and administered in close coordination with employing agencies.

If premium pay rules were established administratively, those rules could more easily be modified to address problems that arise or to keep pace with evolving practices in the non-Federal workforce. Inevitably, unanticipated circumstances or problems arise, and modifying or fine tuning of the premium pay rules will be needed. In addition, under a flexible authority, premium pay entitlements or modes of payment could be modified to address special agency mission requirements when the standard rules are not adequate.

Issue: Premium Pay Caps

Most law enforcement officers are subject to title 5 premium pay rules and thus are subject to premium pay caps—specifically, a cap on the overtime hourly rate for FLSA-exempt employees and a biweekly or annual cap on aggregate premium pay. (See description of caps in Section B.) These caps are frequently criticized; however, they serve specific purposes. Proposals to revise or eliminate these caps must be carefully scrutinized. OPM believes some modifications in current title 5 premium pay caps may be appropriate; however, due to the complexities involved and the need for flexibility to make adjustments over time, we conclude that OPM should be given regulatory authority to establish a framework of premium pay rules, including the rules related to caps, and to make modifications over time as necessary.

The title 5 overtime hourly rate cap and biweekly/annual aggregate premium pay cap are designed to reduce the value of overtime pay for FLSA-exempt employees at higher pay levels. In the private sector, FLSA-exempt employees are generally paid on a fixed salary basis, with salaries considered complete compensation for all regular and overtime hours an employee may work. In contrast, in the Federal Government, FLSA-exempt employees can receive some overtime pay at capped hourly rates until an aggregate cap is reached. In effect, overtime pay for FLSA-exempt Federal employees is phased out in stages, with employees becoming the equivalent of “salaried” at a high level of pay. In 2004, the aggregate premium pay cap (expressed in annual rates) ranges from \$128,200 to \$136,900 (depending on location).

In addition, the aggregate premium pay caps are essential to prevent unacceptable levels of pay compression or inversion with higher-level managers, such as members of the Senior Executive Service (SES) and Executive Schedule officials. These officials are not entitled to premium pay. Thus, even though they generally work long hours, they receive no additional compensation for work beyond the 40-hour basic workweek. Not only is there an equity issue, but also employees would face a disincentive to enter the SES ranks if accepting an SES appointment would reduce their total pay.

The problems associated with removing the aggregate premium pay cap are most visible with respect to GS criminal investigators who regularly receive a 25-percent availability pay supplement for overtime work. If availability pay were not subject to the aggregate premium pay cap, high-grade criminal investigators would continuously receive significantly higher pay than their managers and other high-level officials. For example, if availability pay were not subject to the aggregate biweekly premium pay cap, a criminal investigator at GS-15, step 10, would receive a total annualized rate of pay of \$162,881 in Washington, DC (instead of \$130,305 under current law), and \$171,125 in San Francisco (instead of \$136,900 under current law)—higher than the salary for most Members of Congress. In comparison, the maximum annual rate of basic pay for SES members is \$145,600 (or \$158,100 for employees covered by a certified performance system), and the top three Executive Schedule rates are \$175,700 (level I - Department secretaries), \$158,100 (level II - e.g., Deputy Secretaries), and \$145,600 (level III - e.g., DHS Under Secretaries, FBI Director).

Even putting aside the pay compression/inversion problem, OPM does not believe such high rates are necessary to retain criminal investigators, nor are they justified based on labor market factors. At high pay levels, it is reasonable to treat FLSA-exempt employees as if they are salaried.

Legislative proposals to exclude availability pay from the biweekly cap would create new inequities, not only between high-grade criminal investigators and higher-level managers, but also between those investigators and other high-grade GS employees who may work long hours and receive little if any premium pay. In addition to the direct costs of higher availability pay, there will be eventual long-term costs as affected employees receive higher retirement annuities based on uncapped availability pay—costs which will not have been properly funded. (See Appendix D, which provides a detailed analysis of proposed bills with provisions that would eliminate caps on availability pay.)

OPM recognizes that the current aggregate premium pay cap has the effect of creating pay compression among GS employees at the highest pay levels. Pay is compressed in that employees can be entitled to different rates of basic pay, but receive the same total pay because of the cap. Again, this problem is most visible with respect to GS criminal investigators who regularly receive a 25-percent availability pay supplement. All criminal investigators whose rate of basic pay is within 25 percent of the applicable cap will receive the same total pay in any given location. The key issue is whether this pay compression can be eliminated without creating pay compression or inversion with higher-level officials. We believe that, in the case of availability pay recipients, there could be different approaches to modifying the caps that address the compression problem to some degree but avoid new inequities. We also believe that,

because of the complexities involved and the need for flexibility to make adjustments over time, the most effective way to deal with these issues would be to allow OPM to adjust premium pay cap rules under a broad administrative authority.

Issue: Availability Pay Problems

Beyond the pay cap issue, there are other issues related to availability pay received by criminal investigators and certain other employees—namely, the possibility of converting recipients of pay for administratively uncontrollable overtime (AUO) work to the availability pay program and possible changes to the availability pay program. (See descriptions of availability pay and AUO pay in Section B of this part and in Appendix E.) As explained below, these availability pay issues are complex, and simple solutions are not necessarily available. Accordingly, we believe this is an area where a more flexible premium pay authority would be particularly useful.

With the enactment of the availability pay law (5 U.S.C. 5545a) in 1994, criminal investigators who had previously received AUO pay began receiving availability pay instead. Border Patrol agents and certain other law enforcement employees continued to receive AUO pay. Since almost all AUO pay recipients are paid at the maximum 25 percent rate, which is equal to the availability pay rate, and since the two types of premium pay are similar in many respects, one option is to change the availability pay law to cover certain AUO recipients. This could simplify administration and provide for more consistency in treatment. However, the following problems would remain:

- Availability pay does not provide the flexibility to reduce overtime pay and hours if work demands are reduced over time. Availability pay recipients are entitled to a fixed 25 percent supplement and must average 2 unscheduled duty hours per regular workday.
- Under current law, availability pay recipients are not covered by the FLSA. However, some AUO recipients are FLSA-covered at the full performance level. For example, Border Patrol agents generally are FLSA-covered through grade GS-12 (the first level of supervision). FLSA-covered AUO recipients receive half of the FLSA hourly regular rate for any AUO hours in addition to AUO pay. We estimate that, on average, FLSA overtime for AUO hours is worth about 10 to 12.5 percent of basic pay for those receiving AUO pay at the 25 percent rate. Assuming the statutory bar on FLSA coverage for all availability pay recipients is continued, AUO recipients who are converted to availability pay would lose this FLSA overtime pay. If AUO recipients are not converted to availability pay, then those who are FLSA-covered would continue to have more generous overtime entitlements than availability pay recipients at the same grades.

To ensure consistent treatment, any law covering Border Patrol Agents and others under the availability pay provision would have to either (a) eliminate FLSA coverage consistent with the treatment of criminal investigators or (b) provide FLSA coverage for criminal investigators receiving availability pay. The latter approach is inconsistent with the original legislation that established availability pay and would be costly and administratively burdensome. The first approach would result in a reduction in total pay for affected employees, unless this change could be made in combination with an increase in rates of basic pay. Thus, we have secondary

issues as to whether an increase in the rates of basic pay is possible under the applicable system or warranted based on job value. Another alternative would be to consider modifications of the availability pay program itself, which might make a change from AUO pay to availability pay more acceptable. (See discussion below.)

While the availability pay program has generally been viewed as successful by agencies and covered employees, it is not without problems. One is the application of the biweekly aggregate premium pay cap, which has already been discussed in the preceding subsection. Other issues and problems include the following:

- Availability pay recipients are subject to a significant overtime burden. By law, they are required to work 2 hours per regular workday or 10 hours per workweek (assuming 5 regular work days).
- Some availability pay recipients believe that, on an hourly rate basis, availability pay is insufficient. (If an investigator works 10 hours per workweek for a 25-percent supplement, this equates to straight-time. However, investigators also receive availability pay during paid leave, holidays, and other paid time-off periods when no overtime work is performed. Thus, over the course of a year, it provides additional value—although probably less than time-and one-half. Also, there is additional value to the employee of a guaranteed overtime supplement that is basic pay for retirement purposes.) A related issue is that availability pay provides compensation for all irregular overtime work, with no cap on the number of irregular overtime hours. Thus, an investigator can potentially work hours far in excess of the minimum hours requirement without additional compensation, which devalues the hourly rate of compensation. At the same time, under the current availability pay program, investigators are generally given greater control over when they work overtime hours. If additional overtime hours triggered additional compensation, management officials would need to exercise greater control and oversight in order to manage their budgets.
- There is an issue regarding the appropriateness of the availability pay provisions that allow credit for certain non-work (“availability status”) hours in determining an employee’s average hours of unscheduled duty. While we believe the vast majority of criminal investigators are meeting the 2-hours-per-regular-workday requirement through actual work hours, the possibility of credit for nonwork hours raises equity concerns, especially if this is done inconsistently across organizations. We note that when Congress extended availability pay to Diplomatic Security special agents, it expressly barred the crediting of nonwork hours. (See 5 U.S.C. 5545a(k)(B).)
- The availability pay law is incompatible with alternative work schedules. The law was drafted based on the assumption that all criminal investigators have a standard 40-hour basic workweek consisting of five 8-hour workdays. Thus, the 2-hour daily average requirement produces a requirement of 10 hours per full workweek. Also, the 10-hour threshold rule for availability pay recipients in 5 U.S.C. 5542(d) was adopted assuming an 8-hour basic workday, so that the first 2 overtime hours are deemed to be irregular without regard to whether they were scheduled in advance of the workweek. In certain cases, agencies have sought the flexibility to cover availability pay recipients under

alternative work schedules, including a basic workweek of four 10-hour days. However, the availability pay law does not provide OPM with flexibility to adjust the average hours requirement or the threshold requirement to align with such an alternative schedule. Allowing such alternative work schedules under the current availability pay law would produce inequities.

- Availability pay does present some challenges in administration, since it continues to require a distinction between regularly scheduled overtime hours and irregular overtime hours. This distinction requires a determination as to whether the hours were, or should have been, scheduled in advance of the workweek. The availability pay law does provide that the first 2 overtime hours on any regular workday, however they are scheduled, are considered irregular overtime hours, which does limit the administrative problems compared to the AUO program. However, there remains a need to designate any additional overtime hours as regularly scheduled or irregular since there are compensation consequences.

As the foregoing discussion demonstrates, these availability pay issues are complex and difficult to address through legislation. Simple solutions are not readily apparent. Accordingly, we believe that this is an area where a more flexible premium pay authority would be particularly useful.

Issue: Retirement Creditability of Premium Pay

Another important issue involves the treatment of premium pay as basic pay for retirement purposes. Congress has provided that certain types of premium pay for certain employees are retirement-creditable. To avoid inconsistencies, proposals to make premium pay creditable for retirement require very careful consideration. Because the issue is multifaceted and complicated, we believe that this is an area where it makes sense to provide OPM with flexibility to establish consistent policies regarding when premium pay should be treated as basic pay for retirement purposes and how such retirement-creditable premium pay should be administered.

As a general rule, overtime pay and other forms of premium pay are not creditable as basic pay for the purpose of computing retirement benefits and contributions to the CSRS/FERS retirement fund. (See 5 U.S.C. 8331(3) and 8401(4).) Defined benefit retirement plans use an employee's average salary to compute benefits. For example, CSRS and FERS use the average salary for the 3 consecutive years during which the employee had the highest average rate of basic pay (usually the last 3 years). In such retirement plans, it generally does not make sense to include premium pay since such premium pay may be erratic, varying from year to year. An employee could receive a windfall if premium payments are higher in the average salary period. Or, if premium payments are lower, the agency and the employee could be viewed as having made excess contributions to the retirement fund. Accordingly, defined benefit retirement plans generally use basic rates of pay that are more stable and predictable to compute retirement benefits and contributions. Of course, another important point is that including premium pay generates additional retirement costs that must be funded.

With respect to CSRS and FERS, Congress has made some exceptions to the rule that premium pay is not retirement-creditable. These exceptions primarily involve premium payments that are fixed, regular and recurring supplements that generally continue throughout the employee's career:

- Standby duty premium pay – A percentage supplement for regularly scheduled overtime work for employees who have extended regular tours of duty (e.g., emergency medical technicians who perform 24-hour shift work and may average 56-72 hours of work per week). (See 5 U.S.C. 5545(c)(1) and 8331(3)(C).)
- Firefighter overtime pay – The straight-rate portion of regularly scheduled overtime pay for firefighters with extended regular tours of duty (usually 24-hour shifts and 56-72 hours per week). (See 5 U.S.C. 5545b, especially (b)(2).)
- Administratively uncontrollable overtime (AUO) pay – A percentage supplement for irregular overtime hours that are a regular part of the job. AUO pay is retirement creditable for LEOs only. (See 5 U.S.C. 5545(c)(2) and 8331(3)(D).)
- Availability pay – A 25 percent supplement for specified overtime hours performed by criminal investigators and certain other LEOs. (See 5 U.S.C. 5545a and 8331(3)(E).)

One additional exception involves variable overtime pay for customs officers under COPRA. These customs officers generally work significant amounts of overtime over the course of a career. By law, all COPRA overtime pay is retirement-creditable up to an annual limit equal to one-half of the current statutory annual cap on COPRA overtime payments. (See 5 U.S.C. 8331(3)(G).) In recent years, the COPRA annual overtime pay cap has been fixed by Congress at \$30,000; this results in a \$15,000 limit on retirement-creditable overtime pay. For a customs officer at the GS-11 full performance level, \$15,000 currently represents roughly 20 to 30 percent of the employee's rate of basic pay.

COPRA also required that the Secretary of the Treasury promulgate regulations to prevent “the disproportionately more frequent assignment of overtime work to customs officers who are near to retirement.” Accordingly, regulations at 19 CFR 24.16(d) establish “annuity integrity” provisions that limit the amount of overtime work for customs officers within 3 years of retirement eligibility based on the employee's career-long average yearly overtime hours (unless a waiver is granted). Since customs officers have been transferred to DHS, these regulations are now the responsibility of DHS.

Because including premium pay as basic pay for retirement purposes can increase an employee's retirement annuity by a significant amount (e.g., 25 percent), it is a very attractive benefit. However, since many Federal employees work overtime hours, it is important that exceptions be limited to narrowly defined circumstances where a compelling distinction can be made. The factors to be considered include the following:

- The costs, including higher agency contributions as well as the impact on the unfunded liability of the retirement fund (since agency and employee contributions were not made

in the past for premium payments that will now be used to compute future retirees' annuities);

- The extent to which affected employees earn a large amount of overtime consistently over the course of a career;
- The extent to which employees remain in the covered category of jobs throughout their career;
- The risk that making premium pay retirement-creditable would distort decision making regarding the assignment of overtime work (e.g., restrain managers from reducing overtime hours if mission demands are reduced);
- The ability to prevent employees from earning disproportionate amounts of overtime pay in the high-3 average salary period without imposing significant administrative burdens or limiting the agency's flexibility to assign work to meet mission demands;
- The availability of authority to waive overtime limitations in a manner that does not trigger unfunded retirement costs or give some employees a long-term benefit based on a temporary circumstance (cost and equity issue).

As evident from the foregoing discussion, issues related to the retirement creditability of premium pay are multifaceted and complicated, which argues for providing OPM with authority to establish policies in this area by regulation, instead of a piecemeal legislative approach. Providing OPM with authority to establish policies in this area is consistent with OPM's role as administrator of the Federal civilian retirement programs. OPM is in a position to consider and balance the interests of employees, agencies, and the retirement fund.

E. Premium Pay Recommendations

As indicated in Sections B and C of this part, the vast majority of Federal law enforcement employees are covered by the premium pay provisions in title 5, U.S. Code. Many other law enforcement employees who are not covered by title 5 have identical or similar premium pay entitlements. Thus, there is considerable consistency among law enforcement employees in terms of premium pay entitlements. We believe such consistency is desirable and appropriate from a public policy standpoint. We have found that agencies and law enforcement employees generally display a strong preference that premium pay rules should be similar for all similarly situated employees. Consistency can be achieved only if there is a common framework that applies to all law enforcement employees.

Mission requirements or work conditions sometimes support a different approach to the payment of a particular type of premium pay. For example, availability pay is designed to address the unique overtime work requirements faced by criminal investigators. However, when special provisions provide significantly greater benefits, they should be based on a compelling justification and a common set of principles.

Further, it is important to have the ability to adjust common premium payments over time based on experience, mission requirements, and prevailing practices in the non-Federal sector. Inevitably, unanticipated circumstances arise. For example, in Section D, we described various perceived problems associated with the current title 5 premium pay rules related to premium pay caps and availability pay.

One option is to keep the rules governing premium pay in title 5, United States Code, and make changes through legislation. Our experience, however, suggests that this is not the most effective method of making changes. Legislative changes sometimes are designed to address the interests of specific groups of employees without full consideration of the Governmentwide implications of such changes. For example, recent proposals to bar the application of the biweekly premium pay cap to availability pay (as in H.R. 466, H.R. 1676, and S. 985) do not take into account the fact that this proposal would create serious pay inversion problems between highly paid criminal investigators and members of the Senior Executive Service who are responsible for managing the work of these same investigators. (See Appendix D.)

We believe it would be appropriate to provide OPM with a flexible administrative authority to work with agencies so that premium pay rules can be more easily modified to address current needs or adjusted to correct any problems that surface. Congress has given such administrative authority to individual agencies in the past, such as the Federal Aviation Administration and the Transportation Security Administration. More recently, Congress gave OPM and the Department of Defense joint authority to waive or modify most title 5 premium pay provisions as part of the National Security Personnel System legislation (5 U.S.C. 9902).

Accordingly, OPM recommends that Congress give OPM regulatory authority to establish a framework of premium pay rules that would apply to Federal law enforcement employees throughout the Government, including those law enforcement employees in the legislative and judicial branches who are covered by CSRS or FERS. This authority would be exercised in consultation with employing agencies and with the concurrence of the Attorney General. For this purpose, “premium pay” would encompass various types of payments for work under special conditions that generally are not basic pay for any purpose (with limited exceptions for certain types of overtime pay that are basic pay for the purpose of retirement and other specified benefits). OPM premium pay regulations would establish rules governing—

- Which law enforcement employees are covered by the regulations;
- Overtime pay for FLSA-exempt employees;
- Differentials for night, Sunday, holiday, and standby work;
- Premiums for hazardous duty;
- Other special payments or differentials (e.g., for special skills or special assignments); and
- When overtime pay is creditable as basic pay for retirement purposes.

If granted this authority, OPM would also use the Chief Human Capital Officers Council as a forum for discussing possible changes in premium pay entitlements. This kind of interagency approach would help ensure that any changes are reasonable and consider all interests. Also, the concurrence of the Attorney General would be required to ensure that law enforcement mission interests are fully considered.

V. Conclusions

While this report discusses law enforcement retirement benefits, classification and basic pay, and premium pay separately, it is clear that they must be viewed systemically; that is, as component parts of a larger strategy to ensure that the Federal Government is able to meet its critical law enforcement missions. In this regard, they are inextricable, and proposed modifications to any single component (or subset thereof) must be considered in this larger context in order to avoid any unintended consequences. Accordingly, this report presents a recommendation to modernize the Federal Government's law enforcement retirement and compensation systems, and we believe it should be acted on as a package, providing a comprehensive solution based on common principles.

This recommendation is based on certain core principles that have guided the Congress and the executive branch for decades as they have considered pay and benefits policies for our Federal law enforcement community. Perhaps the most fundamental of those principles concerns the requirement for a "young and vigorous" corps of law enforcement officers that is able to meet the difficult physical demands of the profession. With that principle in mind, Congress has authorized the executive branch to place age limits on those who serve in that profession...on when they may enter such service, as well as on how long they may serve. And to compensate law enforcement professionals for their relatively short but particularly onerous careers, Congress has also authorized enhanced retirement benefits and various premium pay arrangements.

We believe that principle remains as valid today as it did half a century ago. The Federal law enforcement mission remains one of its most critical...indeed, after the attacks of 9/11, that mission has expanded to include anti-terrorism and the security of our homeland, and so has its importance to our way of life. Thus, Federal law enforcement agencies still require a "young and vigorous" workforce capable of accomplishing that mission. On the other hand, the loss of experienced LEOs who are still capable of effective service should be avoided.

Over the years, the Federal law enforcement community has become "fragmented" with respect to the pay and benefits of its members. Differences have become substantial and confusing, their original rationale no longer evident and their application inconsistent. A new framework needs to be developed that will provide the administrative flexibility to balance Governmentwide and unique agency interests and requirements. OPM, jointly with the Departments of Homeland Security and Defense, is using recently acquired HR flexibilities to develop and deploy far more market- and performance-sensitive pay systems for law enforcement personnel. It is critical that other agencies receive similar HR flexibilities for their law enforcement personnel.

Our recommendation is that Congress provide OPM with broad authority to establish, with the concurrence of the Attorney General, a comprehensive, integrated Governmentwide framework for law enforcement retirement, classification and basic pay, and premium pay systems. This framework would be tailored specifically for law enforcement jobs and differences across the spectrum of law enforcement work. It would provide the flexibility to make strategic decisions that support mission accomplishment in a cost effective manner. Both

agency interests and Governmentwide interests would be considered and balanced. The Attorney General's concurrence will ensure that law enforcement personnel Governmentwide are deployed in the most efficient and effective manner. Such a framework provides an opportunity to create contemporary and effective human resources systems for the critical cadre of Federal law enforcement personnel—systems that will better support the Federal Government's law enforcement missions that have become even more essential in the post-September 11 world.

APPENDICES

- Appendix A: Comparison of LEO and Non-LEO Annuities
 - A1. CSRS Retirement Benefits
 - A2. FERS Retirement Benefits
 - A3. LEO and Non-LEO Age Distribution

- Appendix B: Turnover Data from the Central Personnel Data File
 - General Notes
 - B1. Quit Rate Data
 - B2. Transfer Rate Data

- Appendix C: Summary of Nonstandard Pay and Benefits By Type of Pay or Benefit

- Appendix D: Analysis of Proposed Legislation Dealing with Law Enforcement Officer Pay (H.R. 466, H.R. 1676, and S. 985)

- Appendix E: Overview of Administratively Uncontrollable Overtime Pay and Law Enforcement Availability Pay

- Appendix F: Comparison of Title 5 Premium Pay and Customs Officer Premium Pay

- Appendix G: Common Full Performance Level Salaries for Selected Federal Law Enforcement Related Occupations in Selected Locations

- Appendix H: Analysis of Federal Law Enforcement Officer Pay Competitiveness

- Appendix I: Occupational Series that Apply to Law Enforcement Officers

COMPARISON OF LEO AND NON-LEO ANNUITIES

This appendix provides graphical comparisons between regular and LEO retirement benefits. Appendix A1 compares the relative value of CSRS regular retirement versus CSRS LEO retirement, and a chart that compares the value of an annuity of a CSRS GS-13/7 LEO receiving 25 percent availability pay and an annuity of a regular CSRS GS-13/7 employee.

Appendix A2 contains a chart that compares the relative value of FERS regular retirement versus FERS LEO retirement, and includes an example chart that compares the value of an annuity of a FERS GS-13/7 LEO receiving 25 percent availability pay and an annuity of a regular FERS GS-13/7 employee. These charts show the value of FERS defined benefits only. The value of Thrift Savings Plan and Social Security benefits are not shown. Since the FERS defined benefit is at a lower accrual rate and because it is one of three parts of retirement, the actual amount of the defined benefit is a less significant part of retirement for a FERS retiree than the CSRS defined benefit is for a CSRS retiree.

Appendix A3 contains charts showing the age distribution of selected LEO and non-LEO employee groups. The data in this chart are from the March 2003 Central Personnel Data File.

This appendix is organized as follows:

A1- CSRS Retirement Benefits

- A1-1 CSRS regular formula vs. CSRS LEO formula.
- A1-2 Chart comparing the value of an annuity of a CSRS GS-13/7 LEO receiving 25 percent availability pay and an annuity of a regular CSRS GS-13/7 employee.

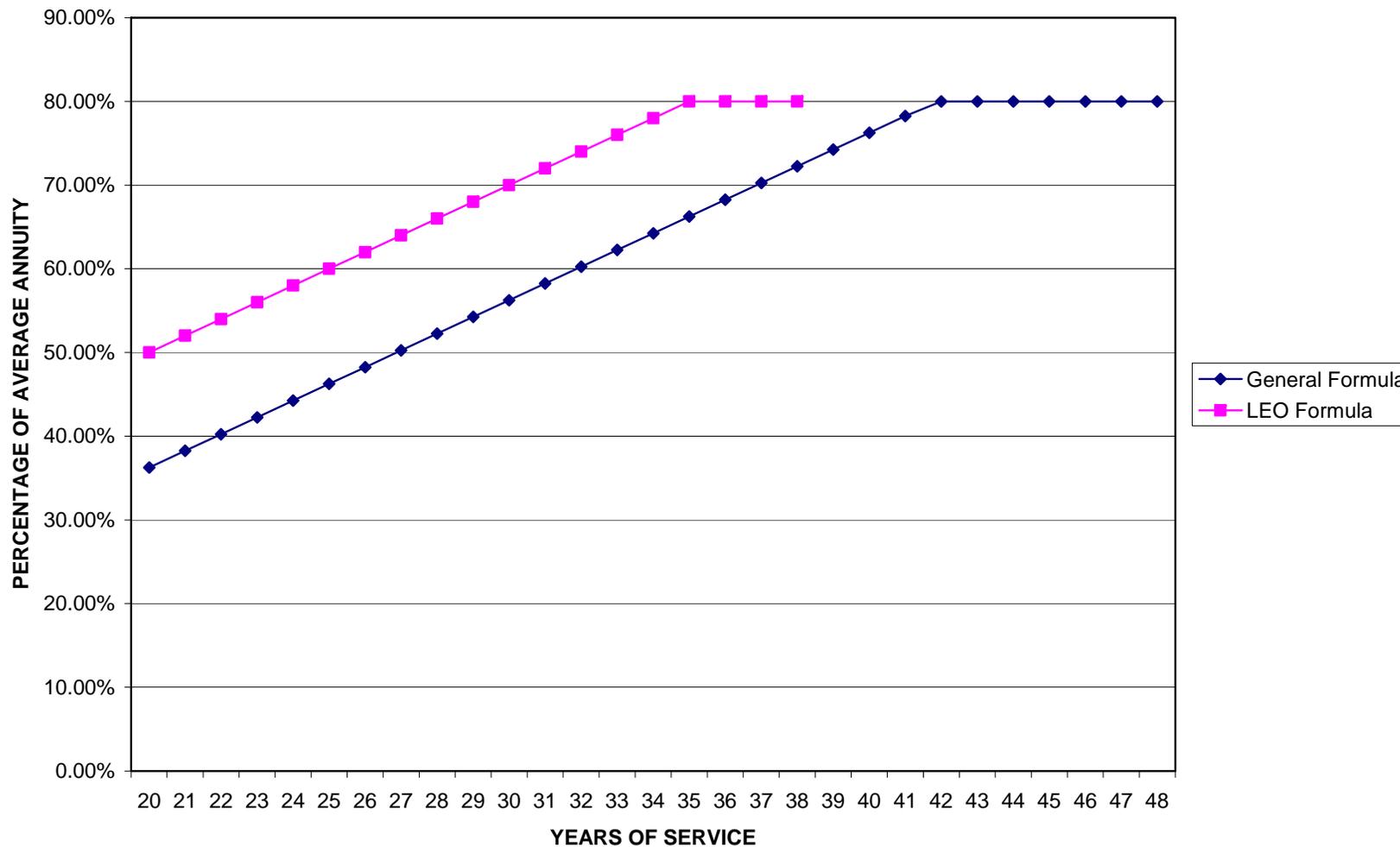
A2- FERS Retirement Benefits

- A2-1 FERS regular formula vs. FERS LEO formula.
- A2-2 Chart comparing the value of an annuity of a FERS GS-13/7 LEO receiving 25 percent availability pay and an annuity of a regular FERS GS-13/7 employee.

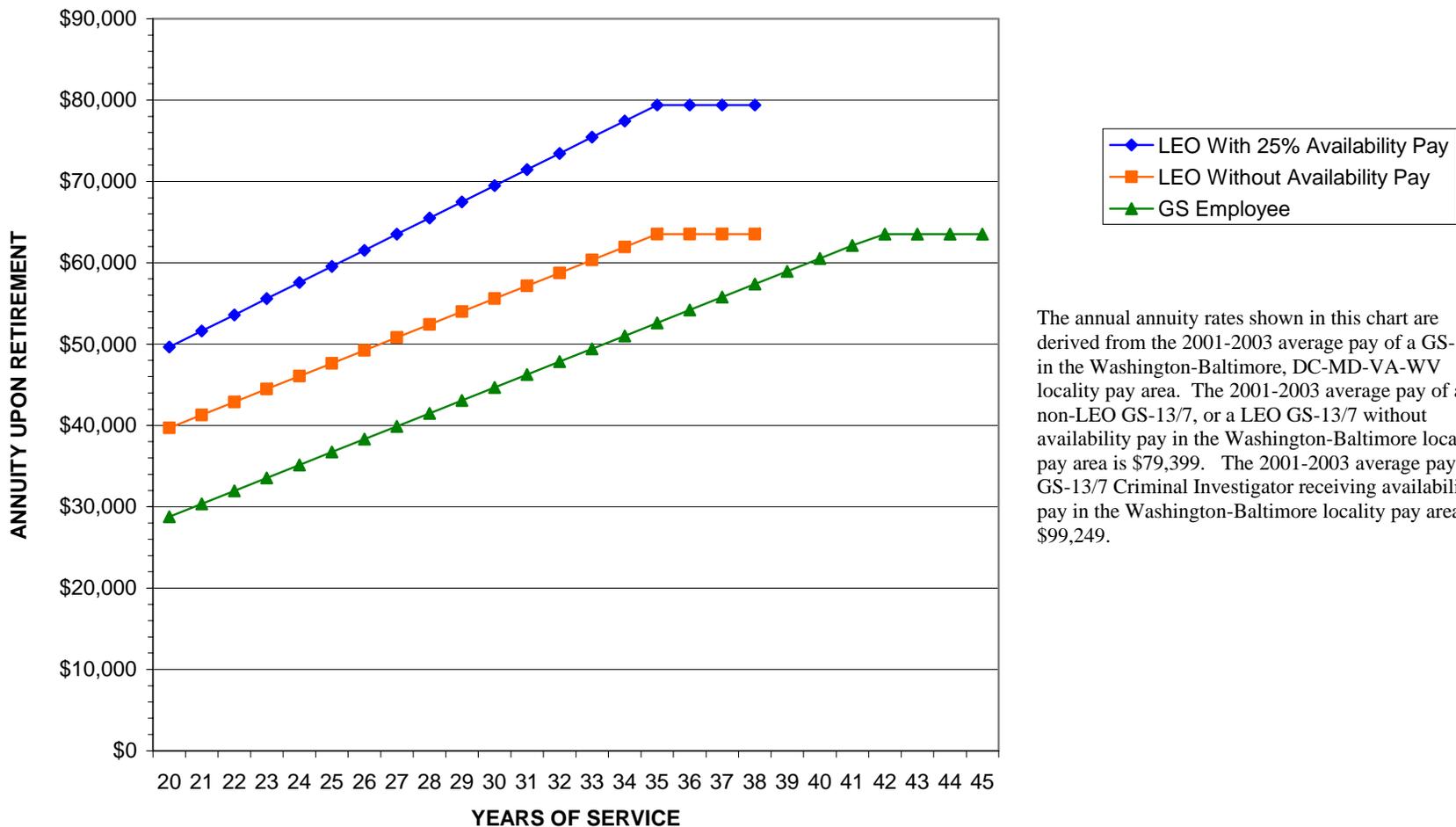
A3- LEO and non-LEO Age Distribution

- A3-1 Age Distribution of selected LEO and non-LEO employee groups.
- A3-2 Age Distribution of selected LEO and non-LEO employee groups (continuation of chart A3-1).

LEO vs. NON-LEO ANNUITIES (CSRS)

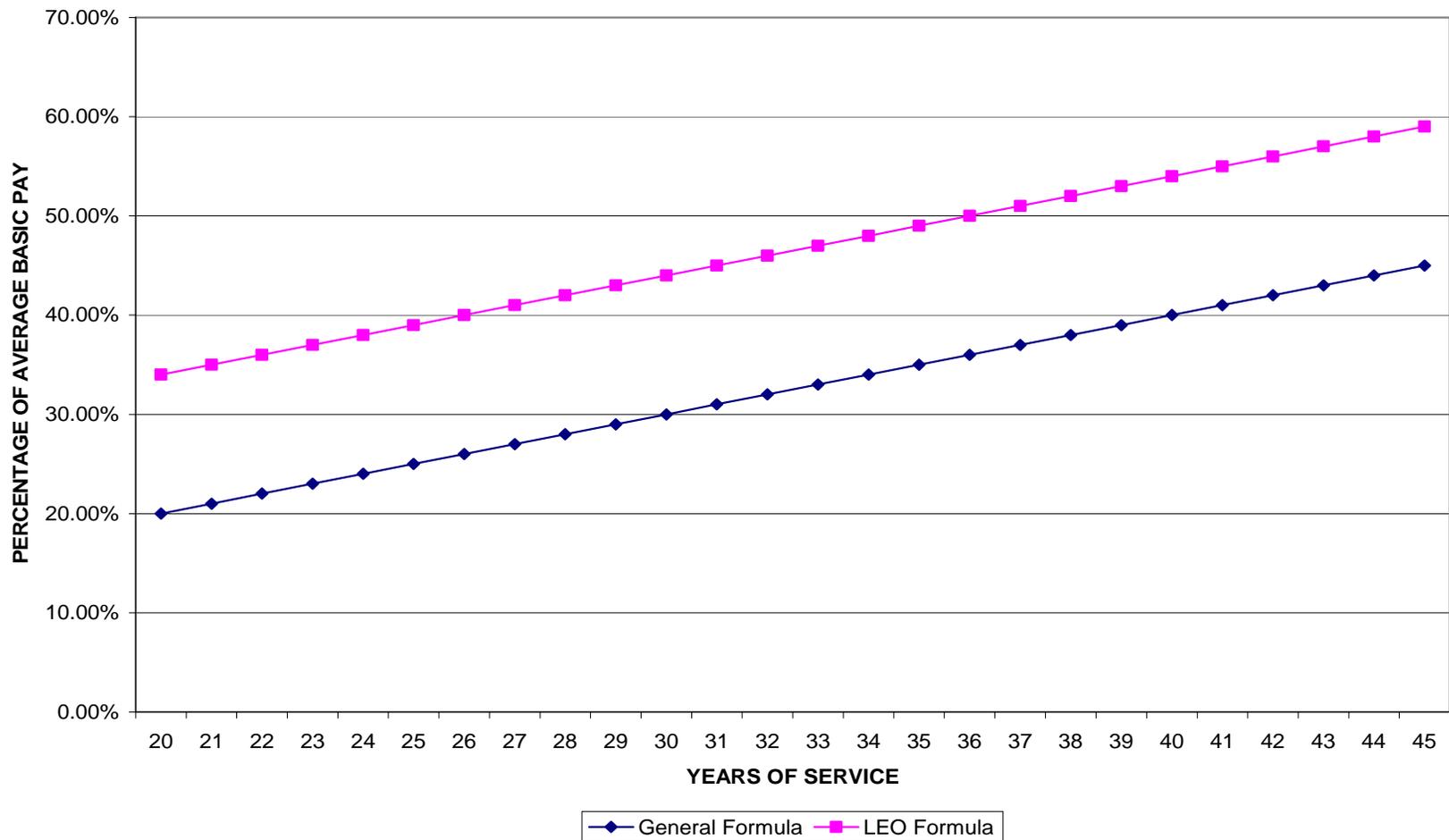


EXAMPLE: GS-13 LEO vs. NON-LEO ANNUITIES (CSRS)



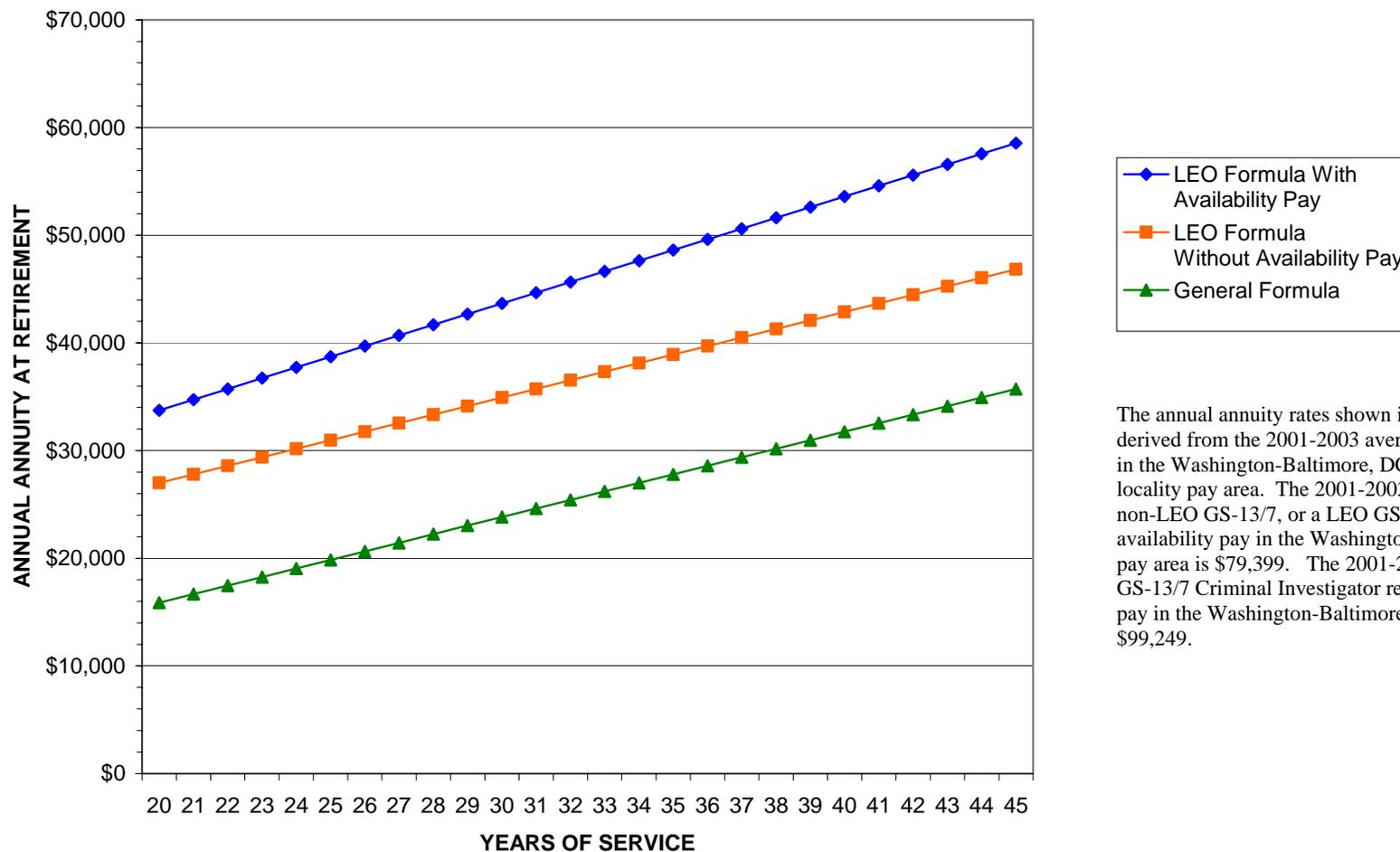
The annual annuity rates shown in this chart are derived from the 2001-2003 average pay of a GS-13/7 in the Washington-Baltimore, DC-MD-VA-WV locality pay area. The 2001-2003 average pay of a non-LEO GS-13/7, or a LEO GS-13/7 without availability pay in the Washington-Baltimore locality pay area is \$79,399.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

LEO vs. NON-LEO (FERS)



This chart shows the value of FERS defined benefits only. The value of Thrift Savings Plan and Social Security benefits are not shown. Since the FERS defined benefit is at a lower accrual rate and because it is one of three parts of retirement, the actual amount of the defined benefit is a less significant part of retirement for a FERS retiree than the CSRS defined benefit is for a CSRS retiree.

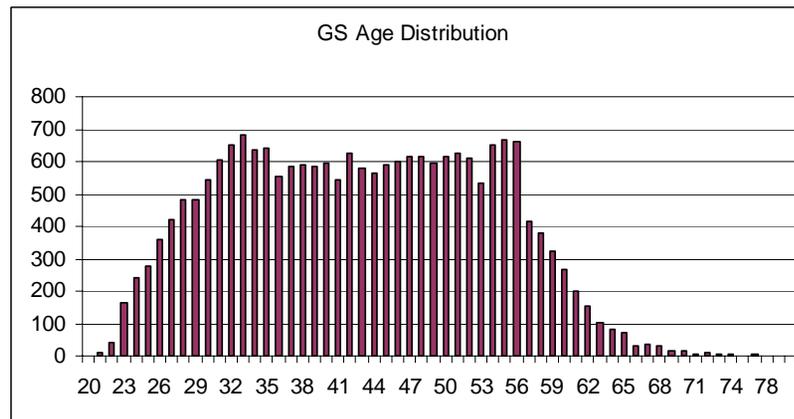
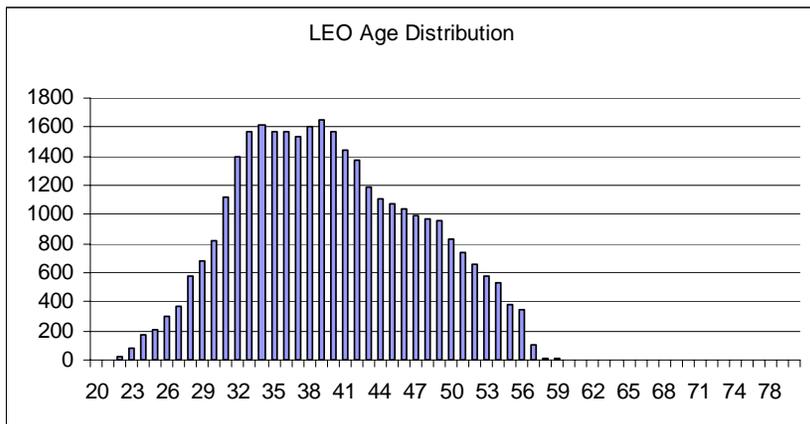
EXAMPLE: GS-13 LEO vs. NON-LEO ANNUITIES (FERS)



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.

This chart shows the value of FERS defined benefits only. The value of Thrift Savings Plan and Social Security benefits are not shown. Since the FERS defined benefit is at a lower accrual rate and because it is one of three parts of retirement, the actual amount of the defined benefit is a less significant part of retirement for a FERS retiree than the CSRS defined benefit is for a CSRS retiree.

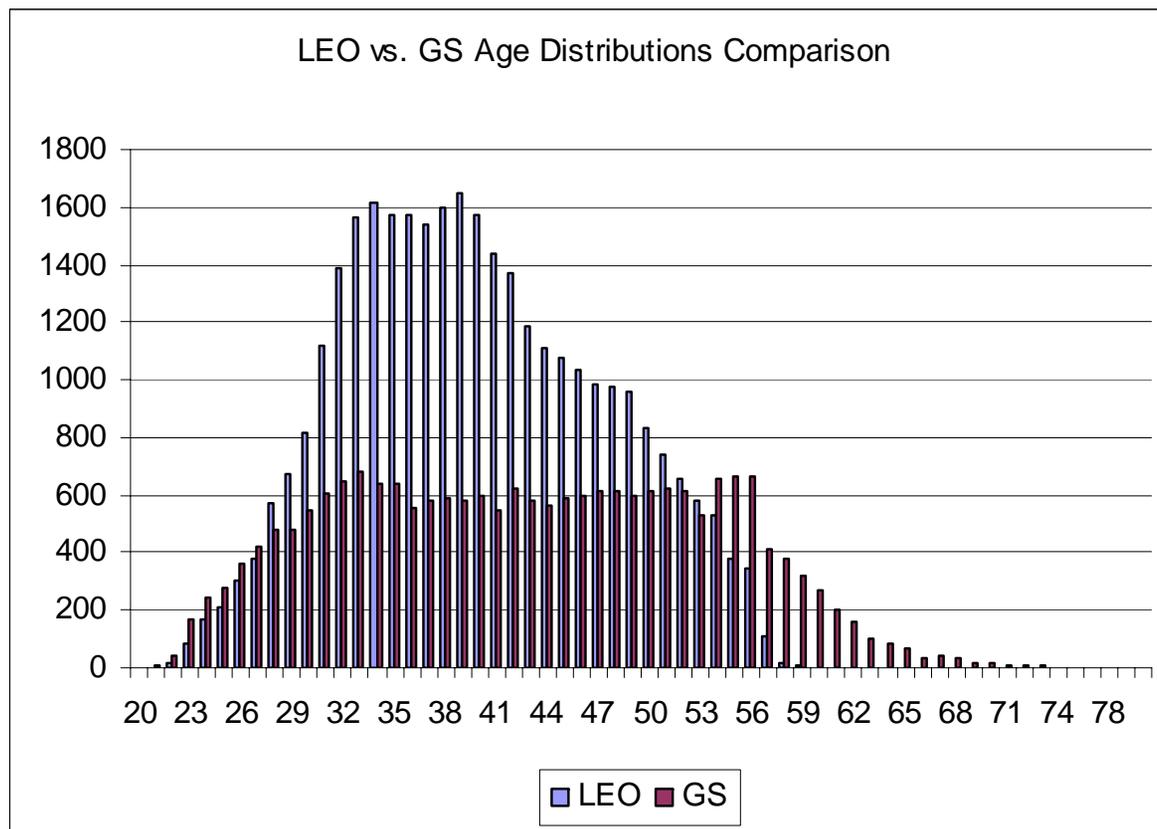
Statistical Analysis of Combined Age Distribution



Category	Number	Mean
LEO	32,764	40.0
Non-LEO	20,992	43.0

The table and charts above present certain statistical characteristics of selected relevant employee groups with LEO retirement coverage (LEOs) and without LEO retirement coverage (non-LEOs). While the sample is quite large, it is not the entire universe of LEOs and non-LEOs. The table indicates that individuals in the LEO category have an average age of nearly 40 years, while individuals in the non-LEO category have an average age of nearly 43 years. Three-fourths (75.1 percent) of the LEO group is 45 or younger, while just over one-half (57.4 percent) of the non-LEO group is 45 or under.

Statistical Analysis of Combined Age Distribution



It is apparent that the two groups have two distinctly different age distributions. The LEO group is more clustered around its average age, and the distribution indicates a younger population than the GS group. The GS group has a more even distribution of ages.

**TURNOVER DATA FROM THE
CENTRAL PERSONNEL DATA FILE**

This appendix addresses quit and transfer rates for law enforcement officers (LEOs) covered by the special retirement provisions for law enforcement officers (LEOs) under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), as well as selected law enforcement employees with arrest authority who are not covered by the special retirement provisions. (See General Notes for a more detailed description of the employees included.) We compiled quit and transfer data using the Office of Personnel Management's (OPM's) Central Personnel Data File (CPDF) for fiscal years (FY) 2001, 2002, and 2003. The Federal fiscal year is from October 1 through September 30. We also compiled data specifically from the last six months of FY 2003 (April 1 – September 30, 2003) in order to provide the latest available information, which might help identify recent trends.

This appendix is organized as follows:

General Notes

B1- Quit Rate Data

- B1-1 Quit Rates for All Occupations by Grade (General Schedule and Related Only)
- B1-2 Quit Rates for Selected LEO and Other Law Enforcement Occupations (All Pay Plans)
- B1-3 Quit Rates for LEOs and Selected Other Law Enforcement Occupations by Agency (All Pay Plans)
- B1-4 Quit Rates for Non-LEO Occupational Series 0083 Police Officers by Agency (All Pay Plans)
- B1-5 Quit Rates for LEOs by Locality Pay Area (All Pay Plans)
- B1-6 Quit Rates for Non-LEO Occupational Series 0083 Police Officers by Locality Pay Area (All Pay Plans)
- B1-7 Quit Rates for Non-LEO GS-1816 Immigration Inspectors by Locality Pay Area (General Schedule Only)
- B1-8 Quit Rates for Non-LEO GS-1890 Immigration Inspectors by Locality Pay Area (General Schedule Only)

B1-9 Quit Rates for Selected LEO Occupations by Grade

B1-10 Quit Rates for Police and Inspectors by Grade

B2 – Transfer Rate Data

B2-1 Transfer Rates for All Occupations by Grade (General Schedule and Related Only)

B2-2 Transfer Rates for Selected LEO and Other Law Enforcement Occupations (All Pay Plans)

B2-3 Transfer Rates for LEOs and Selected Other Law Enforcement Occupations by Agency (All Pay Plans)

B2-4 Transfer Rates for Non-LEO Occupational Series 0083 Police Officers by Agency (All Pay Plans)

B2-5 Transfer Rates for LEOs by Locality Pay Area (All Pay Plans)

B2-6 Transfer Rates for Non-LEO Occupational Series 0083 Police Officers by Locality Pay Area (All Pay Plans)

B2-7 Transfer Rates for Non-LEO GS-1816 Immigration Inspectors by Locality Pay Area (General Schedule Only)

B2-8 Transfer Rates for Non-LEO GS-1890 Immigration Inspectors by Locality Pay Area (General Schedule Only)

B2-9 Transfer Rates for Selected LEO Occupations by Grade

B2-10 Transfer Rates for Police and Inspectors by Grade

GENERAL NOTES

(1) This appendix provides data on quits and transfers for (1) law enforcement officers (LEOs) and (2) selected other law enforcement employees with arrest authority. For the purpose of this appendix, a LEO is defined as a Federal employee covered by the special retirement provisions for law enforcement officers under the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). The term LEO also includes approximately 500 Secret Service Uniformed Division officers, Secret Service agents and Park Police officers who are covered by the D.C Police Officers' and Firefighters' Retirement Plan. "Other law enforcement employees" is defined as employees with arrest authority who are not covered by the special retirement provisions for LEOs. Our analysis of other law enforcement employees is limited to the three major occupations in this category—police officers (0083), immigration inspectors (1816), and customs inspectors (1890). "Other law enforcement employees" exist in other occupational series, but they do not represent a majority of their occupation, and it was not possible to identify them in the data used for this analysis.

(2) We compiled quit and transfer data using the Office of Personnel Management's Central Personnel Data File (CPDF) for fiscal years (FY) 2001, 2002, and 2003. The Federal fiscal year is from October 1 through September 30. We also compiled data specifically from the last six months of FY 2003 (April 1 – September 30, 2003) in order to provide the latest available information, which might help identify recent trends.

(3) The CPDF database includes all executive branch agencies except the U.S. Postal Service, Postal Rate Commission, Central Intelligence Agency, National Security Agency, Defense Intelligence Agency, National Imagery and Mapping Agency, Tennessee Valley Authority, White House Office, Office of the Vice President, and the Board of Governors of the Federal Reserve. In the legislative branch, only the Government Printing Office, U.S. Tax Court, and selected commissions are included. The judicial branch is entirely excluded, as are nonappropriated fund employees in the Department of Defense and foreign nationals outside the U.S. and its territories. (We note that the Federal Bureau of Investigation (FBI) provides only limited data, which does not include quit or transfer actions, and is therefore absent from the data in this appendix. See note 4 below.)

(4) We estimate that, Governmentwide, there are about 106,000 LEOs and about 29,000 other law enforcement employees. This turnover study covers approximately 84,000 and 23,500 of these employees, respectively. The most significant exclusions include approximately—

- 11,600 criminal investigators at the FBI (LEO);
- 5,400 probation and pretrial services officers in the judicial branch (LEO);
- 1,900 postal inspectors and 130 postal IG investigators (LEO)
- 1,250 postal police officers;
- 1,500 Capitol Police officers (LEO);
- 170 police officers at the FBI;

- 130 police officers at the Library of Congress;
- 120 police officers at the Supreme Court (LEO); and
- 3,500 other law enforcement employees in occupational series other than 0083, 1811, and 1896 (including about 1,350 Diplomatic Security Service special agents in the Foreign Service).

(5) The CPDF data includes employees who have non-seasonal, full-time work schedules, including employees on temporary appointments. We included temporary appointees since the vast majority of LEOs and other law enforcement employees who have temporary appointments are employees who generally convert to permanent appointments when the temporary appointment expires. In these cases, the temporary appointment is the normal mechanism through which new employees are hired.

(6) For certain summary tables, employees covered by all pay plans are included, as indicated by “All Pay Plans” in the title of the summary tables. Other summary tables—primarily those detailing turnover data by grade level—include data specifically for General Schedule employees.

(7) In March 2003, the Department of Homeland Security (DHS) was established by transferring employees from 22 agencies into DHS. Also, in January 2003, law enforcement employees in the Bureau of Alcohol, Tobacco and Firearms were transferred from the Treasury Department to the Justice Department. It was necessary to adjust CPDF data so we could show meaningful FY 2003 quit and transfer rates by agency. Employee agency assignments on early FY 2003 population counts, quits and transfers were changed so that they reflected the new agency rather than the legacy agency. (We note that the mass transfer actions that moved the employee into their new agencies were not included in computing transfer rates.)

(8) Annual quit and transfer rates were computed by dividing the number of fiscal year actions by the average number of employees for that fiscal year and multiplying by 100. The average number of employees was based on employment at the beginning, middle and end of the fiscal year. All data was limited to non-seasonal, full-time employees. Rates for the last half of FY 2003 were computed by multiplying the number of April-September actions by 2 to annualize the 6 month count, dividing by an average based on employment at the middle and the end of the fiscal year, and multiplying by 100.

(9) "Quit" is defined as a voluntary resignation from the Federal service, including any resignations during a probationary or trial period. Quits exclude such actions as reassignments to other series, transfers to other Federal agencies, involuntary separations, retirements, and deaths.

(10) “Transfer” is defined as a movement of an employee, without a break in service, from a position in one department/agency to a position in another department/agency. It may, or may not, be accompanied by a change in grade, occupation, etc. It does not include movements within a department or an independent agency—i.e., from one

subcomponent to another subcomponent. Prior to the establishment of DHS, employees who moved to the Transportation Security Administration (TSA) from the Secret Service, the Customs Service, the Immigration and Naturalization Service, etc., were counted as transfers, since TSA was part of the Department of Transportation and these other organizations belonged to other departments (e.g., Treasury, Justice). After DHS was established in March 2003, these movements would be considered reassignments, not transfers because they were movements within DHS. OPM found significantly higher transfer rates in FY 2002, largely due to movements to TSA (or FAA before security functions were formally transferred to TSA). OPM analyzed CPDF data to determine whether the drop-off in transfer rates in FY 2003 could be attributed to the inclusion of TSA with other organizations in DHS. In other words, we reviewed whether movements to TSA were continuing at a high rate but being labeled as reassignments instead of transfers. We concluded that the reduced FY 2003 transfer rates were valid. First of all, any movements to TSA from other departments before March 2003 were captured as transfers. Second, we conducted special analyses that showed very few movements to TSA from other parts of DHS during the last half of FY 2003.

(11) Effective in January 2003, OPM established higher special rates for GS-0083 police officers in most agencies. Similar special rates were established for many Department of Defense GS-0083 police officers effective in April 2003. Also, since January 2003, the Veterans Administration (VA) established new or higher special rates for many of its GS-0083 police officers under VA's title 38 authority. We expect that these special salary rates will assist agencies in their efforts to recruit and retain police officers, but more time is needed to monitor and evaluate the full effect of the higher rates.

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QUIT RATE DATA

For the purpose of CPDF turnover data, the term “quit” is defined as a voluntary resignation from the Federal service, including any resignations during a probationary or trial period. Quits exclude such actions as reassignments to other series, transfers to other Federal agencies, involuntary separations, retirements, and deaths. The quit rates referenced in this appendix are annualized rates—i.e., the percentage of the employee population that quits during a year. (See General Notes for a more detailed description of how quit rates are calculated.)

LEOs

As of 2003, approximately 84,000 full-time LEOs appeared in OPM’s CPDF. During FY 2001-2003, the overall LEO quit rate was relatively stable, ranging from 2.2 to 2.5 percent. In FY 2003, the overall LEO quit rate was 2.2 percent. During the same time period, the Governmentwide quit rate for more than 1.2 million General Schedule (GS) and related pay plans employees included in the CPDF ranged from 1.6 to 2.1 percent, including 1.6 percent in FY 2003.

Occupational Data

About 31 percent of the LEOs reported are occupational series 1811 criminal investigators. These employees have traditionally had some of the lowest quit rates among the Federal law enforcement community. During FY 2001-2003, quit rates for criminal investigators remained consistently at 0.7 to 0.8 percent. For FY 2003, the quit rate was 0.8 percent.

About 98 percent of the LEO criminal investigators reported are GS employees. At the normal journey levels of GS-12 and GS-13, criminal investigator quit rates are even lower than the overall average. At GS-12, the quit rate ranged from 0.5 to 0.9 percent for criminal investigators in FY 2001-2003. For FY 2003, the quit rate was 0.5 percent. At the GS-13 level, which includes about 44 percent of GS criminal investigators, the quit rate for FY 2001-2003 remained steady at 0.4 to 0.5 percent. In FY 2003, the rate was 0.5 percent. This data indicates that, at the normal journey levels of GS-12 and GS-13, Federal criminal investigators are quitting at a rate at or below 0.5 percent. By comparison, the FY 2003 quit rates for all GS employees at GS-12 and GS-13 were 0.9 and 0.7 percent, respectively.

The second most populous LEO occupation is GS-0007 correctional officer, which constitutes about 18 percent the LEO workforce reported. Over the last three fiscal years, quit rates for these employees have ranged from a high of 3.9 percent in FY 2001 to a low of 2.7 percent in FY 2003. At the normal journey levels of GS-7 and GS-8, which include approximately 70 percent of correctional officers, quit rates are generally lower. The quit rate for GS-7 correctional officers in FY 2003 was 2.5 percent. At the GS-8 level, the quit rate was 0.8 percent for FY 2003. By comparison, the Governmentwide FY 2003 quit rates for all GS occupations at GS-7 and GS-8 were 2.2 and 1.2 percent, respectively.

Approximately 12 percent of the LEO population reported consists of GS-1896 Border Patrol agents (including a few members of the Senior Executive Service (SES)). From FY 2001-2003, quit rates for Border Patrol agents (BPAs) have ranged from 5.2 to 5.8 percent. During FY 2003, the quit rate for BPAs was 5.2 percent. Of note is that the vast majority of quits for BPAs occur during the first year of employment, which is largely attributable to a failure to successfully complete basic training or a probationary period. At GS-5, which is the normal entry level for BPAs, FY 2001-2003 quit rates have ranged from 42.7 to 46.7 percent. However, at the normal full-performance level of GS-11 (which includes about 54 percent of BPAs), the FY 2003 quit rate was 0.6 percent. (We note that, as a result of agency reclassification, the normal journey level for BPAs increased from GS-9 to GS-11 in August 2002.) By comparison, the Governmentwide GS-11 quit rate in FY 2003 was 1.2 percent, twice the rate for GS-11 BPAs.

Locality Data

We also examined quit rates for LEOs in the 32 locality pay areas, paying particular attention to areas with large numbers of LEO employees and certain high-cost cities. We note that the mobility associated with certain LEO jobs decreases the sensitivity of quit rates based on location. For example, criminal investigators are often hired on the national level and are placed in locations where a need exists.

Of the 14 localities with more than 1,000 LEOs, there was generally not a large difference in quit rate percentages. Other than San Diego, each of the other 13 localities with more than 1,000 LEOs had FY 2003 quit rates within 0.9 percent of the nationwide LEO average of 2.2 percent. These rates ranged from 1.3 percent in Detroit and Houston to 2.9 percent in Philadelphia. In San Diego, the quit rate was 4.7 percent in FY 2003. However, we note that this percentage is skewed upward as a result of the large number of BPAs employed in the San Diego locality pay area (about 57 percent of the area's LEO population). As noted above, quit rates for entry-level BPAs are ordinarily greater than 40 percent, which has a significant impact on overall quit rate percentages.

Agency Data

The two largest employers of LEOs are the Department of Justice (DOJ) and the Department of Homeland Security (DHS). At DOJ, which employs about half of all LEOs nationwide, FY 2001-2003 quit rates ranged from a high of 2.9 percent in FY 2001 to a low of 1.9 percent in FY 2003. The majority of LEOs within DOJ—including almost all Federal correctional officers—work for the Bureau of Prisons (BOP).

At DHS, which employs about 34 percent of the total LEO workforce reported, the quit rate was 3.1 percent in FY 2003. (See General Note 7.) Although the LEO quit rate at DHS is almost one percent higher than the nationwide average, we note that BPAs constitute about 36 percent of the LEO population at DHS. As mentioned previously, the high quit rate for entry-level BPAs significantly increases the overall average.

Other Law Enforcement Officers

We also examined quit rates for over 23,000 occupational series 0083 police officers, GS-1816 immigration inspectors, and GS-1890 customs inspectors (including some customs inspectors in a “GG” system that is identical to the GS system), which are the three major categories of employees with arrest authority who are not covered by the special retirement provisions for LEOs under CSRS or FERS. The data for occupational series 0083 police officers includes officers paid under the “TR” pay plan at the U.S. Mint and the Bureau of Engraving and Printing (BEP) within the Department of the Treasury, as well as a relatively small group of employees paid under other pay plans.

Police Officers

The overall quit rate for more than 8,200 non-LEO police officers included in the CPDF has increased slightly over the last few years, from a low of 5.8 percent in FY 2001 to a high of 6.9 percent in FY 2003. Although these quit rates are above the overall GS average quit rate of 1.6 to 2.1 percent, it is more appropriate to compare police officer quit rates to those for other employees at similar grade levels.

Quit rates for GS police officers, who comprise about 85 percent of the non-LEO police force, have ranged from a low of 6.1 percent in FY 2001 to a high of 7.4 percent in FY 2003. Approximately 69 percent of GS non-LEO police officers are employed at the GS-5 or GS-6 grade level, where quit rates are typically greater for all employees than at higher grades. At the GS-5 level, quit rates have ranged from a low of 8.4 percent in FY 2001 to a high of 10.9 percent in FY 2002 and FY 2003. At GS-6, quit rates have ranged from a low of 5.9 percent in FY 2002 to a high of 7.2 percent in FY 2003. (We note that GS-5 and GS-6 include police officers in entry or developmental levels, as well as certain police officers at the full-performance level.) About 13 percent of GS non-LEO police officers are employed at the GS-7 full-performance level. At GS-7, quit rates for non-LEO police have remained lower, ranging from 2.8 to 3.3 percent in FY 2001-2003, including 3.0 percent in FY 2003. By comparison, the Governmentwide FY 2003 quit rates at GS-5, 6, and 7 were 4.5, 2.6, and 2.2 percent, respectively.

Police officers in the TR pay plan, which covers police in the Department of the Treasury’s U.S. Mint and BEP, have quit at a lower rate over the last three years than their GS counterparts. In FY 2001-2003, quit rates for police officers covered by the TR pay plan ranged from 2.5 to 3.0 percent.

Of the 13 locality pay areas that include more than 100 non-LEO police officers, quit rates in 7 areas were above the nationwide average of 6.9 percent in FY 2003 and 6 were below. Among these areas, the lowest quit rates were in Boston (4.3 percent), Dallas (4.9 percent), and Washington, DC (4.9 percent). Other than the Rest of U.S. (RUS) locality pay area, more non-LEO police officers are employed in Washington, DC, than any other locality pay area (approximately 19 percent). The highest quit rates in FY 2003 among the 13 localities with more than 100 non-LEO police officers were in Richmond (10.5 percent), San Francisco (10.5 percent), and Seattle (9.9 percent).

The two largest employers of non-LEO police officers are the Department of Defense (DoD) and the Department of Veterans Affairs (VA). At DoD, which employs about 57 percent of non-LEO police, FY 2001-2003 quit rates ranged from a low of 6.6 percent in FY 2001 to a high of 7.4 percent in FY 2003. Approximately 28 percent of non-LEO police officers are employed at VA, where FY 2001-2003 quit rates ranged from 6.4 in FY 2001 to 7.7 in FY 2003.

We note that in January 2003, OPM established higher special rates for GS-0083 police officers in most agencies. Similar special rates were established for many DoD GS-0083 police officers effective in April 2003. Also, since January 2003, VA established new or higher special rates for many of its GS-0083 police officers under its title 38 authority. We expect that these special salary rates will assist agencies in their efforts to recruit and retain police officers, but more time is needed to monitor and evaluate the full effect of the higher rates.

Inspectors

Quit rates for another group of law enforcement employees who lack retirement coverage, GS-1816 immigration inspectors, have remained relatively steady over the last few years. In FY 2001-2003, quit rates for the more than 6,000 immigration inspectors have ranged from 1.7 percent in FY 2001 to 2.4 percent in FY 2003. Like other occupations, quit rates for immigration inspectors at the full-performance level have remained relatively low. (We note that, as a result of agency reclassification, the normal journey level for immigration inspectors increased from GS-9 to GS-11 in August 2002.) At the GS-11 level, which includes about 44 percent of immigration inspectors nationwide, the quit rate in FY 2003 was 1.0 percent. This rate is slightly lower than the 1.2 percent quit rate reported for GS-11 employees Governmentwide in FY 2003.

Of the 9 locality pay areas with more than 100 immigration inspectors, 5 had quit rates below, 3 above, and one equal to, the overall FY 2003 quit rate of 2.4 percent for immigration inspectors. Among these 9 areas, the lowest quit rates in FY 2003 were in Los Angeles (1.2 percent), San Francisco (1.5 percent), and Miami (1.6 percent). The highest quit rates were in New York (3.3 percent) and RUS (3.1 percent), which includes about 37 percent of immigration inspectors.

Overall quit rates for the more than 9,100 customs inspectors nationwide have remained relatively steady over the last few years. During FY 2001-2003, quit rates for customs inspectors ranged from 1.8 in FY 2001 to 2.3 percent in FY 2003. Quit rates for customs inspectors have remained low at the full-performance level, which includes more than half of customs inspectors nationwide. (We note that, as a result of agency reclassification, the normal journey level for customs inspectors increased from GS-9 to GS-11 in August 2002.) At GS-11, the quit rate for customs inspectors was 0.4 percent in FY 2003. As noted above, the quit rate for GS-11 employees Governmentwide was 1.2 percent in FY 2003, three times that of customs inspectors.

There are 12 locality pay areas with more than 100 customs inspectors. Of these 12 areas, 6 had quit rates below, and 6 had quit rates above, the overall customs inspector quit rate of 2.3 percent in FY 2003. The lowest quit rates among these 12 areas were in San Francisco (1 percent), Washington, DC (1.5 percent), Houston (1.7 percent), and New York (1.7 percent).

The highest FY 2003 quit rates were in Detroit (8 percent), Los Angeles (4.8 percent), Boston (4 percent), and Seattle (4 percent). We note that, as a result of the relatively low number of employees in many localities, a small difference in the number of quits can have a large impact on the overall quit rate percentage.

**QUIT RATES FOR ALL OCCUPATIONS BY GRADE
(GENERAL SCHEDULE AND RELATED ONLY)**

Grade Level	Mean Population	Quit Rate		
	FY 2003	FY 2003	FY 2002	FY 2001
01-02	411	5.4	7.2	6.3
03	4,289	6.0	5.7	6.2
04	30,897	4.7	4.8	5.1
05	89,890	4.5	4.4	4.9
06	76,369	2.6	2.7	3.1
07	121,139	2.2	2.4	2.7
08	48,529	1.2	1.4	1.4
09	118,691	1.8	1.9	2.3
10	15,056	2.2	2.3	2.5
11	178,956	1.2	1.2	1.7
12	217,862	0.9	0.9	1.3
13	184,040	0.7	0.7	1.1
14	89,127	0.7	0.8	1.2
15	55,015	1.0	1.2	1.5
ALL	1,229,598	1.6	1.7	2.1
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>				
Note: Data includes non-seasonal, full-time, permanent employees covered by the General Schedule and related pay plans.				

**QUIT RATES FOR SELECTED LEO AND OTHER LAW ENFORCEMENT OCCUPATIONS
(ALL PAY PLANS)**

Series	Occupation Name	Mean Pop	Quit Rate			
		Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
LEOs						
0006	Correctional Institution Administration	1,726	0.1	0.2	0.2	0.3
0007	Correctional Officer	14,741	2.7	2.7	3.3	3.9
0025	Park Ranger	1,422	1.1	0.9	1.6	1.1
0082	United States Marshal	646	6.8	6.1	3.0	7.8
0083	Police	2,021	4.3	4.1	2.8	3.8
1801	General Inspection, Investigation, & Comp	6,760	2.9	3.3	4.2	0.7
1802	Compliance Inspection and Support	1,558	1.0	1.0	1.3	1.8
1811	Criminal Investigating	26,344	0.9	0.8	0.8	0.7
1896	Border Patrol Agent	10,290	5.1	5.2	5.8	5.8
2181	Aircraft Operation	531	0.0	0.0	1.3	4.0
	All Other LEOs	18,001	1.9	1.9	2.0	2.4
ALL LEO OCCUPATIONS		84,039	2.2	2.2	2.4	2.5
Other Law Enforcement Occupations						
0083	Police	8,242	7.2	6.9	6.3	5.8
1816	Immigration Inspection	6,050	2.5	2.4	2.2	1.7
1890	Customs Inspection	9,150	2.3	2.3	2.1	1.8
TOTAL		23,442	4.1	3.9	3.6	3.2
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>						
<p>Note: The occupational series 0082 applies primarily to Deputy U.S. Marshals in grades GS-5, 7, or 9. A standard career path for GS-0082 Deputy U.S. Marshals includes movement to the GS-1811 criminal investigator occupation at grade GS-11; thus, these GS-0082 employees have not reached the normal career journey level. As a result, quit rates for the GS-0082 series are higher than they would be if journey-level employees with lower quit rates were included.</p>						

**QUIT RATES FOR LEOS AND SELECTED OTHER LAW ENFORCEMENT
OCCUPATIONS BY AGENCY (ALL PAY PLANS)**

Agency	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
LEOs					
Defense	2,004	0.8	1.0	0.7	1.0
Justice	42,856	1.9	1.9	2.7	2.9
Homeland Security	28,924	3.1	3.1	N/A	N/A
Interior	3,150	1.9	1.5	2.0	1.8
Treasury	3,192	0.9	0.7	1.1	1.3
Other Agencies	3,915	1.0	1.1	1.4	1.3
ALL AGENCIES	84,039	2.2	2.2	2.4	2.5
Other Law Enforcement Occupations					
<i>(Employees in the 0083,1816, or 1890 series who lack LEO retirement coverage)</i>					
Defense	4,716	7.5	7.4	7.1	6.6
Health and Human Services	68	5.9	4.7	21.3	4.0
Homeland Security	15,601	2.4	2.4	N/A	N/A
Treasury	597	2.3	3.1	2.1	1.9
Veterans Affairs	2,330	8.6	7.7	6.5	6.4
Other Agencies	131	3.1	3.1	2.4	4.0
ALL AGENCIES	23,442	4.1	3.9	3.6	3.2
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>					

**QUIT RATES FOR NON-LEO OCCUPATIONAL SERIES 0083
POLICE OFFICERS BY AGENCY (ALL PAY PLANS)**

Agency	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Defense	4,702	7.5	7.4	7.1	6.6
Health and Human Services	68	5.9	4.7	21.3	4.0
Homeland Security	415	3.4	2.7	N/A	N/A
Treasury	597	2.3	3.1	2.4	2.8
Veterans Affairs	2,330	8.6	7.7	6.5	6.4
Other Agencies	131	3.1	3.1	2.4	4.0
ALL AGENCIES	8,242	7.2	6.9	6.3	5.8

Source: U.S. Office of Personnel Management's Central Personnel Data File

**QUIT RATES FOR LEOS BY LOCALITY PAY AREA
(ALL PAY PLANS)**

Locality	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	1,606	1.6	1.8	1.4	1.2
Boston	1,331	2.3	2.7	3.1	3.7
Chicago	1,553	2.7	2.5	2.7	1.5
Cincinnati	176	2.3	2.3	0.0	0.0
Cleveland	366	1.6	2.0	3.0	0.5
Columbus	100	0.0	0.0	0.0	0.0
Dallas	2,172	1.4	2.0	2.2	2.7
Dayton	49	0.0	0.0	0.0	0.0
Denver	861	1.4	1.4	3.2	1.6
Detroit	1,058	0.9	1.3	2.3	1.5
Hartford	82	0.0	0.0	1.3	0.0
Houston	1,206	1.0	1.3	1.1	1.2
Huntsville	24	0.0	0.0	0.0	0.0
Indianapolis	121	0.0	0.0	0.0	0.0
Kansas City	928	2.2	2.2	1.5	1.9
Los Angeles	4,126	2.7	2.7	2.2	2.3
Milwaukee	111	0.0	0.9	0.9	0.9
Minneapolis	268	0.7	1.5	1.9	0.0
Miami	2,202	1.6	1.8	1.6	1.8
New York	4,469	2.8	2.6	2.7	2.5
Orlando	348	2.3	1.5	0.0	0.6
Pittsburgh	289	2.1	1.4	1.4	0.7
Philadelphia	2,242	2.9	2.9	3.5	5.6
Portland	554	2.5	1.5	2.7	2.4
Richmond	682	2.3	2.8	1.9	1.9
Sacramento	186	1.1	1.1	2.2	1.7
St. Louis	303	1.3	1.4	0.4	0.7
San Diego	2,919	5.2	4.7	3.1	3.5
San Francisco	1,111	2.0	1.8	1.9	3.0
Seattle	786	2.3	2.7	3.1	2.5
Washington, DC	7,466	1.8	1.8	1.6	1.9
Rest of U.S.	42,116	2.2	2.2	2.6	2.7
ALL LOCALITIES	84,039	2.2	2.2	2.4	2.5

Source: U.S. Office of Personnel Management's Central Personnel Data File

**QUIT RATES FOR NON-LEO OCCUPATIONAL SERIES 0083
POLICE OFFICERS BY LOCALITY PAY AREA (ALL PAY PLANS)**

Locality	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	58	3.4	1.9	6.0	6.1
Boston	196	4.1	4.3	5.1	5.1
Chicago	137	5.8	6.6	7.2	5.6
Cincinnati	18	0.0	5.6	11.1	11.8
Cleveland	38	0.0	0.0	5.8	8.5
Columbus	50	12.0	10.1	2.2	4.4
Dallas	126	6.3	4.9	4.8	0.8
Dayton	18	0.0	0.0	0.0	5.3
Denver	127	6.3	6.5	2.5	4.6
Detroit	76	2.6	1.3	4.1	5.4
Hartford	38	0.0	0.0	9.3	26.9
Houston	25	8.0	4.1	8.2	11.5
Huntsville	28	0.0	0.0	0.0	3.8
Indianapolis	13	0.0	0.0	0.0	7.9
Kansas City	49	0.0	6.3	0.0	0.0
Los Angeles	232	6.0	6.5	6.3	6.0
Milwaukee	35	5.8	11.7	21.0	21.4
Minneapolis	30	13.6	10.2	17.2	7.0
Miami	92	6.6	4.4	6.3	9.5
New York	443	8.1	7.9	11.7	8.5
Orlando	23	8.9	13.4	9.5	15.8
Pittsburgh	67	12.0	7.8	6.9	2.0
Philadelphia	250	5.6	7.0	5.2	4.0
Portland	20	10.0	9.5	0.0	10.5
Richmond	103	9.8	10.5	6.8	0.0
Sacramento	10	0.0	0.0	0.0	0.0
St. Louis	34	11.9	12.1	6.2	11.8
San Diego	169	7.1	5.8	9.7	2.5
San Francisco	242	11.6	10.5	7.0	5.7
Seattle	162	7.4	9.9	7.6	4.0
Washington, DC	1,599	5.0	4.9	5.5	5.0
Rest of U.S.	3,299	7.9	7.7	6.1	6.2
ALL LOCALITIES	8,242	7.2	6.9	6.3	5.8

Source: U.S. Office of Personnel Management's Central Personnel Data File

**QUIT RATES FOR NON-LEO GS-1816 IMMIGRATION INSPECTORS
BY LOCALITY PAY AREA (GENERAL SCHEDULE ONLY)**

Locality	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	87	6.9	5.0	2.9	0.0
Boston	63	6.3	6.7	5.4	0.0
Chicago	145	2.8	2.2	0.0	5.9
Cincinnati	13	0.0	8.3	8.3	0.0
Cleveland	7	0.0	0.0	0.0	0.0
Columbus	0	----	----	----	----
Dallas	83	2.4	1.3	0.0	3.3
Dayton	0	----	----	----	----
Denver	19	0.0	0.0	10.0	0.0
Detroit	233	2.6	2.4	2.2	0.9
Hartford	5	0.0	0.0	0.0	0.0
Houston	89	2.2	2.3	5.1	0.0
Huntsville	0	----	----	----	----
Indianapolis	2	0.0	0.0	0.0	0.0
Kansas City	0	----	----	----	----
Los Angeles	363	1.1	1.2	2.0	1.1
Milwaukee	2	0.0	75.0	0.0	0.0
Minneapolis	37	0.0	5.6	3.1	3.1
Miami	402	1.5	1.6	3.7	3.5
New York	594	3.4	3.3	2.2	3.8
Orlando	75	2.7	2.8	0.0	0.0
Pittsburgh	10	0.0	0.0	0.0	0.0
Philadelphia	58	3.5	3.9	0.0	0.0
Portland	12	0.0	0.0	0.0	0.0
Richmond	0	----	----	----	----
Sacramento	2	0.0	0.0	0.0	0.0
St. Louis	12	0.0	0.0	0.0	0.0
San Diego	406	2.0	2.5	1.7	1.3
San Francisco	206	1.9	1.5	3.5	5.9
Seattle	40	0.0	2.7	0.0	6.3
Washington, DC	142	2.8	2.2	9.9	1.9
Rest of U.S.	2,249	3.3	3.1	2.1	1.0
ALL LOCALITIES	6,050	2.5	2.4	2.2	1.7

Source: U.S. Office of Personnel Management's Central Personnel Data File

**QUIT RATES FOR NON-LEO GS-1890 CUSTOMS INSPECTORS
BY LOCALITY PAY AREA (GENERAL SCHEDULE ONLY)**

Locality	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	89	2.2	1.1	1.2	4.1
Boston	125	6.4	4.0	2.7	5.0
Chicago	166	0.0	2.4	0.6	1.3
Cincinnati	27	0.0	0.0	0.0	0.0
Cleveland	16	0.0	0.0	0.0	0.0
Columbus	5	0.0	0.0	0.0	16.7
Dallas	92	0.0	0.0	0.0	0.0
Dayton	10	0.0	0.0	0.0	0.0
Denver	18	0.0	0.0	0.0	0.0
Detroit	423	6.2	8.0	3.9	2.3
Hartford	8	0.0	0.0	0.0	0.0
Houston	185	1.1	1.7	0.0	0.7
Huntsville	3	0.0	0.0	0.0	0.0
Indianapolis	13	0.0	0.0	0.0	0.0
Kansas City	6	0.0	0.0	0.0	0.0
Los Angeles	465	5.2	4.8	2.3	1.7
Milwaukee	10	0.0	0.0	0.0	0.0
Minneapolis	30	6.8	3.5	0.0	0.0
Miami	708	2.3	3.2	4.5	5.2
New York	958	2.1	1.7	3.3	1.3
Orlando	45	0.0	0.0	0.0	0.0
Pittsburgh	12	0.0	0.0	8.3	0.0
Philadelphia	97	0.0	1.1	1.3	5.4
Portland	22	0.0	4.7	0.0	0.0
Richmond	4	0.0	0.0	0.0	0.0
Sacramento	5	0.0	0.0	0.0	0.0
St. Louis	13	0.0	0.0	0.0	0.0
San Diego	371	2.7	1.9	1.9	2.0
San Francisco	211	1.0	1.0	0.5	2.0
Seattle	128	7.8	4.0	1.0	0.0
Washington, DC	281	1.4	1.5	0.8	0.9
Rest of U.S.	3,983	2.0	1.9	2.0	1.5
ALL LOCALITIES	9,150	2.3	2.3	2.1	1.8

Source: U.S. Office of Personnel Management's Central Personnel Data File

QUIT RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

ALL GENERAL SCHEDULE LEOS					
GS Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
02	2	0.0	0.0	0.0	13.0
03	4	0.0	0.0	15.0	10.1
04	91	15.4	12.0	12.6	10.4
05	2,688	19.8	18.7	18.8	19.7
06	2,471	6.3	7.0	7.0	8.0
07	11,198	3.1	2.9	3.3	3.7
08	5,990	0.7	0.8	0.8	1.0
09	7,951	1.7	1.8	2.2	2.3
10	451	3.5	4.2	5.3	5.6
11	12,926	1.1	1.0	1.3	1.3
12	9,875	0.6	0.6	0.7	0.9
13	13,642	0.5	0.5	0.5	0.6
14	4,544	0.2	0.2	0.2	0.4
15	1,361	1.3	1.1	0.9	0.4
ALL	73,192	2.1	2.1	2.3	2.5

QUIT RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

GS-0007 CORRECTIONAL OFFICERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
03	1	0.0	0.0	0.0	20.0
04	18	45.7	24.2	25.4	11.3
05	643	10.6	10.8	14.6	17.5
06	1,501	8.1	9.4	9.6	10.3
07	5,340	3.0	2.5	2.4	3.0
08	4,912	0.7	0.8	0.7	1.0
09	1,411	0.4	0.3	0.7	0.7
11	820	0.2	0.1	0.2	0.1
12	58	0.0	0.0	0.0	0.0
13	39	5.1	2.6	0.0	0.0
ALL	14,741	2.7	2.7	3.3	3.9

GS-0025 PARK RANGERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	60	13.4	9.0	5.3	7.0
07	108	1.9	1.9	2.3	0.0
09	781	0.5	0.5	2.1	1.6
11	258	0.0	0.0	0.4	0.0
12	144	1.4	0.7	0.7	0.8
13	58	0.0	0.0	0.0	0.0
14	15	0.0	0.0	0.0	0.0
ALL	1,422	1.1	0.9	1.6	1.1

QUIT RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

GS-1811 CRIMINAL INVESTIGATORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	226	2.7	2.7	4.0	1.3
07	1,248	3.2	2.8	3.9	2.2
09	1,715	3.1	3.3	2.7	2.0
11	1,779	1.8	1.3	1.7	1.3
12	5,197	0.5	0.5	0.7	0.9
13	11,254	0.5	0.5	0.4	0.4
14	3,508	0.1	0.1	0.2	0.2
15	923	0.2	0.1	0.0	0.2
ALL	25,850	0.9	0.8	0.8	0.7

GS-1896 BORDER PATROL AGENTS (GENERAL SCHEDULE ONLY)					
GS Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	842	47.1	43.2	46.7	42.7
07	1,200	6.3	8.1	11.2	12.0
09	954	0.6	1.2	2.1	2.9
11	5,572	0.8	0.6	0.6	0.5
12	1,103	0.0	0.0	0.0	0.3
13	437	0.0	0.0	0.3	0.0
14	152	0.0	0.0	0.0	0.9
15	28	0.0	0.0	0.0	0.0
ALL	10,287	5.1	5.2	5.8	5.8

Note: The quit rates for GS-1896 Border Patrol Agents are in the 42-47 percent range at GS-5 and in the 6-12 percent range at GS-7, which reflects high quit rates during the first year of employment, which are largely attributable to failure to successfully complete basic training or probationary period. However, at the normal full-performance level of GS-11, the quit rate was 0.6 percent in FY 2003. (As a result of agency reclassification, the normal journey level for BPAs increased from GS-9 to GS-11 in August 2002.)

QUIT RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

LE-0083 SECRET SERVICE UNIFORMED DIVISION OFFICERS ("LE" PAY PLAN ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
01	903	6.4	6.6	4.0	5.6
04	155	0.0	0.0	0.0	1.5
05	52	0.0	0.0	0.0	0.0
07	18	0.0	0.0	0.0	0.0
08	10	0.0	0.0	0.0	0.0
09	3	0.0	0.0	0.0	0.0
10	1	0.0	0.0	0.0	0.0
11	1	0.0	0.0	0.0	0.0
ALL	1,143	5.1	5.2	3.2	4.7

SP-0083 PARK POLICE OFFICERS ("SP" PAY PLAN ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
01	404	3.0	2.3	2.1	3.2
03	17	0.0	0.0	0.0	0.0
04	115	0.0	0.0	0.8	0.8
05	40	0.0	0.0	0.0	0.0
07	17	0.0	0.0	0.0	0.0
08	8	0.0	0.0	0.0	0.0
10	1	0.0	0.0	0.0	0.0
ALL	602	2.0	1.5	1.5	2.3

Source: U.S. Office of Personnel Management's Central Personnel Data File

QUIT RATES FOR POLICE AND INSPECTORS

GS-0083 POLICE OFFICERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
03	52	35.0	20.0	14.8	0.0
04	224	13.4	16.2	16.7	16.1
05	2,290	11.0	10.9	10.9	8.4
06	2,516	8.3	7.2	5.9	7.1
07	915	2.8	3.0	3.3	2.8
08	568	1.8	1.7	1.3	1.9
09	249	2.4	1.6	2.3	2.3
10	77	5.2	2.5	0.0	1.2
11	81	0.0	0.0	1.3	0.0
12	40	0.0	0.0	0.0	2.8
13	6	0.0	0.0	0.0	0.0
14	1	0.0	0.0	0.0	0.0
ALL	7,016	7.9	7.4	6.8	6.1

GS-1816 IMMIGRATION INSPECTORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	1,131	5.7	6.4	8.3	4.9
07	1,148	4.7	3.9	1.3	2.9
09	388	3.1	2.3	2.1	1.8
11	2,644	0.8	1.0	0.6	1.2
12	520	0.0	0.0	0.8	0.4
13	165	0.0	0.6	0.0	0.7
14	48	0.0	0.0	0.0	0.0
15	8	0.0	0.0	0.0	0.0
ALL	6,050	2.5	2.4	2.2	1.7

Note: As a result of agency reclassification, the normal full-performance level for Immigration Inspectors increased from GS-9 to GS-11 in August 2002.

QUIT RATES FOR POLICE AND INSPECTORS

GS-1890 CUSTOMS INSPECTORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Quit Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	968	11.6	10.7	12.6	13.1
07	1,286	5.1	6.5	7.1	6.8
08	7	0.0	0.0	29.3	30.0
09	632	1.6	1.3	1.5	1.9
11	4,677	0.4	0.4	0.4	0.4
12	1,004	0.2	0.2	0.2	0.2
13	338	0.0	0.0	0.3	0.0
14	51	0.0	0.0	0.0	0.0
15	1	0.0	0.0	0.0	0.0
ALL	8,961	2.3	2.3	2.1	1.8

Note: As a result of agency reclassification, the normal full-performance level for Customs Inspectors increased from GS-9 to GS-11 in August 2002.

Source: U.S. Office of Personnel Management's Central Personnel Data File

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TRANSFER RATE DATA

For the purpose of CPDF turnover data, the term “transfer” is defined as a movement of an employee, without a break in service, from a position in one department or agency to a position in another department or agency. It may, or may not, be accompanied by a change in grade, occupation, etc. It does not include movements within a department or agency—i.e., from one subcomponent to another subcomponent. The FY 2003 transfer rates presented in this appendix do not include mass transfers in connection with the establishment of the Department of Homeland Security. The transfer rates referenced are annualized percentage rates—i.e., the percentage of the employee population that transfers during a year. (See General Notes for a more detailed description of how transfer rates are calculated.)

LEOs

As of 2003, approximately 84,000 full-time LEOs appeared in OPM’s CPDF. During FY 2001-2003, overall transfer rates for LEOs ranged from a low of 0.9 percent in FY 2001 to a high of 3.3 percent in FY 2002. The FY 2003 transfer rate for LEOs was 1 percent. (We note that the higher transfer rate in FY 2002 was largely a result of transfers to the Federal Aviation Administration (FAA)/Transportation Security Administration (TSA), a phenomenon seen across the Federal law enforcement community.) By comparison, the Governmentwide transfer rate for the over 1.2 million GS (and related pay plans) employees reported to the CPDF during FY 2001 and 2002 remained steady at 1.2 percent. (We do not provide Governmentwide transfer rates for FY 2003 because the data is artificially inflated as a result of mass transfers, primarily to the new Department of Homeland Security. A small number of mass transfers are included in the FY 2001 and 2002 data, but their impact on the overall transfer rate is less than a tenth of a percent.

Occupational Data

The largest LEO occupation, occupational series 1811 criminal investigator, comprises about 31 percent of the total LEO workforce. In FY 2001-2003, the transfer rates for these employees were 1.2, 2.1, and 1.2 percent, respectively. At the normal journey levels of GS-12 and GS-13, which include about 64 percent of criminal investigators, FY 2003 transfer rates were 1.4 and 1.2 percent, respectively.

The FY 2001-2003 transfer rates for GS-0007 correctional officers, who comprise about 18 percent of the LEO workforce, were 0.4, 3.3, and 0.7 percent, respectively. About 70 percent of correctional officers are at the normal journey levels of GS-7 and GS-8. At GS-7, the FY 2003 transfer rate for correctional officers was 1.2 percent. For GS-8 correctional officers, the FY 2003 transfer rate was 0.2 percent.

GS-1896 Border Patrol agents (BPAs) (including a few members of the Senior Executive Service (SES)) make up approximately 12 percent of the total LEO population. In FY 2001-2003, transfer rates for these employees were 1.6, 8.2, and 0.6 percent, respectively. As noted earlier, high transfer rates in FY 2002 were largely a result of transfers to FAA/TSA. For

example, BPAs at the normal journey level of GS-9 in FY 2002 transferred at a rate of 19.9 percent. (We note that, as a result of agency reclassification, the normal journey level for BPAs increased from GS-9 to GS-11 in August 2002.) In FY 2003, however, the transfer rate for BPAs in the new normal full-performance level of GS-11 was 0.9 percent.

Locality Data

We also examined transfer rates for LEOs in the 32 locality pay areas, paying particular attention to areas with large numbers of LEO employees. We note that the mobility associated with certain LEO jobs decreases the sensitivity of transfer rates based on location. For example, criminal investigators are often hired on the national level and are placed in locations where a need exists.

Among the 14 locality pay areas with more than 1,000 LEO employees, there was generally not a large difference in transfer rate percentages. Of the 14 areas, 11 had a transfer rate within 0.6 percent of the nationwide average of 1 percent. Among these areas, FY 2003 transfer rates ranged from a low of 0.5 percent in the Rest of U.S. (RUS) locality pay area (which includes about half of LEOs nationwide) to a high of 2.4 percent in Washington, DC.

Agency Data

The two largest employers of LEOs are the Department of Justice (DOJ), which accounts for about half of all LEOs nationwide, and the Department of Homeland Security (DHS), which accounts for about a third of all LEOs. Generally, the LEO transfer rates in the major departments employing LEOs were fairly close to the overall average LEO transfer rate. In FY 2003, when the overall average LEO transfer rate was 1 percent, the Department of Justice had the lowest transfer rate (0.6 percent) among the major departments employing LEOs, while the Department of Defense had the highest transfer rate (2.3 percent). Each major department showed higher transfer rates in FY 2002 than in the surrounding years.

Other Law Enforcement Personnel

We also examined transfer rates for over 23,000 occupational series 0083 police officers, GS-1816 immigration inspectors, and GS-1890 customs inspectors (including some customs inspectors in a “GG” system that is identical to the GS system), which are the three major categories of employees with arrest authority who are not covered by the special retirement provisions for LEOs under CSRS or FERS. The data for occupational series 0083 police officers includes officers paid under the “TR” pay plan at the U.S. Mint and the Bureau of Engraving and Printing (BEP) within the Department of the Treasury, as well as a relatively small group of employees paid under other pay plans.

Police Officers

In FY 2001-2003, transfer rates for the over 8,200 non-LEO police officers reported in the CPDF were 2.2, 4.4, and 2.5 percent, respectively. Like other law enforcement employees,

transfer rates for police officers across the Federal Government were higher than usual in FY 2002, largely as a result of transfers to FAA/TSA.

Police officers in the TR pay plan, which covers police in the Department of the Treasury's U.S. Mint and BEP, had FY 2001-2003 transfer rates of 1.7, 10.9, and 2.3 percent, respectively. Other than the peak in 2002, the transfer rates for officers covered by the TR pay plan were similar to those for non-LEO police officers as a whole during the last few years.

We also examined FY 2003 transfer rates for non-LEO police officers in each of the 32 locality pay areas. Among the 13 areas with more than 100 non-LEO police officers, 5 had transfer rates below, and 8 above, the nationwide average of 2.5 percent. The highest transfer rates during FY 2003 were reported in Denver (4.9 percent), Washington, DC (4.5 percent), Boston (4.3 percent), and New York (3.7 percent). In the RUS locality pay area, which includes approximately 40 percent of the non-LEO police force, the transfer rate in FY 2003 was 1.5 percent. In Los Angeles and San Francisco, two major cities with over 200 non-LEO police officers, transfer rates in FY 2003 were 3 and 3.3 percent, respectively.

The two largest employers of non-LEO police officers are the Department of Defense (DoD) and the Department of Veterans Affairs (VA). At DoD, which employs about 57 percent of non-LEO police, FY 2001-2003 transfer rates were 3.2, 3.0, and 2.2 percent, respectively. Approximately 28 percent of non-LEO police officers are employed at VA, where FY 2001-2003 transfer rates were 0.5, 4.2, and 3.0 percent, respectively.

We note that in January 2003, OPM established higher special rates for GS-0083 police officers in most agencies. Similar special rates were established for many Department of Defense GS-0083 police officers effective in April 2003. Also, since January 2003, the Veterans Administration (VA) established new or higher special rates for many of its GS-0083 police officers under VA's title 38 authority. We expect that these special salary rates will assist agencies in their efforts to recruit and retain police officers, but more time is needed to monitor and evaluate the full effect of the higher rates.

Inspectors

Transfer rates for another group of law enforcement employees, GS-1816 immigration inspectors, have typically been below those across all GS occupations. In FY 2001-2003, transfer rates for the more than 6,000 immigration inspectors were 0.9, 3.7, and 0.4 percent, respectively. Other than the elevated rate during FY 2002, transfer rates have remained under 1 percent. As mentioned previously, the Governmentwide transfer rate in both FY 2001 and 2002 was 1.2 percent.

At the normal full-performance level of GS-11, which includes about 44 percent of immigration inspectors nationwide, transfer rates were even lower in FY 2003. (We note that, as a result of agency reclassification, the normal journey level for immigration inspectors increased from GS-9 to GS-11 in August 2002.) During FY 2003, the transfer rate for GS-11 immigration inspectors nationwide was 0.3 percent. By comparison, the Governmentwide transfer rate across all GS-11 occupations in both FY 2001 and 2002 was 1.1 percent.

Data from the CPDF indicates that the low transfer rates are relatively consistent nationwide. Of the 9 localities with more than 100 immigrations inspectors in FY 2003, each had a transfer rate below 1 percent. The highest transfer rate in FY 2003 was in Miami, where immigration inspectors transferred at a rate of 0.8 percent. Two of the 9 localities, Boston and Los Angeles, did not report a single transfer during FY 2003.

Overall transfer rates for more than 9,100 GS-1890 customs inspectors have also remained relatively low. During FY 2001-2003, transfer rates for customs inspectors were 0.5, 2.2, and 0.3 percent, respectively. These rates are well below the 1.2 percent reported Governmentwide during FY 2001 and 2002.

Transfer rates for customs inspectors have remained even lower at the full-performance level, which includes more than half of customs inspectors nationwide. (We note that, as a result of agency reclassification, the normal journey level for customs inspectors increased from GS-9 to GS-11 in August 2002.) At GS-11, the transfer rate for customs inspectors was 0.2 percent in FY 2003. As noted above, the Governmentwide transfer rate across all GS-11 occupations in both FY 2001 and 2002 was 1.1 percent.

With the exception of one area, transfer rates for the 9 localities with more than 100 customs inspectors were less than 1 percent during FY 2003. In FY 2003, San Francisco had a transfer rate of 1.5 percent. However, we note that the transfer rate for customs inspectors in San Francisco was 0.5 percent for both FY 2001 and 2002. We also note that because of the relatively small number of customs inspectors in the San Francisco area, a few transfers can have a large impact on the overall transfer rate percentage. The lowest transfer rates in FY 2003 were in Boston, Houston, and San Diego, where no transfers were reported.

**TRANSFER RATES FOR ALL OCCUPATIONS BY GRADE
(GENERAL SCHEDULE AND RELATED ONLY)**

Grade Level	Mean Population	Transfer Rate		
	FY 2003	FY 2003	FY 2002	FY 2001
01-02	411		0.0	1.4
03	4,289		0.9	1.0
04	30,897		1.2	1.5
05	89,890		1.4	1.6
06	76,369		1.5	1.6
07	121,139		1.4	1.4
08	48,529		1.0	0.8
09	118,691		1.7	1.2
10	15,056		0.6	0.6
11	178,956		1.1	1.1
12	217,862		1.1	1.2
13	184,040		1.1	1.1
14	89,127		0.9	0.9
15	55,015		0.9	0.6
ALL	1,229,598		1.2	1.2
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>				
Note 1: Data includes non-seasonal, full-time, permanent employees covered by the General Schedule and related pay plans.				
Note 2: We do not provide Governmentwide transfer rate data for FY 2003 because the data is artificially inflated as a result of mass transfers, primarily to the new Department of Homeland Security.				

**TRANSFER RATES FOR SELECTED LEO AND OTHER LAW ENFORCEMENT OCCUPATIONS
(ALL PAY PLANS)**

Series	Occupation Name	Mean Pop	Transfer Rate			
		Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
LEOs						
0006	Correctional Institution Administration	1,726	0.7	0.4	1.3	0.5
0007	Correctional Officer	14,741	0.7	0.7	3.3	0.4
0025	Park Ranger	1,422	0.6	0.8	2.0	1.4
0082	United States Marshal	646	0.6	1.1	3.9	3.9
0083	Police	2,021	0.6	1.3	11.5	0.7
1801	General Inspection, Investigation, & Comp	6,760	2.8	2.7	2.7	1.0
1802	Compliance Inspection and Support	1,558	1.4	1.3	4.8	1.0
1811	Criminal Investigating	26,344	1.2	1.2	2.1	1.2
1896	Border Patrol Agent	10,290	0.4	0.6	8.2	1.6
2181	Aircraft Operation	531	0.0	0.0	0.0	0.5
	All Other LEOs	18,001	0.5	0.5	1.4	0.7
ALL LEO OCCUPATIONS		84,039	1.0	1.0	3.3	0.9
Other Law Enforcement Occupations						
0083	Police	8,242	2.3	2.5	4.4	2.2
1816	Immigration Inspection	6,050	0.4	0.4	3.7	0.9
1890	Customs Inspection	9,150	0.3	0.3	2.2	0.5
TOTAL		23,442	1.0	1.1	3.3	1.2
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>						

**TRANSFER RATES FOR LEOS AND SELECTED
OTHER LAW ENFORCEMENT OCCUPATIONS BY AGENCY (ALL PAY PLANS)**

Agency	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
LEOs					
Defense	2,004	1.3	2.3	3.4	2.3
Justice	42,856	0.6	0.6	3.4	0.8
Homeland Security	28,924	1.1	1.2	N/A	N/A
Interior	3,150	0.7	0.7	3.6	1.2
Treasury	3,192	1.3	1.1	2.3	0.4
Other Agencies	3,915	3.3	3.4	5.1	2.9
ALL AGENCIES	84,039	1.0	1.0	3.3	0.9
Other Law Enforcement Occupations					
<i>(Employees in the 0083,1816, or 1890 series who lack LEO retirement coverage)</i>					
Defense	4,716	1.7	2.2	3.0	3.1
Health and Human Services	68	8.9	9.5	21.3	9.9
Homeland Security	15,601	0.4	0.4	N/A	N/A
Treasury	597	3.7	2.7	2.8	0.6
Veterans Affairs	2,330	3.1	3.0	4.2	0.5
Other Agencies	131	6.1	5.5	9.8	3.2
ALL AGENCIES	23,442	1.0	1.1	3.3	1.2
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>					

**TRANSFER RATES FOR NON-LEO OCCUPATIONAL
SERIES 0083 POLICE OFFICERS BY AGENCY (ALL PAY PLANS)**

Agency	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Defense	4,702	1.7	2.2	3.0	3.2
Health and Human Services	68	8.9	9.5	21.3	9.9
Homeland Security	415	1.4	1.0	N/A	N/A
Treasury	597	3.7	2.7	10.5	1.7
Veterans Affairs	2,330	3.1	3.0	4.2	0.5
Other Agencies	131	6.1	5.5	9.8	3.2
ALL AGENCIES	8,242	2.3	2.5	4.4	2.2

Source: U.S. Office of Personnel Management's Central Personnel Data File

**TRANSFER RATES FOR LEOS BY LOCALITY PAY AREA
(ALL PAY PLANS)**

Locality	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	1,606	1.7	1.5	3.5	1.1
Boston	1,331	2.0	1.7	4.4	1.3
Chicago	1,553	1.4	1.6	2.2	1.6
Cincinnati	176	0.0	0.6	1.6	0.0
Cleveland	366	2.7	2.5	1.1	0.9
Columbus	100	2.0	1.0	0.0	0.0
Dallas	2,172	0.3	0.6	1.7	0.7
Dayton	49	0.0	2.1	0.0	2.1
Denver	861	1.6	1.5	3.1	1.6
Detroit	1,058	2.1	2.0	3.1	1.0
Hartford	82	0.0	0.0	3.8	1.3
Houston	1,206	1.2	1.2	3.7	0.6
Huntsville	24	0.0	0.0	0.0	3.9
Indianapolis	121	1.7	0.8	0.9	1.7
Kansas City	928	0.6	1.0	1.2	0.3
Los Angeles	4,126	1.6	1.4	2.4	0.9
Milwaukee	111	0.0	0.9	1.8	1.8
Minneapolis	268	1.5	1.1	4.3	1.1
Miami	2,202	1.5	1.6	3.5	0.8
New York	4,469	1.3	1.2	3.3	1.2
Orlando	348	0.6	0.3	2.3	1.3
Pittsburgh	289	2.1	1.4	1.9	2.7
Philadelphia	2,242	1.6	1.5	4.4	1.4
Portland	554	0.4	0.9	3.1	0.4
Richmond	682	1.2	1.3	0.6	0.6
Sacramento	186	1.1	1.6	0.0	1.1
St. Louis	303	1.3	0.7	0.4	1.9
San Diego	2,919	0.5	0.6	5.6	1.8
San Francisco	1,111	1.6	1.4	2.6	2.4
Seattle	786	2.3	2.3	5.7	1.6
Washington, DC	7,466	2.1	2.4	5.6	1.2
Rest of U.S.	42,116	0.5	0.5	3.0	0.7
ALL LOCALITIES	84,039	1.0	1.0	3.3	0.9

Source: U.S. Office of Personnel Management's Central Personnel Data File

**TRANSFER RATES FOR NON-LEO OCCUPATIONAL SERIES 0083
POLICE OFFICERS BY LOCALITY PAY AREA (ALL PAY PLANS)**

Locality	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	58	3.4	3.7	0.0	2.0
Boston	196	4.1	4.3	4.4	2.2
Chicago	137	1.5	2.2	2.9	1.4
Cincinnati	18	0.0	0.0	0.0	0.0
Cleveland	38	0.0	0.0	2.9	0.0
Columbus	50	0.0	0.0	0.0	2.2
Dallas	126	4.8	3.2	7.2	1.5
Dayton	18	0.0	0.0	5.3	0.0
Denver	127	6.3	4.9	10.6	2.3
Detroit	76	0.0	1.3	5.5	2.7
Hartford	38	0.0	5.2	9.3	0.0
Houston	25	0.0	8.1	4.1	0.0
Huntsville	28	0.0	0.0	0.0	0.0
Indianapolis	13	0.0	0.0	0.0	0.0
Kansas City	49	4.1	2.1	2.7	0.0
Los Angeles	232	2.6	3.0	5.4	4.3
Milwaukee	35	0.0	2.9	0.0	0.0
Minneapolis	30	0.0	0.0	3.4	0.0
Miami	92	4.4	5.5	11.5	0.0
New York	443	5.0	3.7	5.9	2.1
Orlando	23	8.9	4.5	4.8	0.0
Pittsburgh	67	3.0	3.1	3.5	0.0
Philadelphia	250	0.8	0.4	3.5	1.8
Portland	20	0.0	0.0	0.0	0.0
Richmond	103	2.0	1.0	5.1	8.3
Sacramento	10	0.0	0.0	37.5	0.0
St. Louis	34	0.0	3.0	3.1	2.9
San Diego	169	2.4	2.9	4.5	0.8
San Francisco	242	2.5	3.3	7.0	5.7
Seattle	162	1.2	1.2	0.8	0.0
Washington, DC	1,599	3.8	4.5	7.7	4.7
Rest of U.S.	3,299	1.3	1.5	2.4	1.0
ALL LOCALITIES	8,242	2.3	2.5	4.4	2.2

Source: U.S. Office of Personnel Management's Central Personnel Data File

**TRANSFER RATES FOR NON-LEO GS-1816 IMMIGRATION INSPECTORS
BY LOCALITY PAY AREA (GENERAL SCHEDULE ONLY)**

Locality	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	87	2.3	1.2	4.4	0.0
Boston	63	0.0	0.0	12.5	4.0
Chicago	145	0.0	0.0	5.4	1.0
Cincinnati	13	0.0	0.0	0.0	0.0
Cleveland	7	0.0	0.0	0.0	0.0
Columbus	0	----	----	----	----
Dallas	83	0.0	0.0	7.9	1.7
Dayton	0	----	----	----	----
Denver	19	0.0	0.0	10.0	0.0
Detroit	233	0.9	0.5	3.7	2.7
Hartford	5	0.0	0.0	33.3	0.0
Houston	89	0.0	1.1	5.1	1.6
Huntsville	0	----	----	----	----
Indianapolis	2	0.0	0.0	0.0	0.0
Kansas City	0	----	----	----	----
Los Angeles	363	0.0	0.0	1.7	0.4
Milwaukee	2	0.0	0.0	0.0	0.0
Minneapolis	37	5.5	2.8	9.2	3.1
Miami	402	1.0	0.8	7.4	0.3
New York	594	0.7	0.7	7.5	0.4
Orlando	75	0.0	0.0	1.6	1.7
Pittsburgh	10	0.0	0.0	0.0	0.0
Philadelphia	58	0.0	0.0	3.0	3.5
Portland	12	0.0	0.0	0.0	7.7
Richmond	0	----	----	----	----
Sacramento	2	0.0	0.0	0.0	0.0
St. Louis	12	0.0	0.0	0.0	0.0
San Diego	406	0.5	0.5	4.1	0.6
San Francisco	206	0.0	0.5	4.9	1.7
Seattle	40	0.0	0.0	3.0	0.0
Washington, DC	142	1.4	0.7	7.2	3.7
Rest of U.S.	2,249	0.3	0.4	2.0	0.7
ALL LOCALITIES	6,050	0.4	0.4	3.7	0.9
<i>Source: U.S. Office of Personnel Management's Central Personnel Data File</i>					

**TRANSFER RATES FOR NON-LEO GS-1890 CUSTOMS INSPECTORS
BY LOCALITY PAY AREA (GENERAL SCHEDULE ONLY)**

Locality	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
Atlanta	89	4.5	2.2	6.1	2.8
Boston	125	0.0	0.0	4.5	3.0
Chicago	166	1.2	0.6	3.7	1.9
Cincinnati	27	7.4	3.8	0.0	4.5
Cleveland	16	0.0	0.0	0.0	0.0
Columbus	5	0.0	0.0	0.0	0.0
Dallas	92	0.0	0.0	1.1	0.0
Dayton	10	0.0	0.0	0.0	0.0
Denver	18	0.0	0.0	0.0	0.0
Detroit	423	0.0	0.2	6.1	0.4
Hartford	8	0.0	0.0	0.0	0.0
Houston	185	0.0	0.0	5.0	0.0
Huntsville	3	0.0	0.0	0.0	0.0
Indianapolis	13	0.0	0.0	0.0	0.0
Kansas City	6	0.0	0.0	0.0	0.0
Los Angeles	465	0.4	0.2	4.5	0.6
Milwaukee	10	0.0	0.0	12.0	0.0
Minneapolis	30	0.0	0.0	0.0	0.0
Miami	708	0.3	0.4	2.3	0.3
New York	958	0.2	0.2	1.5	0.5
Orlando	45	0.0	0.0	2.2	0.0
Pittsburgh	12	0.0	0.0	0.0	0.0
Philadelphia	97	2.1	1.1	2.7	0.0
Portland	22	0.0	0.0	0.0	4.4
Richmond	4	0.0	0.0	0.0	0.0
Sacramento	5	0.0	0.0	0.0	0.0
St. Louis	13	0.0	0.0	0.0	0.0
San Diego	371	0.0	0.0	0.8	0.0
San Francisco	211	1.9	1.5	0.5	0.5
Seattle	128	0.0	0.8	0.0	1.1
Washington, DC	281	0.7	0.7	0.8	0.0
Rest of U.S.	3,983	0.2	0.2	2.0	0.4
ALL LOCALITIES	9,150	0.3	0.3	2.2	0.5

Source: U.S. Office of Personnel Management's Central Personnel Data File

TRANSFER RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

ALL GENERAL SCHEDULE LEOS					
GS Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
02	2	0.0	0.0	0.0	0.0
03	4	0.0	0.0	0.0	3.4
04	91	0.0	0.9	0.0	0.0
05	2,688	0.7	0.6	1.0	0.4
06	2,471	0.4	0.5	3.3	1.1
07	11,198	0.9	0.8	3.5	0.8
08	5,990	0.2	0.3	2.6	0.2
09	7,951	0.7	0.9	8.1	1.8
10	451	0.4	1.1	1.5	0.0
11	12,926	0.8	0.8	2.8	1.5
12	9,875	1.0	1.0	2.3	1.2
13	13,642	1.1	1.1	1.9	0.6
14	4,544	0.7	0.8	0.9	0.5
15	1,361	1.0	1.4	1.1	0.4
ALL	73,192	0.8	0.8	3.2	1.0

TRANSFER RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

GS-0007 CORRECTIONAL OFFICERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
03	1	0.0	0.0	0.0	0.0
04	18	0.0	0.0	0.0	0.0
05	643	0.6	0.8	1.0	0.5
06	1,501	0.5	0.7	3.7	1.1
07	5,340	1.3	1.2	3.9	0.6
08	4,912	0.2	0.2	2.7	0.2
09	1,411	0.3	0.4	2.1	0.1
11	820	0.2	0.6	6.8	0.0
12	58	0.0	1.7	3.4	0.0
13	39	0.0	0.0	0.0	0.0
ALL	14,741	0.7	0.7	3.3	0.4

GS-0025 PARK RANGERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	60	0.0	1.8	2.7	3.5
07	108	1.9	0.9	5.8	5.9
09	781	0.3	0.7	2.1	1.4
11	258	0.8	1.2	1.6	0.8
12	144	0.0	0.0	0.7	0.0
13	58	3.5	1.7	0.0	0.0
14	15	0.0	0.0	0.0	0.0
ALL	1,422	0.6	0.8	2.0	1.4

TRANSFER RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

GS-1811 CRIMINAL INVESTIGATORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	226	0.0	0.0	0.0	0.0
07	1,248	0.5	0.3	1.4	0.9
09	1,715	1.4	1.2	1.7	1.0
11	1,779	1.5	1.3	2.9	3.4
12	5,197	1.3	1.4	2.8	1.8
13	11,254	1.2	1.2	2.2	0.7
14	3,508	0.8	0.9	1.1	0.6
15	923	1.3	1.7	1.7	0.5
ALL	25,850	1.2	1.2	2.1	1.2

GS-1896 BORDER PATROL AGENTS (GENERAL SCHEDULE ONLY)					
GS Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	842	0.2	0.2	0.5	0.0
07	1,200	0.0	0.0	3.5	0.3
09	954	0.4	0.7	19.9	2.8
11	5,572	0.7	0.9	3.5	1.3
12	1,103	0.2	0.5	1.4	0.3
13	437	0.0	0.0	1.1	0.0
14	152	0.0	0.0	0.0	0.0
15	28	0.0	0.0	0.0	0.0
ALL	10,287	0.4	0.6	8.2	1.6

As a result of agency reclassification, the normal journey level for BPAs increased from GS-9 to GS-11 in August 2002.

TRANSFER RATES FOR SELECTED LEO OCCUPATIONS BY GRADE

LE-0083 SECRET SERVICE UNIFORMED DIVISION OFFICERS ("LE" PAY PLAN ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
01	903	1.1	2.3	15.1	0.7
04	155	0.0	0.7	19.9	0.0
05	52	0.0	1.9	3.8	0.0
07	18	0.0	0.0	0.0	0.0
08	10	0.0	0.0	0.0	0.0
09	3	0.0	0.0	0.0	0.0
10	1	0.0	0.0	0.0	0.0
11	1	0.0	0.0	0.0	0.0
ALL	1,143	0.9	2.0	14.8	0.6

SP-0083 PARK POLICE OFFICERS ("SP" PAY PLAN ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
01	404	0.5	0.3	12.6	1.5
03	17	0.0	0.0	6.7	0.0
04	115	0.0	0.9	4.2	0.8
05	40	0.0	0.0	0.0	0.0
07	17	0.0	0.0	0.0	0.0
08	8	0.0	0.0	0.0	0.0
10	1	0.0	0.0	0.0	0.0
ALL	602	0.3	0.3	9.2	1.1

Source: U.S. Office of Personnel Management's Central Personnel Data File

TRANSFER RATES FOR POLICE AND INSPECTORS BY GRADE

GS-0083 POLICE OFFICERS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
03	52	0.0	3.3	0.0	0.0
04	224	4.5	3.1	3.7	2.5
05	2,290	2.0	2.4	2.6	2.7
06	2,516	2.9	3.2	4.3	2.4
07	915	1.5	2.1	5.0	1.7
08	568	2.5	2.2	3.0	0.8
09	249	0.8	0.8	4.6	0.5
10	77	0.0	0.0	0.0	1.2
11	81	0.0	0.0	2.6	1.2
12	40	0.0	0.0	0.0	0.0
13	6	0.0	30.0	0.0	0.0
14	1	0.0	0.0	0.0	0.0
ALL	7,016	2.3	2.6	3.6	2.1

GS-1816 IMMIGRATION INSPECTORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	1,131	0.7	0.8	2.9	1.0
07	1,148	0.7	0.8	7.2	0.0
09	388	0.0	0.3	7.3	1.5
11	2,644	0.2	0.3	0.9	0.4
12	520	0.4	0.4	0.8	0.0
13	165	0.0	0.0	0.0	0.0
14	48	0.0	0.0	2.2	0.0
15	8	0.0	0.0	0.0	0.0
ALL	6,050	0.4	0.4	3.7	0.9

Note: As a result of agency reclassification, the normal full-performance level for Immigration Inspectors increased from GS-9 to GS-11 in August 2002.

TRANSFER RATES FOR POLICE AND INSPECTORS BY GRADE

GS-1890 CUSTOMS INSPECTORS (GENERAL SCHEDULE ONLY)					
Grade	Mean Pop	Transfer Rate			
	Last Half of FY 2003	Last Half of FY 2003	FY 2003	FY 2002	FY 2001
05	968	0.0	0.0	2.4	0.6
07	1,286	0.9	0.6	5.6	0.7
08	7	0.0	0.0	0.0	0.0
09	632	1.6	1.0	4.6	0.9
11	4,677	0.1	0.2	1.0	0.4
12	1,004	0.2	0.2	0.5	0.0
13	338	0.0	0.3	0.0	0.0
14	51	0.0	2.0	0.0	0.0
15	1	0.0	0.0	0.0	0.0
ALL	8,961	0.3	0.3	2.2	0.5

Note: As a result of agency reclassification, the normal full-performance level for Customs Inspectors increased from GS-9 to GS-11 in August 2002.

Source: U.S. Office of Personnel Management's Central Personnel Data File

**SUMMARY OF NONSTANDARD PAY AND BENEFITS
BY TYPE OF PAY OR BENEFIT**

A. Law Enforcement Officers (LEOs)		
Type of Pay or Benefit	Description of Nonstandard Pay and Benefits	Statutory and Regulatory Citations
Basic Pay System		
Basic pay system	<p>Judicial Branch Pay Plans <i>Court Personnel System</i> – This system covers 5,214 probation and pretrial services officers and assistants serving in Federal court units.</p> <p><i>Judiciary Salary Plan</i> – This system covers 200 chief and deputy chief probation officers and pretrial services officers.</p> <p><i>Administrative Office Classification, Compensation and Recruitment Systems (AOCCRS)</i> – This system covers 18 probation administrator/ special assistant positions in the Office of Probation and Pretrial Services in the Administrative Office of the U.S. Courts (AOUSC).</p>	<p>18 U.S.C. 3153 and 3672</p> <p>18 U.S.C. 3153 and 3672</p> <p>28 U.S.C. 602 note, Public Law 101-474</p>
	<p>Transportation Security Administration (TSA) Pay Plans <i>Core Compensation Plan</i> – TSA has a pay banding system for GS-equivalent employees, including law enforcement officers. This plan covers an unspecified number of air marshals and 51 criminal investigators (SV-1811) in a specialized law enforcement job category with a specific banding structure. This TSA system, which is modeled after the FAA pay plan, has higher pay ranges than the GS system. Also, the cap on locality-adjusted rates is EX-III (compared to EX-IV for GS employees). CPDF pay plan code: SV.</p> <p><i>TSA Senior Executive Service Plan (TSES)</i> – TSA has a pay plan for its senior executives that provides higher pay levels than the Governmentwide SES pay plan. Included in coverage are 3 senior executives who are LEOs. The cap on locality-adjusted rates is EX-II (compared to EX-III for regular SES officials). CPDF pay plan code: SW.</p>	TSA law & administrative action under that law.
	<p>U.S. Postal Inspection Service (USPIS) Pay Plans <i>Inspection Service Law Enforcement (ISLE)</i> – The ISLE pay plan covers 1,852 Postal inspectors (ISLE-2335) in the USPIS. The ISLE schedule mirrors the General Schedule (GS). Postal inspectors receive the same locality payments as GS employees. Under 39 U.S.C. 1003, the compensation and benefits for Postal inspectors must be comparable to those provided for comparable levels of work in the Executive branch outside of the Postal Service. (See Public Law 104-208, div. A, title I, sec. 101(f) (title VI, sec. 662(c)(2), September 30, 1996.) The Postal Service implemented this law by making the Postal inspector pay provisions parallel to those for GS criminal investigators.</p> <p><i>Inspection Service Executive Schedule (ISES)</i> – The ISES pay plan covers 36 USPIS senior executives (ISES-2335). Consistent with 39 U.S.C. 1003, this schedule mirrors the Governmentwide SES schedule (including locality payments).</p>	39 U.S.C. 1003(c)

<p>U.S. Postal Service – Office of Inspector General (IG) Pay Plan The USPS IG pay plan includes coverage of 133 criminal investigators. By law, the compensation and benefits of USPS IG employees must be comparable to those provided for comparable levels of work in other IG offices in the Government. The USPS IG implemented this law by creating a broad-banding system with pay ranges directly linked to GS or SES pay ranges. For example, Band II, which is the normal journey level for IG criminal investigators, covers the pay ranges for GS-13 and GS-14. Similarly, the IGES band covers the same range as the SES pay rates.</p>	39 U.S.C. 1003(b)
<p>Secret Service Uniformed Division (SSUD) Pay System The SSUD officer pay system is established in the DC Code. (Same pay system applies to Park Police officers in the Department of the Interior.) Covers 1,116 police officers (LE-0083) ranked from private to Chief. The SSUD officer pay system provides higher pay than is available for GS police officers. Basic pay is based on rank and years of total service. CPDF pay plan code: LE.</p>	DC Code § 5-545.01 § 5-563.02
<p>U.S. Park Police Pay System The Park Police Pay System is identical to the SSUD officer pay system. It covers 617 officers (SP-0083). CPDF pay plan code: SP.</p>	DC Code § 5-545.01 § 5-563.02
<p>Capitol Police Pay Plan By law, the basic pay plan for Capitol Police is established and maintained by the Capitol Police Board. The plan covers 1,490 police officers (all ranks). The pay schedule for Capitol police is significantly higher than that for GS police officers and is higher than the schedules for SSUD and Park Police officers. (Note: Capitol Police officers receive retirement benefits equivalent to those for LEOs. See Retirement section below.)</p> <p>(Note: Under Public Law 108-7, Division H, Title I, Section 1015, Library of Congress police officers will be eventually transferred to the Capitol Police. There are 131 Library of Congress police officers.)</p>	40 U.S.C. 207b(a)
<p>Supreme Court Police Pay Plan The Supreme Court Police pay plan covers 120 officers. The pay plan is identical to the pay plan for Capitol Police (comparing common ranks). The pay range for Supreme Court Police Chief matches the rates for the Capitol Police Deputy Chief except at steps 13-16. (Note: Supreme Court Police officers receive retirement benefits equivalent to those for LEOs. See Retirement section below.)</p>	28 U.S.C. 13f and 672(b)
<p>Internal Revenue Service (IRS) Broad-Banding System The IRS Restructuring and Reform Act of 1998 authorized the Secretary of the Treasury to establish one or more broad-banding systems to cover IRS employees under criteria established by OPM in a Federal Register notice. Using this authority, Treasury established a broad-banding system for IRS senior managers, including 75 criminal investigators (IR-1811). By law, pay bands are linked to GS ranges. CPDF pay plan code: IR.</p>	Public Law 105-206 & 5 U.S.C. 9509 65 FR 79433, December 19, 2000
<p>Nuclear Regulatory Commission (NRC) General Salary Schedule and Senior Level (SN) Salary Schedule The NRC General Salary Schedule has been adopted by the Executive Director for Operations and the Inspector General and is applicable to GS-equivalent NRC employees, including 41 criminal investigator positions (GG-1811). The SN Salary Schedule applies to 1 criminal investigator position (SN-1811). The NRC General Salary Schedule is generally identical to the Governmentwide General Schedule. The NRC Senior Level Salary Schedule is generally identical to the Governmentwide Senior Level (SL) Schedule. CPDF pay plan codes: GG and SN.</p>	Section 161.d of the Atomic Energy Act of 1954, Public Law 83-703, August 30, 1954
<p>Federal Deposit Insurance Corporation (FDIC) Pay Plan FDIC's Corporate Graded (CG) pay plan covers 34 special agents (CG-1811) as well as most other FDIC employees. All of the special agents are employed in the FDIC Office of Inspector General. By law, the FDIC pay plan must be comparable to the pay plans for other financial regulatory</p>	12 U.S.C. 1819

agencies. (See Public Law 101-73, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 or "FIRREA.") Pay levels are generally more generous than found in the GS system. CPDF pay plan code: CG.	
National Credit Union Administration Credit Union (CU) Pay Plan The CU pay plan covers 1 senior special agent (CU-1811). The NCUA is one of the financial regulatory agencies with an independent pay setting authority. These agencies are required to maintain comparability in pay and benefits with one another. CPDF pay plan code: CU.	12 U.S.C. 1766(j)(1) and 1833b
Securities and Exchange Commission (SEC) Pay Plan The SEC pay plan for GS-equivalent employees includes coverage of 5 senior investigators (SK-1811) who are LEOs. By law, SEC is required to maintain comparability in pay and benefits with other Federal financial regulatory agencies. (See the Investor and Capital Markets Fee Relief Act, Public Law 107-123, January 16, 2002.) Thus, pay levels are generally higher than GS pay levels. CPDF pay plan code: SK.	Public Law 107-123; 5 U.S.C. 4802
Farm Credit Administration (FCA) Pay Plan The FCA pay plan for GS-equivalent employees includes coverage of 1 criminal investigator (VH-1811). The FCA is one of the financial regulatory agencies with an independent pay setting authority. These agencies are required to maintain comparability in pay and benefits with one another. CPDF pay plan code: VH.	12 U.S.C. 2245
Government Printing Office (GPO) Pay Plan The GPO has a special pay schedule that covers its 7 criminal investigators (PG-1811). The GPO criminal investigator pay schedule has grades that correspond to GS grades, each with 10 steps like the GS. The pay schedule in effect on June 1, 2003, provides rates 10% higher than corresponding GS rates; however, these investigators do not receive availability pay like GS criminal investigators. The normal journey level is grade 12. CPDF pay plan code: PG.	44 U.S.C. 305
Commerce – Foreign Service Salary Schedule The Foreign Service salary schedule includes coverage of 4 agents (FP-1811) within the U.S. Foreign and Commercial Service, Export Control Attaché, who are LEOs. Although most Foreign Service officers are covered by the Foreign Service retirement system and therefore do not meet the definition of LEO, these agents are covered by title 5 retirement systems and therefore meet the LEO definition. (See the Export Administration Act of 1979.) CPDF pay plan code: FP.	50 U.S.C. 2401-2420
DOD – Defense Protective Service (DPS) Pay Plan The DPS police protect the Pentagon and surrounding areas. By law, DPS police officers (AD-0083) are covered by a special pay system administered by the Secretary of Defense. (See section 1101 of Public Law 107-107, December 28, 2001.) DOD has administratively adopted the same pay plan that applies to SSUD officers (see above). While DPS police generally do not have LEO status, DOD reports that 2 DPS officers have such status. CPDF pay plan code: AD.	10 U.S.C. 2674(b)
DOD - Defense Civilian Intelligence Personnel (DCIP) System The DCIP system is established under title 10 but uses the General Schedule pay ranges and rules. It covers 3 employees classified in the Intelligence occupational series (2 in GG-0132 and 1 in IE-0132 positions). (The GG plan is for GS-equivalent employees and the IE plan is for those in the Senior Intelligence Executive Service.)	10 U.S.C. 1601-1614
DOD – Demonstration Projects DOD has several demonstration projects with broad-banding systems. DOD reported having a small number of LEOs covered by such projects:	5 U.S.C. 4701-4705 and DOD laws (see left column)

	<p>- <i>DOD Civilian Acquisition Workforce Demonstration Project:</i> Covers 1 NK-1106 LEO position. (See sec. 4308 of Public Law 104-106, National Defense Auth. Act for FY 1996, as amended by sec. 845 of Public Law 105-85, National Defense Auth. Act for FY 1998.)</p> <p>- <i>DOD Scientific and Technical Laboratories:</i> - NAVSEA/SYSCOM Warfare Centers covers 1 ND-0855 LEO position. - 5 Army demonstration projects use the DK pay plan. There was 1 LEO reported as a DK-0318.</p> <p>(Statutory authority for the DOD Labs is found in sec. 342 of Public Law 103-337, Oct. 5, 1994, National Defense Auth. Act for FY 1995, as amended by sec. 1114 of Public Law 106-398, Oct. 30, 2000, National Defense Auth. Act for FY 1995.) CPDF pay plan codes: NK, ND, and DK, as indicated.</p>	
Overtime and Other Premium Pay		
Overtime (OT) pay	SSUD and Park Police Officers OT rate = 1.5 x basic rate at lower ranks; straight rate at higher ranks (Lieutenant and above).	DC Code § 5-1304(d)(1)
	Capitol Police Officers At the rank of Lieutenant or higher, current policy allows for earning of compensatory time off, but no overtime pay. (Note: Under section 1009 of division H of Public Law 108-7, Feb. 20, 2003, the Capitol Police Chief may provide for overtime compensation for officers at rank of lieutenant and above, consistent with the overtime rules for SSUD and Park Police officers.)	40 U.S.C. 207b(a)
	Note: Under the standard title 5 overtime provisions, FLSA-covered employees receive 1.5 times the hourly regular rate for overtime hours and FLSA-exempt employees receive 1.5 times the GS adjusted basic hourly rate (subject to a cap equal to 1.5 times the GS-10, step 1, adjusted rate of basic pay).	
Sunday pay	TSA LEOs Same as under title 5, except that TSA employees receive 25% Sunday pay only for nonovertime hours that actually fall on Sunday. (Same as FAA rule.) (Note: The TSA rule is less generous than the title 5 rule in 5 U.S.C. 5546(a) which provides 25% Sunday pay for each nonovertime hour that is part of a tour that falls in whole or in part on Sunday.)	TSA law and requirement to follow FAA rules unless TSA modifies.
Night pay	TSA LEOs Same as under title 5, except that TSA employees may not receive 10% night pay during paid leave hours. (Same as FAA rule.) (Note: The TSA rule is less generous than the title 5 rule in 5 U.S.C. 5545(a), which provides night pay for paid leave hours during night hours as long as total hours of paid leave during the pay period are less than 8 hours.)	TSA law and requirement to follow FAA rules unless TSA modifies.
Holiday work pay	SSUD and Park Police Officers 100% premium for nonovertime holiday work; same as title 5 except that 30 minutes or more is rounded to full hour. (These officers are also covered by title 5 holiday pay under 5 U.S.C. 5541(2)(iv)(II). SSUD reported that is applied the DC code rule.)	DC Code § 5-521.01-03
Premium pay caps	TSA LEOs TSA generally follows title 5 premium pay caps, but has grandfathered some employees who were hired before it decided to apply those caps. (Note: FAA does not have premium pay caps. TSA initially followed that FAA policy, but then modified it.)	TSA law and administrative application.
	SSUD and Park Police Officers SSUD officers are subject to a premium cap in the DC Code, which follows the old rules for LEOs in 5 U.S.C. 5547 before that section was	DC Code § 5-1304(h)(3)

	amended—lower of EX-V or 150% of GS-15, step 1, rate (including locality pay).	
	Secret Service Employees Performing Protective Duties A special <i>annual</i> premium pay cap applies to Secret Service agents and certain other employees who perform protective duties under 18 U.S.C. 3056(a). The cap is at the same dollar level as the standard title 5 premium cap in 5 U.S.C. 5547 but is mandatory rather than permissive.	Section 118 of the Treasury General Appropriations Act, 2001 (section 1(3) of Pub.L. 106-554).
	Capitol Police Officers Normally subject to a biweekly cap. Premium pay may not be paid to the extent it causes the sum of basic pay and premium pay to exceed \$5,885.46 (which is the biweekly rate corresponding to the annual rate of \$153,022). (Note: Under section 1012 in division H of Public Law 108-7, the cap is to be applied on an annual basis, not a pay period basis, during emergencies as determined by the Capitol Police Board.)	40 U.S.C. 207b(a)
Availability pay	TSA Air Marshals TSA air marshals are entitled to retirement-creditable availability pay on the same basis as criminal investigators under the regular title 5 rules (but administered by TSA instead of OPM). Thus, title 5 caps now apply, but TSA is paying above those caps for a grandfathered group.	TSA law and administrative application.
Compensatory time off	SSUD and Park Police Officers Similar to title 5 except that fractional hours are rounded to the nearest hour.	DC Code §5-1304(d)(2) & (f)
Premium Pay (General)	Postal Inspectors USPIS Postal inspectors under the ISLE pay plan receive premium pay (including availability pay) in the same manner as GS criminal investigators. Also, Postal inspectors are subject to premium pay caps that parallel those in 5 U.S.C. 5547. (While parallel to the entitlements for GS criminal investigators, the Postal Service administers these pay provisions for Postal inspectors, instead of OPM.)	39 U.S.C. 1003(c)
	Postal Service IG Criminal Investigators These investigators receive premium pay (including availability pay) in the same manner as GS criminal investigators, subject to the same caps.	39 U.S.C. 1003(b)
	TSA LEOs TSA has independent authority (like FAA) to establish premium pay rules for its employees; however, except as noted above, TSA is following rules that parallel title 5 premium rules with respect to its LEOs.	TSA law and administrative application.
	Capitol Police Officers These officers are not covered under the standard title 5 premium pay provisions. However, they are currently subject to parallel rules for holiday, Sunday, and night premium pay. The Capitol Police overtime rules for FLSA-exempt employees and their premium pay caps are different than the standard title 5 provisions and, therefore, are described above. (Note: Library of Congress police are covered under the standard title 5 premium pay provisions until they are transferred to the Capitol police. See 5 U.S.C. 5541(1)(D).)	40 U.S.C. 207b(a)
	Supreme Court Police Officers These officers are not covered under the standard title 5 premium pay provisions. No information on premium pay entitlements provided.	
	Certain Immigration Inspectors About 250 immigration inspectors have duties that qualify them as LEOs under the retirement laws. They receive overtime pay, Sunday pay, and holiday premium pay under the “1931 Act” for any immigration inspection work they perform. (See descriptions of “1931 Act” immigration inspector provisions under Part B of this table.) For non-inspection work, they are covered by standard title 5 premium pay provisions.	

Leave		
	<p>TSA LEOs TSA senior executives may be placed in the 8-hour leave accrual category and given a starting leave balance of 40 hours, regardless of the amount of Federal service. (Same as FAA.)</p>	TSA law and requirement to follow FAA rules unless modified.
Retirement		
DC police retirement plan	<p>SSUD Officers & Secret Service Agents While most SSUD officers and Secret Service agents are covered under FERS, a closed group of non-FERS officers/agents are covered under the DC police retirement plan. Before FERS, SSUD officers were covered by the DC police retirement plan. Also, CSRS-covered Secret Service agents are eligible to transfer to the DC police retirement plan (based on having 10 years or more of time directly related to the protection of the President). Secret Service retirees under the DC police retirement plan are not subject to the reemployed annuitant offset that applies (absent a waiver) to CSRS/FERS retirees who are employed by the Federal Government. Secret Service retirees in the DC police retirement plan are entitled to annuity adjustments based on changes in salary for active employees (equalization provision), while CSRS/FERS retirees receive cost-of-living adjustments (COLAs). (Note: Formerly DC police were covered by such an equalization provision; however, all DC police who retired on or after February 15, 1980, receive COLAs instead of an equalization adjustment.)</p>	DC Code § 5-701(1) & 5-703
LEO-equivalent retirement benefits	<p>Capitol Police While not under the CSRS or FERS definition of LEO, Capitol Police officers are entitled to CSRS/FERS retirement benefits that are equivalent to those for LEOs.</p> <p>Under CSRS, Capitol Police officers are eligible for the enhanced annuity computation for Congressional employees, but with a limit so that no more than 20 years may be multiplied by 2.5% of average pay (same as LEOs—compare to 5 U.S.C. 8339(d)). May retire at age 50 with 20 years of service (same as LEOs—compare to 5 U.S.C. 8336(c)). Generally subject to mandatory separation at 57 (same as LEOs—compare to 5 U.S.C. 8335(b)).</p> <p>Under FERS, Capitol Police officers are eligible for same early and enhanced annuity benefits as LEOs.</p>	<p>5 U.S.C. 8335(c), 8336(m), and 8339(b) and (q)</p> <p>5 U.S.C. 8412(d), 8415(d), and 8425(c)</p>
	<p>Supreme Court Police While not under the CSRS or FERS definition of LEO, Supreme Court Police officers are entitled to retirement benefits that are equivalent to those for LEOs.</p> <p>Under CSRS, Supreme Court Police officers are entitled to the same annuity computation as LEOs. May retire at age 50 with 20 years of service (same as LEOs). Generally subject to mandatory separation at 57 (same as LEOs).</p> <p>Under FERS, Supreme Court Police officers are eligible for the same early and enhanced annuity benefits as LEOs.</p>	<p>5 U.S.C. 8335(d), 8336(n), and 8339(d) and (r)</p> <p>5 U.S.C. 8412(d), 8415(d), and 8425(d)</p>

B. Other Law Enforcement Employees

Type of Pay or Benefit	Description of Nonstandard Pay and Benefits	Statutory and Regulatory Citations
Basic Pay System		
Basic pay system	<p>Postal Security Officers The USFIS employs 1,239 US Postal Security Force personnel (occupation code 2335): 1,062 officers are bargaining unit employees compensated under the Postal Police Officers' (PPO) schedule and 177 officers are supervisors/managers are compensated under the standard Postal Service Executive and Administrative Schedule (EAS).</p>	USPS law.
	<p>Veterans Affairs (VA) Police Officers VA employs 2,311 police officers, GS-0083. While these officers are covered by the General Schedule, 981 are covered by higher special salary rates established by VA under a title 38 authority.</p>	38 U.S.C. 7455
	<p>Bureau of Engraving and Printing (BEP) and U.S. Mint Police Officers Bureau of Engraving and Printing and U.S. Mint (in Treasury) have a total of 574 police officers, TR-0083. By law, these officers are covered under a pay system administered by the Secretary of the Treasury. The rate of basic pay for these police may not be less than the minimum rate for GS-7 or more than the maximum rate for GS-15. The current BEP/Mint police pay schedule sets pay significantly above GS rates for comparable police officers but below the rates for SSUD officers and Park Police officers). CPDF pay plan code: TR.</p>	5 U.S.C. 5378
	<p>Department of Defense – Defense Protective Service (DPS) Pay Plan The DPS police (450+) protect the Pentagon and surrounding areas. By law, DPS police officers (AD-0083) are covered by a special pay system administered by the Secretary of Defense. (See section 1101 of Public Law 107-107, December 28, 2001.) DOD has administratively adopted the same pay plan that applies to SSUD and Park Police officers. The DPS pay plan also covers the Protective Service manager and the Deputy Chief (AD-0301). CPDF pay plan code: AD.</p>	10 U.S.C. 2674(b)
	<p>National Security Agency (NSA) Police Officers All NSA civilian employees, including police officers, are covered by a NSA-administered pay plan that mirrors the General Schedule. CPDF pay plan code: GG.</p>	10 U.S.C. 1601 et seq.
	<p>Supreme Court Marshals The Supreme Court Marshal, Chief Deputy Marshal, and Deputy Marshal for Security are covered under the Supreme Court Pay Schedule.</p>	28 U.S.C. 672(a) and (b)
	<p>Government Printing Office (GPO) Police Officers The GPO police officer pay schedule covers 54 police officers (PG-0083). The GPO pay schedule has grades that correspond to GS grades, each with 10 steps like the GS, but pay levels are higher. The normal journey level for GPO police officers is grade 5. CPDF pay plan code: PG.</p>	44 U.S.C. 305
	<p>National Institute of Standards and Technology (NIST) Police Officers The National Institute of Standards and Technology (in Commerce) Alternative Personnel Management System is a broad-banding system linked to the GS that includes coverage of 32 employees in the ZS-0083, police officer, and 1 employee in the ZA-0301, supervisory emergency management specialist, series. CPDF pay plan codes: ZA and ZS.</p>	Public Law 99-574 Section 10 of Public Law 104-113, March 7, 1996
	<p>National Zoological Park Police By law, the Secretary of the Smithsonian Institute is authorized to fix the rates of basic pay for officers in the National Zoological Park police force (about 23 officers). The maximum pay rates for various ranks are</p>	5 U.S.C. 5375

	<p>statutorily linked to the maximum GS rates for specified grades (e.g., GS-7 for privates) as opposed to using GS classification standards. The pay rates are identical to GS rates for corresponding grades. CPDF pay plan code: None (uncoded pay plan in CPDF).</p>	
	<p>DOD - Defense Civilian Intelligence Personnel (DCIP) System The DCIP system is established under title 10 but uses the General Schedule pay ranges and rules. It covers 41 police officers, GG-0083. CPDF pay plan code: GG.</p>	10 U.S.C. 1601-1614
	<p>DOD – Demonstration Projects DOD has several demonstration projects with broad-banding systems. The following projects are reported as covering LEOs:</p> <ul style="list-style-type: none"> - <i>NAVSEA-SYSCOM Warfare Centers Project:</i> Covers 58 NG-0083 positions, 1 NG-0085 position, and 1 NT-1810 position. - <i>Department of the Navy Alternative Personnel System (“China Lake”):</i> Covers 10 DG-0083 positions, 3 DP-1810 positions, and 2 DA-0083 positions. <p>CPDF pay plan codes: NG, NT, DA, DG, and DP.</p>	Sec. 342 of Public Law 103-337, Oct. 5, 1994, National Defense Auth. Act for FY 1995, as amended by sec. 1114 of Public Law 106-398, Oct. 30, 2000, National Defense Auth. Act for FY 1995
	<p>Department of State - Foreign Service - Diplomatic Security Service The Foreign Service is a rank-in-person rather than rank-in-position system. There are 9 classes in the Foreign Service (FS), with 14 steps within each class. Classes begin at the FS-09 level and rise to FS-01. The FS has two primary pay plans: FO for Foreign Service Officers and FP for Foreign Service Specialists. There are three classes within the Senior Foreign Service (SFS, pay plan FE), but pay is broken out into 6 levels, to match the structure of the Senior Executive Service (SES). The final grade structure for FS positions was set at a somewhat higher level than the GS to account for the increased complexity of working in an overseas environment and other elements unique to FS work. There are 30 senior foreign service (FE-2501) and 1320 special agents (FP-2501) who are non-LEOs with arrest authority—all employed by the Diplomatic Security Service. CPDF pay plan codes: FE and FP, as indicated. (Note: These Foreign Service personnel are covered by the Foreign Service Retirement System and, thus, are not covered as LEOs under CSRS and FERS. See Retirement section below.)</p>	22 U.S.C. chapter 52
	<p>U.S. Agency for International Development - Foreign Service AID employs 13 special agents (1811 series) who are covered by the Foreign Service pay and retirement systems. CPDF pay plan code: FP.</p>	Public Law 96-465
Special Pay Supplements		
Foreign language bonus	<p>Customs Inspectors and Canine Enforcement Officers Customs officers (in DHS) may receive up to 5% of basic pay to compensate for use of foreign language as part of job. (Same as foreign language award for LEOs under 5 U.S.C. 4523.)</p>	Title 5 (5 U.S.C. 4523) and COPRA
Special differential	<p>U.S. AID Commissioned Foreign Service Special Agents These special agents receive special differential of 15% of their basic pay instead of availability pay. They are covered by the Foreign Service pay and retirement systems.</p>	Public Law 96-465
Overtime and Other Premium Pay		
Overtime pay	<p>Customs Inspectors and Canine Enforcement Officers Customs officers (i.e., GS-1890 customs inspectors and GS-1801 canine enforcement officers): OT rate = 2 x basic rate.</p>	COPRA
	<p>Immigration Inspectors Immigration inspectors (in DHS) (for certain inspection work): OT rate = 4 hours at basic rate for each 2 OT hours or fraction thereof, if at least 1 hour is worked between 5:00 pm and 8:00 am (double time plus possible credit for time not worked due to use of 2-hour blocks).</p>	1931 Act (covers immigration inspection work only)

	Postal Security Force (PSF) Officers Overtime pay rules for nonsupervisory PSF officers (PPO plan) are established by collective bargaining. PSF supervisors at EAS level 18 or below are eligible for additional straight-time pay when they are authorized to work more than 8.5 hours per scheduled work day, or at any time on a non-scheduled work day. All time worked that exceeds the normal work schedule will be paid at straight time rate if the authorized work exceeds one half-hour per day. All authorized time worked on a non-scheduled work day will receive additional straight time pay.	USPS law
Commuting time pay	Customs Inspectors and Canine Enforcement Officers Credited with 3 hours at basic rate when called back within 16 hours of last regular shift, as long as OT does not start within 2 hours of next regular shift. (Note: Regular commuting time is not creditable under standard title 5 overtime provisions.)	COPRA
Sunday pay	Customs Inspectors and Canine Enforcement Officers 50% premium for Sunday work, which is defined as nonovertime hours on a Sunday that is not a holiday.	COPRA
	Immigration Inspectors When performing certain inspection work, immigration inspectors receive Sunday pay as follows: 2 days' pay at basic rate for any amount of time less than 9 hours worked on a Sunday (roughly 100% premium plus possible credit for hours not worked).	1931 Act
	Note: Under standard title 5 provisions applicable to most employees, Sunday pay is 25 percent of the GS adjusted hourly rate of basic pay for each nonovertime hour that is part of a tour that falls in whole or in part on Sunday.	
Night pay	Customs Inspectors and Canine Enforcement Officers 15% or 20% premium, depending on hours/shifts based on a majority-of-hours-in-tour concept.	COPRA
	Note: Under standard title 5 provisions, the night pay differential is 10% for regularly scheduled overtime hours between 6:00 pm and 6:00 am. See 5 U.S.C. 5545(a). Blue collar employees under the Federal Wage System, receive 7.5% or 10% night differential depending on hours/shifts based on majority-of-hours-in-tour concept.	
Holiday work pay	Customs Inspectors and Canine Enforcement Officers 100% premium for nonovertime holiday work (same as title 5 but not subject to title 5 premium pay caps).	COPRA
	Immigration Inspectors When performing certain inspection work, immigration inspectors receive holiday pay as follows: 2 days' pay at basic rate for any amount of time less than 9 hours worked on holidays (roughly 100% premium plus possible credit for hours not worked).	1931 Act
Premium pay caps	Customs Inspectors and Canine Enforcement Officers \$30,000 annual cap on COPRA overtime and premium pay. COPRA overtime and premium pay are not subject to title 5 cap.	COPRA & appropriations law
	Immigration Inspectors \$30,000 annual cap on all forms of overtime pay and 1931 Act premium pay. This cap covers all INS employees, not just inspectors.	1931 Act & appropriations law
Premium Pay (general)	Postal Security Force Officers These officers are not covered under the standard title 5 premium pay provisions. Information on overtime pay is provided above.	
Retirement		
Retirement-creditable basic pay	Customs Inspectors For customs inspectors and canine enforcement officers only, variable overtime pay is retirement-creditable basic pay until overtime pay reaches a limit equal to one-half of the statutory annual cap on overtime pay (e.g., all overtime pay during a fiscal year up to a \$15,000 limit if \$30,000 is the overtime pay cap). (Note: Certain law enforcement officers receive	COPRA

	regular overtime supplements as retirement-creditable basic pay—AUO pay and availability pay.)	
DC police retirement plan	<p>Secret Service Special Officers A closed group of Secret Service Special Officers otherwise covered under CSRS have transferred to the DC police retirement plan (based on having 10 years or more of time directly related to the protection of the President). (For more detailed discussion of the DC police retirement plan, see part A of this table.)</p>	DC Code § 7-703
Foreign Service Retirement System	<p>Diplomatic Security Service Agents Most (90%+) Diplomatic Security Service special agents are covered by the Foreign Service Pension Plan (FSPS) and FICA (Foreign Service equivalent of FERS). A small number are covered by old Foreign Service Retirement and Disability System (FSRDS) or a transitional system with special law enforcement provisions.</p>	Public Law 105-382
	<p>AID Special Agents These special agents are covered by one of Foreign Service retirement plans.</p>	

Glossary:

1931 Act	Act of March 2, 1931, dealing with premium pay of immigration inspectional duties (46 Stat. 1467), which is codified at 8 U.S.C. 1353a and 1353b; applies to all INS employees who perform covered immigration inspection duties.
AID	Agency for International Development (in State Department)
AUO	Administratively Uncontrollable Overtime under 5 U.S.C. 5545(c)(2)
COPRA	Customs Officer Pay Reform Amendments, part II of subchapter D of title XIII of Public Law 103-66 (August 10, 1993), which amended section 5 of the 1911 Act (19 U.S.C. 261 and 267) and 5 U.S.C. 8331(3); applies to “Customs officers” as defined in regulation.
CPDF	Central Personnel Database File administered by the Office of Personnel Management
CSRS	Civil Service Retirement System (5 U.S.C. chapter 83)
DC Code	Statutory code for the District of Columbia Government
DOD	Department of Defense
DHS	Department of Homeland Security
DPS	Defense Protective Service (i.e., Pentagon police) (in DOD)
EX	Executive Schedule
FAA	Federal Aviation Administration (in Department of Transportation)
FERS	Federal Employees Retirement System (5 U.S.C. chapter 84)
GS	General Schedule
INS	Immigration and Naturalization Service (in DHS)
IRS	Internal Revenue Service
ISLE	Inspection Service Law Enforcement pay system for Postal inspectors in USPIS
LEO	Law enforcement officer as defined in CSRS or FERS law (5 U.S.C. 8331(20) or 8401(17), respectively) plus any Secret Service agent, SSUD officer, or Park Police officer covered by the DC Police and Firefighters Retirement and Disability System
OPM	U.S. Office of Personnel Management
OT	Overtime
PPO	Postal Police Officer in bargaining unit; also, code for pay plan covering these officers
SES	Senior Executive Service (as established in 5 U.S.C. 3131 and 3151)
SSUD	Secret Service Uniformed Division (in DHS)
TSA	Transportation Security Administration (in DHS)
TSA law	49 U.S.C. 114(n) as added by section 101(a) of Public Law 107-171, November 19, 2001
USPIS	United States Postal Inspection Service
USPS law	Law providing U.S. Postal Service (USPS) with independent authority governing pay for its employees—i.e., title 39 of the U.S. Code. In particular, see 39 U.S.C. 1005 as enacted by Postal Reorganization Act, Public Law 91-375, August 12, 1970, and 5 U.S.C. 2105(e), which excludes USPS employees from title 5 definition of “employee” for most purposes.

**ANALYSIS OF PROPOSED LEGISLATION
DEALING WITH LAW ENFORCEMENT OFFICER PAY
(H.R. 466, H.R. 1676, and S. 985)**

I. Introduction

Three bills currently are pending in Congress that deal with pay for Federal law enforcement officers (LEOs): H.R. 466, H.R. 1676, and S. 985. The key provisions of these bills deal with establishing higher geographic adjustments for law enforcement officers and with eliminating the application of premium pay limitations to availability pay for criminal investigators. In this appendix, we provide background information, describe the bills' provisions, and analyze the justification for the provisions.

As explained in our analysis below, OPM opposes these bills because they attempt to apply across-the-board solutions to a set of problems that should be addressed in a more targeted fashion. For example, they provide higher geographic adjustments to all LEOs across the board even though LEO pay and staffing problems vary significantly by occupation and grade level. Thus, the bills could result in unnecessarily paying some LEOs well above labor market rates. Furthermore, the bills do not consider various negative effects of the proposal to except availability pay from the biweekly premium pay cap. Removal of the cap would create new inequities such as pay compression/inversion between GS criminal investigators and higher-level executives. There are also a number of technical problems with the bills. Finally, we estimate that agency costs under the bills in the initial year would range from \$200 to \$400 million. In addition, the bills would generate hundreds of millions of dollars in new unfunded liabilities for the CSRS/FERS retirement fund.

II. Background

LEO Geographic Adjustments and Special Rates

Federal law enforcement officers (LEOs) are entitled to the same locality payments that apply to all other General Schedule employees. However, for a number of years, LEOs in certain locations received higher geographic adjustments. Section 404 of the Federal Law Enforcement Pay Reform Act of 1990 (FLEPRA) (sections 401 through 412 of section 529 of Public Law 101-509, November 5, 1990) provided special geographic pay adjustments for LEOs, ranging from 4 to 16 percent, in eight metropolitan areas—San Francisco, Los Angeles, New York City, and Boston at 16 percent; San Diego at 8 percent; and Chicago, Philadelphia, and Washington, DC, at 4 percent. These LEO geographic adjustments took effect in January 1992. It was the intent of Congress that LEOs in these locations be provided “immediate relief” pending the establishment and phase-in of locality payments for all GS employees. (See House Conference Report 101-906, October 20, 1990, accompanying H.R. 5241, pages 90-92.) The GS locality pay program took effect in January 1994 (although 8 percent interim geographic adjustments were established for all GS employees in the San Francisco, New York City, and Los Angeles metropolitan areas effective in January 1991). FLEPRA expressly required that GS locality payments offset the LEO geographic adjustments; in other words, LEOs were entitled to the higher of (1) the LEO geographic adjustment or (2) the regular GS locality payment. Thus,

the LEO geographic adjustments were eliminated as the regular GS locality payments grew in size over time. The 4 percent adjustments in Chicago, Philadelphia, and Washington, DC, were eliminated in January 1994. The last LEO geographic adjustment (in Boston) was eliminated as of January 2004.

The LEO geographic adjustments were limited to the following groups of employees:

- General Schedule (GS) employees, employees in senior-level (SL) and scientific or professional (ST) positions, and members of the Senior Executive Service (SES) who are covered by the LEO retirement provisions of the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS) (5 U.S.C. 5541(3)(A));
- GS, SL/ST, and SES employees who did not meet certain transfer requirements necessary for coverage under the LEO retirement provisions, but who serve in approved supervisory or administrative LEO positions (5 U.S.C. 5541(3)(B)-(C));
- Specified categories of non-GS employees as identified in section 405 of FLEPRA—namely, Secret Service Uniformed Division (SSUD) officers, Park Police officers, Diplomatic Security Service special agents, probation officers, and pretrial services officers. (Note: SSUD officers and Park Police officers were removed from the list of non-GS employees covered by LEO special rates and LEO geographic adjustments effective in 1997 and 2001, respectively. See section 118(e) of Public Law 105-61, October 10, 1997, and sections 907 and 909 of Appendix D, Public Law 106-554, December 21, 2000.)

Section 403 of FLEPRA established higher rates of basic pay for General Schedule LEOs at grades GS-3 through GS-10 and certain non-GS LEOs as specified in section 405 of FLEPRA. These LEO special rates are 3 to 23 percent higher than the regular rates. They provide larger increases at the lower grades and are phased out at the higher grades. Congress established these LEO special rates to address general pay disparities between Federal LEOs and State and local LEOs at lower grades. (Disparities at lower levels were viewed as a general problem, while pay disparities at higher grades were associated with specific geographic areas; thus, LEO special rates together with LEO geographic adjustments addressed pay problems in a targeted way.) The LEO special rates might also reflect a judgment that lower-level LEO work was not properly valued under the GS classification system.

Availability Pay and Premium Pay Caps

Criminal investigators and certain other law enforcement officers are entitled to law enforcement availability pay under 5 U.S.C. 5545a. Availability pay is a regular supplement equal to 25 percent of the recipient's adjusted rate of basic pay, subject to premium pay limitations. It is compensation for the first 2 overtime hours on a regular workday and for additional irregular overtime hours. (See 5 U.S.C. 5542(d) and 5545a and 5 CFR 550.181-550.186.)

Under 5 U.S.C. 5547, certain types of premium pay—including availability pay—are payable only to the extent that the payments do not cause the aggregate amount of an employee's basic pay and premium pay for a biweekly pay period to exceed the greater of (1) the applicable adjusted biweekly rate of basic pay for GS-15, step 10, or (2) the biweekly rate for level V of the

Executive Schedule. In some emergency or mission-critical situations, an annual cap may be applied instead of a biweekly cap; however, since availability pay is paid throughout the year, the cap rules require that it always remain subject to a biweekly cap. (See OPM regulations at 5 CFR 550.105-550.107.) In 2004, the premium pay cap (expressed as an annual rate) ranges from \$126,064 to \$136,900, depending on location.

III. Summary Descriptions of Legislative Proposals

H.R. 466 (January 29, 2003)

- Amends section 404 of FLEPRA by establishing new LEO geographic adjustments in 32 areas that generally correspond with the existing locality pay areas, effective with the first pay period following enactment. (See table at the end of this section.) This would result in immediate pay increases of 1.6 to 12.2 percent, depending on location.
- Expands the Boston “Consolidated Metropolitan Statistical Area” to include the State of Rhode Island, the counties of York and Cumberland, ME, and the city of Concord, NH.
- Extends eligibility for LEO geographic adjustments to Capitol Police officers.
- Excepts availability pay from the premium pay limitations in 5 U.S.C. 5547, effective retroactively to April 2002.

H.R. 1676 (April 8, 2003)

- Amends section 404 of FLEPRA by establishing new LEO geographic adjustments in 13 locality pay areas, effective with the first pay period following enactment. (See proposed percentages in the table at the end of this section. Note that H.R. 1676 does not expand the Boston locality pay area.) This would result in immediate pay increases of 0.2 percent (Detroit) to 10.8 percent (Seattle), depending on location.
- Excepts availability pay from the premium pay limitations in 5 U.S.C. 5547, effective retroactively to April 2002 (same as H.R. 466 and S. 985, below).
- Requires OPM to study and submit a report to Congress on the need for, and the potential benefits of, establishing a separate pay, evaluation, and promotion system for Federal law enforcement officers and authorizes OPM to conduct a demonstration project implementing a new LEO pay system. (Note: The demonstration project would cover only LEOs as defined in the retirement laws. This would exclude certain employees serving in approved supervisory or administrative LEO jobs who lack LEO retirement coverage because they did not transfer directly from a primary Federal LEO job. Such employees are treated as LEOs for various pay purposes. See 5 U.S.C. 5541(3).)

S. 985 (May 1, 2003)

- Includes the same provisions as H.R. 466, except that S. 985 provides for a 27.11 percent geographic adjustment in the New York area, instead of 27.17 percent;
- Requires an OPM study and report and authorizes a demonstration project (same provision as in H.R. 1676).

Comparison of Geographic Adjustments

The following chart compares the 2004 locality pay percentages to the LEO geographic pay percentages proposed by H.R. 466, H.R. 1676, and S. 985:

Locality Pay Area	2004 Locality Pay Percentage	H.R. 466	H.R. 1676	S. 985
Atlanta	12.61%	16.82%	-	16.82%
Boston	16.99%	24.42%*	24.4%	24.42%*
Chicago	18.26%	25.68%	24.5%	25.68%
Cincinnati	15.07%	21.47%	-	21.47%
Cleveland	13.14%	17.83%	-	17.83%
Columbus	13.14%	16.90%	-	16.90%
Dallas	13.85%	18.51%	-	18.51%
Dayton	12.03%	15.97%	-	15.97%
Denver	16.66%	22.78%	-	22.78%
Detroit	18.32%	25.61%	18.5%	25.61%
Hartford	17.87%	24.47%	20.3%	24.47%
Houston	23.14%	30.39%	-	30.39%
Huntsville	11.49%	13.29%	-	13.29%
Indianapolis	11.11%	13.38%	-	13.38%
Kansas City	11.54%	14.11%	-	14.11%
Los Angeles	20.05%	27.25%	27.1%	27.25%
Miami	15.54%	21.75%	-	21.75%
Milwaukee	12.64%	17.45%	-	17.45%
Minneapolis	14.75%	20.27%	-	20.27%
New York	19.29%	27.17%	26.1%	27.11%
Orlando	10.93%	14.22%	-	14.22%
Philadelphia	15.32%	21.03%	20.3%	21.03%
Pittsburgh	11.92%	14.89%	-	14.89%
Portland	14.69%	20.96%	18.5%	20.96%
Richmond	12.13%	16.46%	-	16.46%
Sacramento	15.18%	20.77%	21%	20.77%
St. Louis	11.27%	14.69%	-	14.69%
San Diego	16.16%	22.13%	27.1%	22.13%
San Francisco	24.21%	32.98%	32.03%	32.98%
Seattle	15.12%	21.18%	27.5%	21.18%
Washington, DC	14.63%	19.48%	24.3%	19.48%
Rest of U.S.	10.90%	14.19%	-	14.19%
* The counties of Providence, Kent, Washington, Bristol, and Newport, RI; the counties of York and Cumberland, ME; and the city of Concord, NH, would be treated as if located in the Boston-Worcester-Lawrence, MA-NH-ME-CT-RI "Consolidated Metropolitan Statistical Area."				

IV. Issues and Analysis

A. New LEO Geographic Adjustments

General

The bills would provide all LEOs in all occupations and at all grade levels with the same pay increase in any given location in which an LEO geographic adjustment applies. However, the salary competitiveness problems facing LEOs are not universal across occupations and grade levels. Rather, they vary significantly by occupation and grade level. An across-the-board approach results in some employees receiving pay increases that are not justified, providing pay above the labor market rates for specific groups of employees.

Data available to OPM indicate that some (but not all) LEO groups have a general problem with low pay at entry/developmental levels, but that the degree of the problem varies by occupational group and location. In particular, significant entry/developmental pay problems may exist in locations with very high labor rates, such as San Francisco, Los Angeles, and New York City. However, Federal pay rates are much more competitive at the full performance level. This should not be surprising, given that the GS pay system generally offers rapid pay progression in the years immediately after entry because employees commonly receive regular (generally annual) promotions until they reach the full performance level. For example, GS-1896 border patrol agents hired at GS-5 normally reach GS-11 after just 2 years, which represents a total pay increase of almost 50 percent. In fact, additional increases at the full-performance level may not be necessary for most LEO jobs in most locations. In many cases, the Federal Government has a competitive advantage in that it offers higher levels of work with higher maximum pay potential than are available in State and local government positions and, for some employees, provides a guaranteed overtime supplement that provides a higher standard of living. For example, at the common GS-13 full performance level for Federal criminal investigators, the maximum rates range from \$90,692 to \$101,576. If 25-percent availability pay is included, the GS-13 maximum rates range from \$113,365 to \$126,970, depending on location. The low quit rates for Federal LEOs at the full performance level provide further support for the conclusion that Federal LEO pay is generally competitive at that level. (See subsection entitled "Recruitment and Retention.")

LEO pay changes should be targeted and tailored to address the needs and circumstances of specific groups of LEOs. Pay changes should take into account labor market and staffing conditions as they exist for specific occupations, grades or levels, and locations. This argues for a flexible authority to set pay for LEOs. Under a flexible authority, for example, starting rates for a specific LEO group could be increased without increasing pay rates at the full performance level.

It is important to note that, to the extent that available data indicate salary gaps for certain law enforcement employees, such gaps are not unique. The salary survey data used in support of the GS locality pay program show an overall average salary gap of 17.5 percent as of March 2003. Thus, employees in various non-law enforcement occupations may be able to cite even larger pay disparities than those found in various law enforcement jobs.

Percentage Factors

We have not been provided with documentation supporting the proposed percentage factors for the listed pay areas in any of the three bills. It is not clear how the percentage factors were derived or why the 13 pay areas were chosen for H.R. 1676.

Under H.R. 466 and S. 985, the LEO percentage factor for the “Rest of U.S.” (RUS) area is higher than the LEO percentage factor for Huntsville, Indianapolis, and Kansas City. This is inappropriate. The RUS area is designed to be the area with the lowest locality pay percentage factor. Setting a lower LEO geographic adjusted rate for a defined area (like Huntsville, Indianapolis, and Kansas City) and a higher LEO geographic adjusted rate for the RUS area would have the illogical result of LEOs stationed in the defined area receiving a lower rate than those LEOs stationed just outside the defined area.

It should be remembered that the proposed LEO geographic adjustment percentage amounts would be frozen in law. This means that, absent statutory amendments, regular locality payments might catch up to these rates over time. In areas where higher LEO geographic adjustments are in place, the annual pay adjustments for LEOs would be smaller than the annual pay adjustments for non-LEOs, since LEOs would receive only the applicable general pay increase, while non-LEOs might receive an additional adjustment resulting from a higher locality pay percentage. While this is the natural result of providing LEOs with higher geographic pay, past experience suggests that some LEOs would not understand the benefit they are receiving and would focus on the fact that their annual adjustment is less than that received by other employees.

Senior Executive Service

Under section 1125 of Public Law 108-136 (November 24, 2003), a new pay system was established for members of the Senior Executive Service (SES) (including, by extension, the Federal Bureau of Investigation-Drug Enforcement Administration SES) effective in January 2004. Under the new pay system, SES members are not entitled to locality payments under 5 U.S.C. 5304. SES members’ locality-adjusted rates of basic pay were converted to rates of basic pay with no locality pay component. The SES rate of basic pay is capped at the rate for level III of the Executive Schedule (EX), or at the rate for level II if a certified SES performance appraisal system is in place.

About 370 SES members have LEO retirement status. When LEO geographic adjustments were in effect, SES LEOs in the designated areas received those geographic adjustments. By law, LEO geographic adjustments are subject to offset by any applicable locality payments and must be administered in the same manner as locality payments under 5 U.S.C. 5304. The LEO geographic adjustment law (section 404 of FLEPRA) did not anticipate that it would cover employees not eligible for locality pay. In fact, section 404(c)(1) expressly provides that LEO geographic adjustments must be administered in the same manner as locality pay.

If new LEO geographic adjustments are established under one of the proposed bills, we will face a number of issues with respect to SES LEOs. Will SES LEOs be entitled to LEO geographic adjustments even though they are not entitled to locality pay? If they are so entitled, they would receive the full geographic adjustment (ranging from 14 to 33 percent) on top of their

existing rate of basic pay (which reflects the locality payments they previously received). Would such payments be capped? In the past, LEO geographic adjusted rates for SES members were capped at the rate for level III of the Executive Schedule (\$145,600 in 2004), consistent with the EX-III locality rate cap for SES members. (See OPM's regulations at 5 CFR 531.302(c).) Virtually all SES members receiving the LEO geographic adjustments would reach an EX-III cap. Also, it is not clear how an EX-III cap on LEO geographic-adjusted rates would coexist with an EX-II cap on SES rates of basic pay (for those covered by a certified SES performance appraisal system). Accordingly, we believe SES LEOs should not be covered by any new LEO geographic adjustments; all SES members should be subject to the same pay ranges.

Pay Compression

The proposed new LEO geographic adjustments would increase pay compression as more employees would hit basic pay caps. This is because the LEO adjusted rates of basic pay would continue to be limited to the rate for level IV of the Executive Schedule (\$136,900 in 2004) for General Schedule employees and the rate for level III (\$145,600 in 2004) for SL/ST employees. For example, in San Francisco (under any of the bills), the cap would affect LEOs at GS-15, step 7, and higher—meaning pay would be the same at steps 7 through 10. (Currently, San Francisco locality rates are capped at steps 9 and 10 of GS-15.) Similarly, under H.R. 1676, the cap would affect GS-15, steps 9 and 10, in the Washington, DC, locality pay area. GS LEOs at steps where the cap applies would not benefit from higher LEO geographic adjustments. Similarly, more SL/ST LEOs would hit the EX-III cap. Finally, the new LEO geographic adjustments would compress the differences in pay between SES LEOs and lower-level LEOs.

Since the San Francisco GS locality rates have already reached the EX-IV cap at GS-15, steps 9 and 10, this raises the question as to whether there is room for significant increases in locality pay or geographic adjustments without concomitant increases in Executive Schedule salaries.

Also, higher LEO geographic adjustments would mean that more LEOs would reach the biweekly cap on premium pay, resulting in more pay compression. The LEOs most affected by the biweekly premium pay cap are high-graded criminal investigators who receive a 25 percent availability pay supplement. While the three proposed bills would provide that availability pay is not subject to the biweekly cap, this change would present other problems, as discussed in subsection B.

Employee Coverage

Under H.R. 466, H.R.1676, and S. 985, the LEO geographic adjustments would apply to LEOs as defined in FLEPRA (see section II above). This definition excludes employees who are outside the GS, SL/ST, or SES pay systems, except for certain groups listed in section 405 of FLEPRA. This definition also excludes Park Police and SSUD officers, who are no longer covered by section 405. However, H.R. 466 and S. 985 would cover Capitol Police officers. Even if one presumes that all GS LEOs should receive the locality pay increases provided by the bills in all occupations and at all levels, there should be some logic behind including some non-GS LEOs and excluding others. It would be reasonable to exclude non-GS LEOs who are already receiving competitive pay under their alternative pay systems. For example, SSUD and Park Police officers have received larger pay increases in recent years than other Federal LEOs

to ensure that their pay levels are competitive in the labor market. That being the case, it would not make sense to provide them with the same pay increases provided to GS LEOs.

There is no basis for including Capitol Police officers, who are the highest paid Federal police officers and whose pay appears already to be competitive in the DC-area labor market (due to significant pay increases granted by Congress in recent years that exceed those provided to other Federal LEOs). Furthermore, as drafted, H.R. 466 and S. 985 would appear to apply the new LEO geographic adjustment percentages on top of Capitol Police officers' existing rates of pay with no offset. This is because Capitol Police officers do not receive locality pay as a separate supplement; thus, there is no locality pay to offset the LEO geographic adjustment, as occurs with GS LEOs. While GS LEOs in the DC area would receive a pay increase of 4.23 percent when their locality adjustment is increased from 14.63 to 19.48 percent, Capitol Police officers would receive a full 19.48 percent pay increase.

Recruitment and Retention

An important factor in determining the appropriate basic pay solutions for Federal law enforcement employees is the level of recruitment and retention difficulty agencies are experiencing. OPM does not have readily available data that would provide measurements of the success of agency recruitment efforts for Federal LEOs. However, OPM is aware that, for many of these jobs, agencies have indicated that they receive a large number of applications. Also, agencies have not reported significant problems to OPM in recruiting LEOs. Since agencies have not requested new or higher special rates in recent years for LEOs, we are left to conclude that recruitment is not a major problem area. However, we believe agencies may be experiencing some recruitment problems in high-cost cities such as New York, San Francisco, and Los Angeles for lower-graded LEO jobs, especially if those jobs are filled on a local labor market basis (e.g., correctional officers). We also acknowledge that the quality of applicants and newly hired employees can be affected by the level of starting salaries and that this is an area where greater flexibility might be appropriate. (While the GS system allows agencies to appoint employees above step 1 based on superior qualifications or a special agency need, this approach can lead to earlier hires being leapfrogged by later hires. A banding system that allows more flexibility in setting entry/development rates of pay could avoid this problem.)

We analyzed LEO quit rates using data from OPM's Central Personnel Data File (CPDF) for fiscal years 2001 through 2003. We found that the overall annual quit rates for LEOs ranged from 2.2 to 2.5 percent, which are relatively low and close to overall GS averages. There is no indication of a trend toward higher quit rates. The quit rates vary to some degree by occupation, as shown in the table below:

Selected LEO Occupations	Range of Annual Quit Rates (Percent) FY 2001 – 2003
GS-0007 Correctional Officers	2.7 – 3.9
GS-0025 Park Rangers	0.9 – 1.6
SP-0083 Park Police	1.5 – 2.3
LE-0083 Secret Service Uniformed Officer	3.2 – 5.2
GS-1811 Criminal Investigators	0.7 – 0.8
GS-1896 Border Patrol Agents	5.2 – 5.8

Generally, the higher quit rates for certain occupations were largely attributable to higher quit rates at entry/developmental grades. In some cases (e.g., Border Patrol Agents), the higher quit rates at entry/developmental grades can be associated with resignations in response to failure to meet the training requirements. Such quits are not attributable to a pay problem.

LEO quit rates were very low at GS grades representing an occupation's nonsupervisory full performance level or higher (e.g., GS-11 and above for Border Patrol Agents and GS-12 and above for Criminal Investigators). Generally, these quit rates were less than 1 percent. Higher quit rates were found at lower grades associated with an entry or developmental level. However, as noted above, some of those quit rates appear to be affected by nonpay factors such as failure to meet basic training requirements or an employee's reevaluation of a career choice after exposure to the work. Nevertheless, it may also be the case that more flexibility in setting starting rates is needed to make Federal agencies more competitive in specific local labor markets and to attract higher quality candidates who have a greater commitment to the career in question.

Geographic Area Definitions

There are some technical problems with the geographic area descriptions in all three bills:

- The "Consolidated Metropolitan Statistical Area" (CMSA) and "Metropolitan Statistical Area" (MSA) definitions that have been used in the GS locality pay program were revised by OMB in June 2003 based on the 2000 Standards for Defining Metropolitan and Micropolitan Statistical Areas. Under the new definitions, "Consolidated Metropolitan Statistical Areas" have been replaced by "Combined Statistical Areas." For now, the GS locality pay program continues to use the older terms and definitions, but we plan to use the new OMB definitions beginning in 2005. Any LEO geographic adjustment areas should be linked directly to the GS locality pay areas.
- Under H.R. 466 and S. 985, the geographic definition of the Boston CMSA includes several areas not covered by the former Boston CMSA or the Boston locality pay area and leaves out areas currently covered by the Boston locality pay area. No justification is provided for adding/subtracting these locations to/from the Boston area. This would result in complaints of inequitable treatment. (We note that some of the additional areas being proposed for inclusion are currently under consideration by the President's Pay Agent for inclusion in the Boston locality pay area.)
- Since the bills generally rely on the terms "Consolidated Metropolitan Statistical Area" and "Metropolitan Statistical Area," they would exclude certain "areas of application" that have been added to locality pay areas under the GS locality pay program. Again, we believe the LEO geographic areas should be linked to the locality pay area definitions used in the GS locality pay program.
- In all three bills, various geographic areas are not correctly identified. For example, there is no such thing as a "Rest of United States Consolidated Metropolitan Statistical Area" (H.R. 466 and S. 985).

B. Availability Pay and the Premium Pay Cap

All three bills would remove availability pay from the types of premium pay that are subject to the biweekly limitation on premium pay in 5 U.S.C. 5547. As discussed in section II (Background), availability pay may be capped if an employee’s aggregate basic pay and premium pay exceeds the biweekly limit.

We know of no compelling justification to exempt just one type of premium pay—i.e., availability pay—from the biweekly premium pay cap. Many employees (including LEOs) receive other types of premium pay and will continue to be subject to the biweekly cap.

One of the primary purposes of the cap is to phase out overtime pay for FLSA-exempt employees so that, in effect, they become “salaried” at a high level of pay. (In 2004, the cap ranges from \$124,064 to \$136,900, depending on location.) In the private sector, FLSA-exempt employees are salaried and generally receive no overtime pay. Furthermore, we do not believe significant increases in high-level criminal investigator salaries are needed to match labor market rates.

Another primary reason for the premium pay cap is to prevent pay inversions between GS employees and higher level officials. Uncapping availability pay would result in inversions between GS criminal investigators and their SES managers. SES members do not receive availability pay or any other form of premium pay. The table below provides examples of how the LEO geographic adjustments in conjunction with the removal of the availability cap would affect a GS-15, step 10, criminal investigator in four different locality pay areas. The table shows maximum pay rates using the current locality pay percentages and the proposed LEO geographic adjustments both with and without a cap on availability pay. (Note that the rates in the table reflect the EX-IV cap on geographic-adjusted rates of pay (\$136,900 in 2004).)

Impact of Removing the Cap on Availability Pay on the Maximum Pay Rate for a GS-15, Step 10, Criminal Investigator (Including 25% Availability Pay) (2004 Rates)						
Locality Pay Area	Current Pay Rates		Pay Rates Proposed by H.R. 466 and S. 985		Pay Rates Proposed by H.R. 1676	
	With Cap	Uncapped	With Cap	Uncapped	With Cap	Uncapped
Rest of U.S.	\$128,200	\$157,580	\$129,804	\$162,255	\$128,200	\$157,580
Washington, DC	\$130,305	\$162,881	\$135,818	\$169,773	\$136,900	\$171,125
New York City, NY	\$135,602	\$169,503	\$136,900	\$171,125	\$136,900	\$171,125
San Francisco, CA	\$136,900	\$171,125	\$136,900	\$171,125	\$136,900	\$171,125

In comparison, SES rates in 2004 range from a minimum rate of \$104,927 to a maximum rate of \$145,600 (EX-III) for employees not covered by a certified performance appraisal system and up to a maximum rate of \$158,100 (EX-II) for employees covered by a certified performance appraisal system. We note that, in some situations, the uncapped rates also would exceed the rates for many Executive Schedule officials and Members of Congress. The maximum possible

rate of \$171,125 would be close to the EX-I rate of \$175,700, which applies to heads of Cabinet-level departments.

All three bills also would make the removal of availability pay from the limitation on premium pay effective as if enacted as part of section 1114 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), which became effective on April 27, 2002. A retroactive effective date would be extremely problematic. First, it would impose additional costs for which agencies have not planned. (See section V.) Second, it would create administrative problems, since all pay actions for affected employees would have to be recomputed. Also, some affected employees will have retired, and their annuities would have to be recomputed. As a general matter of policy, OPM opposes retroactive pay adjustments. We do not see a compelling justification for retroactive pay adjustments in this case.

We understand that the biweekly premium pay cap has the effect of creating pay compression problems among high-level criminal investigators—that employees at different rates of basic pay can end up receiving exactly the same total pay. Nevertheless, we believe it would be prudent to explore alternative methods of addressing this issue that do not create the other problems cited in this analysis.

V. Cost Estimates

Costs Associated With the New LEO Geographic Adjustments

OPM estimates that the total annual cost to employing agencies resulting from the proposed higher LEO geographic adjustments would be roughly \$390 million under H.R. 466 and S. 985 and roughly \$200 million under H.R. 1676. These costs would decrease over time if regular locality payments are allowed to catch up to the higher LEO geographic adjustments.

These costs are an aggregate of (1) direct salary increases, (2) increases in overtime payments resulting from increased rates of basic pay, (3) increases in agency contributions for retirement, and (4) increases in agency contributions for other benefits. Below, we show the estimates for these categories for about 86,000 LEOs in the GS and SL pay plans. The new LEO geographic adjustments also would apply to (1) about 5,400 probation and pretrial services officers in the judicial branch, (2) about 800 Diplomatic Security Service special agents in the State Department who are stationed in the U.S., and (3) about 1,500 Capitol Police officers. Thus, we inflated the GS/SL costs by 9 percent in computing the overall costs shown in the preceding paragraph. (We are aware that the Postal Service also would have additional costs for about 1,900 Postal inspectors, whose pay is linked by law to the pay for GS criminal investigators. We did not attempt to estimate those costs.)

Salary Costs – OPM estimates that the total increase in annual salary costs resulting from the higher geographic adjustments would be about \$231 million under H.R. 466 and S. 985 and \$120 million under H.R. 1676.

Overtime Costs – The increases in basic rates also will result in increases in overtime pay and other forms of premium pay received by LEOs, since premium payments are based on basic rates. OPM estimates that the annual cost of increased availability pay for criminal investigators would be roughly \$34 million under H.R. 466 and S. 985 and \$19 million under

H.R. 1676 because of the higher basic rates provided by these proposals. Also, OPM estimates that the annual cost of increased AUO pay for Border Patrol agents would be roughly \$5 million under H.R. 466 and S. 985 and \$3 million under H.R. 1676.

Retirement Costs – In addition to direct salary costs, Federal agencies would incur additional retirement costs because of increases in retirement-creditable basic pay (including availability pay). OPM estimates that annual agency retirement contributions for affected LEOs would increase by \$57 million under H.R. 466 and S. 985 and \$30 million under H.R. 1676.

Note: The agency retirement contribution rate for LEOs under FERS is 23.8 percent. Under CSRS, the agency retirement contribution rate for LEOs is 7.5 percent. About 9.5 percent of all LEOs are under CSRS (representing about 13 percent of total basic payroll for LEOs). This results in an average agency contribution of about 22 percent, which was used in computing the estimates above. However, the Administration proposed legislation in 2001 that would require agencies to pay the full cost of CSRS benefits, which would require an agency LEO CSRS retirement contribution of 32.8 percent instead of 7.5 percent. If CSRS benefits were fully funded, the average agency retirement contribution for LEOs would be about 25 percent, which would result in costs of roughly \$66 million under H.R. 466 and S. 985 and \$35 million under H.R. 1676).

Other Agency Costs – The new LEO geographic adjustments also would result in additional agency costs for life insurance contributions, Medicare taxes, Social Security taxes (FERS employees only), and Thrift Savings Plan contributions (FERS only). We estimate that these costs would be at least 10 percent of the basic pay and premium pay increases resulting from the LEO geographic adjustments. Thus, we estimate these costs to be about \$27 million under H.R. 466 and S. 985 and about \$14 million under H.R. 1676.

Costs to the CSRS/FERS Retirement Fund – Based on the above salary cost estimates, OPM estimates that H.R. 466 and S. 985 LEO geographic adjustments would increase retirement-creditable basic pay by \$265 million, resulting in an additional Treasury obligation estimated at just under \$1 billion. H.R. 1676 LEO geographic adjustments would increase retirement-creditable basic pay by \$139 million, resulting in an additional Treasury obligation of roughly \$500 million. These unfunded liabilities would be funded by 30-year amortization payments from the Treasury to the retirement fund. These estimates assume Congress intends for this to be a permanent benefit. The costs would be less if the higher LEO geographic adjustments are phased out over time.

Costs Associated With Uncapping Availability Pay

The direct salary costs resulting from not applying the biweekly premium pay cap to availability pay are more than \$12 million annually. This estimate is based on current rates and caps. Costs would grow if pay rates grow faster than pay caps over time. If the additional agency contributions for retirement, Thrift Savings Plan, Social Security, and Medicare are considered, the estimate would increase by about \$4 million, for a total of more than \$16 million. Unfunded liabilities also would be imposed on the retirement fund, since agencies and employees have not been making the necessary retirement contributions to fund a retirement benefit based on uncapped availability pay. For example, some employees near retirement

would suddenly be entitled to a lifetime annuity that is 25 percent higher than it would have been. We did not attempt to quantify those costs.

VI. Conclusion

OPM opposes enactment of any of the three bills discussed in this analysis—H.R. 466, S. 985, and H.R. 1676—because they attempt to apply across-the-board solutions to a set of problems that should be addressed in a more targeted fashion. This could lead to paying some LEOs well above labor market rates. Furthermore, the bills do not consider the negative effects that would result—e.g., new inequities, pay compression/inversion problems, and unfunded costs.

Appendix E

**OVERVIEW OF ADMINISTRATIVELY UNCONTROLLABLE OVERTIME PAY
AND LAW ENFORCEMENT AVAILABILITY PAY**

Administratively Uncontrollable Overtime (AUO) Pay	Law Enforcement Availability Pay (LEAP)
Authorized by 5 U.S.C. 5545(c)(2) and 5 CFR 550.151 through 550.163	Authorized by 5 U.S.C. 5545a and 5 CFR 550.181 through 550.187
Paid to Border Patrol Agents and certain other employees (mainly in the Department of Homeland Security)	Paid to criminal investigators or other approved law enforcement officers
Discretionary 10 to 25 percent pay supplement	Entitlement to fixed 25 percent pay supplement
AUO is paid for all irregularly scheduled overtime work (i.e., not scheduled in advance of the workweek)	Paid for (1) all irregularly scheduled overtime work, (2) any regularly scheduled overtime work that is part of the first 2 overtime hours on a regular workday, and (3) certain non-work hours during which employee is placed in availability status
AUO rate is based on the average number of hours of irregular overtime work performed per week (e.g., a 25 percent rate is authorized for an average of over 9 hours per week of irregular overtime work)	Employees are eligible for LEAP only if they have an annual average of 2 or more hours of unscheduled duty per workday
If employees are covered by the Fair Labor Standards Act (FLSA) of 1938, as amended, they are entitled to receive an extra half rate for irregular overtime hours in addition to AUO pay	LEAP recipients are not covered by the FLSA
AUO pay remains subject to the biweekly premium pay cap, even while other types of premium pay may be simultaneously subject to an annual premium pay cap	LEAP remains subject to the biweekly premium pay cap, even while other types of premium pay may be simultaneously subject to an annual premium pay cap
AUO pay is considered basic pay for purposes of retirement benefits only for law enforcement officers; Entitlement to retirement-creditable AUO pay is based strictly on the definition of “law enforcement officer” at 5 U.S.C. 8331(20) and 8401(17)	LEAP is considered basic pay for purposes of retirement benefits, life insurance, and severance pay

**COMPARISON OF TITLE 5 PREMIUM PAY
AND CUSTOMS OFFICER PREMIUM PAY**

	Title 5 Provisions	Customs Officer Provisions
Overtime pay	Provides 1.5 overtime rate hours of work in excess of 8 hours in a day or 40 hours in a week (for FLSA-exempt employees with basic hourly rates greater than the basic hourly rate for GS-10, step 1, the overtime rate is capped at the higher of GS-10, step 1, overtime rate, or the employee’s basic hourly rate).	Provides double overtime rate for any time worked outside the 40-hour workweek.
Night pay differential	Hourly rate differential equal to 10 percent of employee’s rate of basic pay for regularly scheduled hours (overtime or non-overtime) between 6 p.m. and 6 a.m. Applies to paid leave hours if total hours of paid leave during a pay period are less than 8.	Provides for night differential rates of 15 percent or 20 percent of basic pay for non-overtime hours. Pays 15 percent differential if more than half of the regularly scheduled hours fall between 3 p.m. and midnight. Pays 20 percent differential if more than half of the regularly scheduled hours fall between 11 p.m. and 8 a.m. For a 7:30 p.m. to 3:30 a.m. shift, pays 15 percent until 11:30 p.m. and 20 percent thereafter. Night pay is paid during paid leave.
Sunday pay	Hourly rate differential equal to 25 percent of full-time employee’s rate of basic pay for non-overtime Sunday work. “Sunday work” is defined as any hours that are part of a regularly scheduled daily tour of duty that overlaps Sunday up to a limit of 8 hours (could have two such tours on a single Sunday).	Provides a Sunday differential of 50 percent of basic pay for regularly scheduled non-overtime hours performed on a Sunday.
Holiday work premium	Provides 100 percent of basic pay for each non-overtime hour of work on a holiday in addition to the regular holiday pay.	Provides 100 percent of basic pay for each non-overtime hour of work on a holiday in addition to the regular holiday pay.

<p>Biweekly cap on premium pay</p>	<p>Biweekly cap applies to following types of premium pay: overtime pay (including compensatory time off), night pay, Sunday pay, holiday work pay, standby pay, administratively uncontrollable overtime (AUO) pay, and law enforcement availability pay (LEAP). FLSA overtime pay is not subject to premium pay cap. Premium pay may be paid only to the extent that it does not cause sum of employee's basic pay and premium pay in a biweekly pay period to exceed the greater of:</p> <ul style="list-style-type: none"> • rate for Level V of the Executive Schedule, or • applicable GS-15/10 rate of basic pay. 	<p>No biweekly premium pay cap.</p>
<p>Annual cap on premium pay for emergencies and other situations</p>	<p>Agencies may use an annual cap for emergency or mission-critical work (except for certain regular overtime payments such as AUO pay or LEAP which remain subject to the biweekly premium pay cap).</p>	<p>\$30,000 annual cap on overtime pay and premium pay. (Note: The annual cap is \$25,000 in FY 2004. In prior years, the cap was \$30,000, and action is underway to reestablish the cap at \$30,000 in FY 2005.)</p>
<p>Callback assignments</p>	<p>No credit for callback commuting time; credited with a minimum of 2 hours work for callback shift.</p>	<p>Credited with 3 hours' pay for commuting time for callback assignments. Also, credited with a minimum of 2 hours work.</p>
<p>Retirement-creditable overtime pay</p>	<p>No hour-for-hour overtime pay is retirement-creditable. Certain regular overtime payments such as AUO pay (for LEOs only) and LEAP are retirement-creditable.</p>	<p>Overtime pay is treated as retirement-creditable basic pay up to an annual limit equal to one-half of the statutory cap on overtime pay (e.g., first \$15,000 of overtime pay in a fiscal year assuming a \$30,000 annual cap on COPRA overtime/premium pay).</p>

Note: Under COPRA, premium pay for night, Sunday, or holiday work are payable only for non-overtime work. A Customs officer may receive only one type of premium pay for a given period of work. The order of precedence for these premium payments is (1) holiday differential, (2) Sunday differential, and (3) night work differential.

**COMMON FULL PERFORMANCE LEVEL SALARIES
FOR SELECTED FEDERAL LAW ENFORCEMENT OCCUPATIONS
IN SELECTED LOCATIONS
(2004 Annual Rates in Dollars)**

Occupation	Grade/ rank	OT Supp.	"Rest of U.S." Area		Washington, DC		San Francisco	
			Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
GS-0007 Correctional Officer	GS-7		37,481	47,402	38,742	48,996	41,979	53,091
	GS-8		39,068	50,057	40,382	51,741	43,757	56,065
GS-1811 Criminal Investigator	GS-12		58,665	76,261	60,638	78,826	65,706	85,414
	GS-13		69,762	90,692	72,108	93,742	78,134	101,576
	GS-12	25%	73,331	95,326	75,798	98,533	82,133	106,768
	GS-13	25%	87,203	113,365	90,135	117,178	97,668	126,970
GS-1896 Border Patrol Agent	GS-11		48,947	63,629	50,593	65,769	54,821	71,265
	GS-11	25%	61,184	79,536	63,241	82,211	68,526	89,081
Park Police Officer/ SSUD Officer	Private		40,758	73,396	42,129	75,864	45,650	82,205
	Tech.		43,203	77,800	44,657	80,416	48,389	87,137
Capitol Police Officer	Private				49,851	81,168		
	Tech.				52,344	85,226		
TSA Air Marshal	Band H		49,240	76,299	50,896	78,865	55,149	85,456
	Band I		59,997	93,045	62,015	96,175	67,198	104,212
	Band H	25%	61,550	95,374	63,620	98,581	68,936	106,820
	Band I	25%	74,996	116,306	77,519	120,219	83,998	130,265
GS-0083 (non-LEO) Police Officer	GS-5		30,335	39,441	33,946	44,136	38,529	45,756
	GS-6		33,813	43,963	37,839	49,196	42,946	51,001
	GS-7		37,574	48,846	42,048	54,661	47,713	56,659
	GS-8		40,292	52,381	44,915	58,392	51,743	61,652
BEP & U.S. Mint Police Officer	TR-8 (Senior)		46,446	69,345	48,008	71,677	52,020	77,667

NOTES:

- Table shows rates of pay for common full performance levels. For some occupations, there are multiple full performance levels. For nonsupervisory correctional officers at GS-7 and higher, about 48% are at GS-7, 43% at GS-8, and 9% at GS-9. For nonsupervisory criminal investigators at GS-12 and higher, about 25% are at GS-12, 69% at GS-13, and 6% at GS 14.
- Table shows pay rates for lowest locality pay area ("Rest of U.S.") and the highest locality pay area (San Francisco), as well as for Washington, DC. The pay rates are basic rates as adjusted to include any applicable locality payment.
- Column titled "OT Supp." identifies employees who are generally receiving a regular overtime supplement—i.e., law enforcement availability pay for criminal investigators and TSA air marshals and administratively uncontrollable overtime (AUO) pay for Border Patrol agents. Availability pay is paid at 25% of the rate of basic pay. AUO pay can range from 10 to 25% of basic pay but is generally set at 25%. In rows with 25% in the OT Supp. Column, the rates reflect a 25% supplement on top of the rates of basic pay. Availability pay and AUO pay received by LEOs are creditable as basic pay for certain purposes, including retirement.
- For GS-0083 police officers who are not covered by the law enforcement officer (LEO) retirement provisions (i.e., non-LEO police officers), we show special rates under schedules established by OPM under 5 U.S.C. 5305. Some police officers in some agencies/locations are not entitled to these special rates.
- The BEP/Mint police pay schedule was effective in March 2004. All other schedules were effective in January 2004.
- "SSUD" refers to Secret Service Uniformed Division. "BEP" refers to the Bureau of Engraving and Printing. "Tech." refers to a private with a special job assignment requiring specified technical skills.

ANALYSIS OF FEDERAL LAW ENFORCEMENT OFFICER PAY COMPETITIVENESS

In this appendix, we analyze the competitiveness of Federal law enforcement officer (LEO) pay compared to pay for State and local law enforcement personnel. As explained below, we find that pay relationships between Federal and State/local law enforcement employees vary by occupational category, by level, and by location. Based on available data, we find that the most significant problem is low pay at the entry/developmental level for certain LEO occupations, with the degree of the problem varying by geographic region. Also, we found evidence that some Federal law enforcement occupations, like non-law enforcement occupations, may have pay disparities at the full performance level in several areas with extremely high labor costs—in particular, San Francisco, New York City, and Los Angeles.

Considerations in Determining Pay Competitiveness

The first step in evaluating pay competitiveness is to identify jobs that are sufficiently comparable in terms of their labor market value to warrant a pay comparison. Ultimately this is a matter of applying informed judgment. First, we need to determine the factors or elements that will be considered in valuing a job. Then, we must evaluate how different jobs measure up against those factors or elements. Obviously, not all law enforcement jobs are equal in terms of mission impact, scope of responsibilities, knowledge/skill requirements, training standards, market value, etc.

It also seems clear that even within general categories of Federal law enforcement jobs, there may be distinguishable levels of work. For example, there are significant differences among Federal police jobs in the same occupational series. Even within the GS system, we have full performance levels for police ranging from GS-5 to GS-8. As discussed in Part III, section C, we also have police under nonstandard pay systems with higher pay ranges than GS police. Similarly, there can be significant differences between Federal and non-Federal police officers. For example, most Department of Defense or VA hospital police officers likely have very different job and skill requirements than municipal police officers in a major city such as Los Angeles or New York. While police officers at lower levels understandably aspire to higher levels of pay and may argue that all police officers are the same, a reasonable evaluation will demonstrate significant differences in work levels among categories of police officers.

When non-Federal and Federal jobs are significantly different in terms of level of responsibilities, this presents a particular challenge in making salary comparisons. If the Federal job is found to be at a lower level and there are no (or too few) direct matches at that level, then determining whether the Federal salary is competitive in the labor market is not an easy matter. How much lower than the non-Federal rate should the Federal rate for a lower-level job be set? 10 percent? 20 percent? Staffing data may be helpful in making such judgments.

Similarly, if a Federal job is found to be at a higher level and there are no (or too few) direct matches at that level, then what is the basis for determining a competitive level of pay?

For example, Federal criminal investigators at the GS-12 full performance level may be comparable to State and local detectives and investigators, but we may be unable find sufficient direct comparators for GS-13 Federal investigators. If a salary survey for a particular locality shows that GS-12 criminal investigators are paid 5 percent less than State and local investigators, it may well be the case that GS-13 rates (which are almost 20 percent higher than GS-12 rates) are competitive enough to attract quality employees. A decision to close the 5 percent gap at GS-12 does not necessarily require a similar increase at GS-13. The GS-13 rates would still be 15 percent higher than the adjusted GS-12 rates. In all of this, we need to keep in mind that the Federal Government’s offering of higher levels of work with higher pay provides the Federal Government with a competitive advantage in the labor market over other employers who do not offer such work.

Review of National Advisory Commission on Law Enforcement Approach to Salary Comparisons

In its 1990 report, the National Advisory Commission on Law Enforcement (NACLE) determined points of comparison for the purpose of the salary surveys it conducted. NACLE identified four categories of LEO jobs: nonuniformed officer, uniformed officer, corrections officer, and probation officer. For each job category, NACLE collected data for entry level and full performance level (i.e., the normal nonsupervisory journey level). NACLE chose not to attempt to identify differences within the full performance work level among State and local governments. On the Federal side, it recognized that GS employees could have multiple entry levels and multiple full performance levels for the same job. To make comparisons between Federal and State/local LEO full performance level jobs, NACLE contracted with a private firm to conduct a job comparability survey. The NACLE contractor determined that Federal LEOs were comparable to their State/local counterparts at the full performance level as follows:

LEO Job Category	Key Federal Jobs Within the Category	GS Full Performance Level Determined to Be Comparable
Uniformed	GS-1896 Border Patrol Agent U.S. Park Police Officer Secret Service Uniformed Division Officer	GS-9
Non-Uniformed	GS-1811 Criminal Investigator Postal Inspector	GS-11/12
Probation	Probation Officers Pretrial Services Officers	GS-12
Correctional	GS-0007 Correctional Officers	GS-7

NOTE 1: The NACLE contractor found that Federal and State/local law enforcement work was generally comparable at the full performance level. However, it evaluated about half of Federal criminal investigator jobs to be at a level above State and local non-uniformed (i.e., detective) positions. Thus, NACLE identified GS-11 and GS-12 as the levels for comparison and used the midpoint of GS-11 and 12 rates in salary comparisons. At the time of the 1990 NACLE report, GS-13 was the normal nonsupervisory full performance

level for about half of GS criminal investigators. Today, about three-quarters of criminal investigators are in jobs where GS-13 is the normal full performance level. In 1990, GS-11 was the normal full performance level for a small percentage of criminal investigators; today, virtually no criminal investigators have GS-11 as the normal full performance level. Given these subsequent developments, it would now seem appropriate to compare State and local nonuniformed officer full performance level rates to GS-12 rates.

NOTE 2: In August 2002, the normal full performance level available to all Border Patrol Agents was raised from GS-9 to GS-11. Previously the GS-11 grade had been limited to certain senior agents (about one-third of nonsupervisory employees at a full performance level). Given this change, it would now seem appropriate to compare State and local uniformed officer full performance rates to the GS-11 rates.

NOTE 3: While correctional officers were matched at the GS-7 full performance level, a significant number of Federal nonsupervisory correctional officers are classified at a GS-8 full performance level or even GS-9. As of September 2003, the GS-7/8/9 distribution was 48, 43, and 9 percent, respectively.

NACLE salary surveys found the most significant pay gaps at the entry level. NACLE also reported significant pay gaps for LEOs in certain geographic areas. These findings led to the 1990 legislation establishing special rates at grades GS-3 through 10 and special geographic pay adjustments in certain locations (first through law enforcement geographic adjustments and then by locality payments that applied to all GS employees). A 1993 OPM report reviewed the original NACLE salary survey data and updated it to take into account the LEO special rates. OPM concluded that those special rates had eliminated or significantly reduced the nationwide pay gap and that further reductions would best be accomplished through additional locality payments targeted to address pay gaps in specific locations. OPM's report also showed that, based on NACLE survey data, maximum Federal pay rates for the nonsupervisory full performance level were already competitive with maximum State and local pay rates in most locations. (See OPM's September 1993 "Report to Congress: A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers," including Section 7 of the Report Supplement.)

Comparing Full Performance Level Rates

In evaluating salary competitiveness, we focus first on the rates for the normal nonsupervisory full performance level. These are the rates that apply to most employees and thus are arguably the most important, since they define a job's pay potential. A discussion of salary competitiveness at the entry and developmental levels will follow in the next subsection.

Because of time and resource constraints, OPM was unable to conduct or contract for a comprehensive salary survey for this report. OPM attempted to identify law enforcement salary survey data from various readily available sources, but our analysis is limited by the data available. In evaluating full performance level pay, we generally focused on minimum and maximum rates that defined the pay range. We did not attempt to compare how quickly employees moved through a pay range.

Most of the salary data we found was for municipal (city) **police officers**. That data indicated that salaries varied significantly by geographic location, with the lowest salaries in the South and the highest salaries in the Pacific Coast and Northeast regions. As of 2003, regional averages of maximum nonsupervisory rates ranged from about \$45,000 to \$60,000. However, individual cities could pay below or above these regional averages. For example, the maximum rates for certain cities in California and in the Northeast were in the \$65,000 to \$80,000 range.

In terms of scope of responsibility and other factors, GS police, especially those at lower grades, may not be performing at the same level as State or local police officers. The only GS law enforcement occupation that NACLE identified as being comparable to State and local police officers at the full performance level was the GS-1896 Border Patrol Agent occupation, which had a GS-9 normal full performance level at the time of the NACLE report, but which now has a GS-11 normal full performance level. The maximum locality-adjusted salary for GS-11 Border Patrol Agents in the United States in 2003 ranged from \$61,248 to \$67,651, depending on the locality pay area (excluding the normal 25-percent supplement for administratively uncontrollable overtime (AUO) work). Based on available data, it appears that Federal pay ranges for GS-9 and GS-11 are reasonably competitive with or superior to municipal police pay ranges in many locations. However, in certain locations, such as metropolitan areas in California and in the Northeast, GS rates may still lag behind.

For GS Federal police in the 0083 series, the full performance level ranges from GS-5 to GS-8. The majority of GS police officers are covered by OPM- or VA-established special rates that are higher than normal GS salary rates. In locations and agencies where OPM special rates apply, the maximum full performance level salary for GS police in 2003 ranged (depending on locality area) from \$38,393 to \$44,529 at GS-5 and from \$51,003 to \$60,030 at GS-8. These rates are lower than the rates for GS-11 Border Patrol Agents, which is appropriate because those agents hold positions that are classified at a higher level than those held by GS police officers.

Certain Federal police officers are not covered by the GS pay system and have significantly higher rates of pay. NACLE identified Park Police officers and Secret Service Uniformed Division (SSUD) officers as being comparable to State and local police officers. These officers are covered by the same pay system. In 2003, the maximum full performance level salary rates for these officers at the Private rank was \$72,652 (\$77,011 for those receiving technician pay) in Washington, DC, where most are stationed. Park Police officers at the Private rank in San Francisco have a maximum full performance level salary of \$78,026 (\$82,708 for technicians). Based on available data, these rates seem to be generally competitive with those for municipal police officers in the same location.

OPM also examined Bureau of Labor Statistics (BLS) data for **correctional institution officers** from the BLS National Compensation Survey, July 2002. That data provided mean (average) salaries by geographic region. The lowest rates were reported in the following three southern regions: East South Central, West South Central, and South Atlantic. The highest rates were reported in the following regions: Pacific and Middle Atlantic. In the three southern regions, the regional average salary ranged from about \$23,000 to \$28,000. In the Pacific and Middle Atlantic regions, the average salary was in the \$45,000 to \$46,000 range.

The normal nonsupervisory full performance level for Federal correctional officers (GS-0007 occupational series) is GS-7 or GS-8. The table below shows the lowest and highest GS-7 and GS-8 locality-adjusted pay ranges in effect in 2002 in the United States. These ranges reflect LEO special rates.

	“Rest of U.S.” Locality Pay Area (8.64% in 2002)	San Francisco Locality Pay Area (19.04% in 2002)
GS-7	\$34,678 - \$43,859	\$37,998 - \$48,058
GS-8	\$36,146 - \$46,314	\$39,606 - \$50,748

While the BLS surveys likely included State and local correctional officers that are at a lower work level than Federal correctional officers, these data do not seem to indicate that Federal pay levels for correctional officers represent a general problem across all locations. Again, pay gaps may exist in certain high-cost locations.

OPM found very limited salary data for **detectives and criminal investigators**. However, the data we did find seemed to be generally consistent with the NACLE data for 1989. As reported by OPM in its 1993 report, the NACLE data showed that the maximum nonsupervisory full performance level pay rates for Federal criminal investigators (even before including the 25-percent availability pay supplement) were generally higher than the maximum rates paid to most State and local detectives and criminal investigators. Exceptions might exist in some locations such as Los Angeles and New York. As noted earlier in this appendix, most Federal criminal investigators probably work at a higher level (in terms of duties and responsibilities) than State and local investigators. Nonetheless, the fact that the Federal Government offers higher work and pay levels than other employers is a significant factor in assessing labor market competitiveness. In 2004, the GS-12 maximum rates in the United States range from \$76,261 to \$85,414, and the GS-13 maximum rates range from \$90,692 to \$101,576. (If 25-percent availability pay is included, the GS-12/13 maximum rates would range from about \$95,000 to \$127,000, depending on grade and location.)

Entry-Level Rates

Traditionally, entry-level rates for Federal law enforcement-related occupations in the GS pay system have tended to be less competitive than full performance level rates. However, the Government has taken steps to address this problem. LEOs at GS grades 3 through 10 are entitled to special higher base rates that are used in computing GS locality rates. At the most common entry grades of GS-5, 6, and 7 for most LEO occupations, those LEO special rates provide step 1 rates that are 10 to 23 percent higher than regular rates. For GS-1811 criminal investigators, the normal entry grades are GS-7, 9, and 10. At these grades, the increase attributable to LEO special rates is somewhat smaller—3 to 10 percent. Some available salary data indicates that, in certain high-cost locations, the starting rates for Federal criminal investigators lag behind the starting rates for non-Federal detectives and investigators despite the LEO special rates.

For GS-0083 police officers (most of whom do not have LEO status), OPM has established special salary rates that exceed the normally applicable locality-adjusted rates by 11

to 29 percent (depending on location) at the normal police entry grades of GS-5 and 6. In 2003, the police special rates at steps 1 of GS-5 and GS-6 ranged from \$29,537 to \$41,808. (These special rates apply to roughly 60 percent of GS police officers; others are paid at regular GS rates, which result in a range of \$25,697 to \$31,638 for GS-5/6 step 1 locality rates.) For comparison, an OPM review of available salary survey data for municipal police officers showed regional average entry rates ranging from roughly \$30,000 to \$40,000 in 2003. However, for the Pacific Coast subregion, the average entry rate was almost \$45,000. Some California cities reported entry-level salaries in excess of \$50,000—a level which appeared to be extremely rare outside California. Again, in evaluating all this information, we need to keep in mind that Federal GS police may not be equivalent to municipal police in terms of level of work and that some gaps in pay may therefore be warranted.

Finally, it is also important to remember that the GS pay system generally offers more rapid pay progression in the years immediately after entry because employees commonly receive regular (generally annual) promotions until they reach the full performance level. These promotion increases can be very significant. For example, a Border Patrol Agent hired at GS-5 is generally promoted to GS-7 after 6 months and then to GS-9 after another 6 months, which results in a 27 percent increase after just 1 year. After another year, the agent can be promoted to GS-11 and thus receive another 17 percent increase. In other words, in just 2 years an agent will move from GS-5, step 1, to GS-11, step 1, and receive a total salary increase of almost 50 percent. One policy issue is whether the Government's interests would be better served by having a system that allows higher starting salaries while providing smaller increases during the developmental phase of an employee's career. Such an approach might help attract higher quality employees from the outset without the need to increase full performance level salaries.

OCCUPATIONAL SERIES THAT APPLY TO LAW ENFORCEMENT OFFICERS

Examples of Occupational Series that Include Employees Who are LEOs Based on Their “Primary Duties”	
Correctional Administrator (0006) Correctional Officer (0007) Park Ranger (0025) Deputy U.S. Marshal (0082) Police Officer (0083) General Inspection, Investigation, and Compliance (1801) Compliance Inspection and Support (1802) General Investigating (1810)	Criminal Investigating (1811) Game Law Enforcement (1812) Border Patrol Agent (1896) Aircraft Operation (2181) Air Marshal (Transportation Security Administration) Postal Inspector (Postal Service) Probation and Pretrial Services Officer (Judicial Branch)
Examples of Occupational Series that Include Employees Who Are LEOs Based on Having “Frequent and Direct Contact” with Convicted Criminals (e.g., support staff at Federal prisons)	
<i>White Collar</i>	<i>Blue Collar</i>
Safety and Occupational Health (0018) Chaplain (0060) Social Science (0101) Psychology (0180) Recreation Specialist (0188) Human Resources Management (0201) Miscellaneous Administration and Program (0301) Miscellaneous Clerk and Assistant (0303) Secretary (0318) Financial Administration and Program (0501) Accounting Technician (0525) Medical Officer (0602) Physician’s Assistant (0603) Nurse (0610) Electronics Technician (0856) Legal Instruments Examining (0963) Contracting (1102) Food Services (1667) Education and Vocational Training (1710) Information Technology Management (2210)	Electrician (2805) Electrical Equipment Repairing (2854) Fabric Working (3105) Upholstering (3106) Welding (3703) Sheet Metal Mechanic (3806) Metal Forming Machine Operating (3869) Painting (4102) Pipefitting (4204) Plumbing (4206) Wood Work (4601) Carpentry (4607) Utility Systems Repairing-Operating (4742) Maintenance Mechanic (4749) Gardening (5003) Air Conditioning Equipment Mechanic (5306) Automotive Mechanic (5823) Materials Handling (6907) Laundry Machine Operating (7305) Cooking (7404)
105 Miscellaneous Other Occupational Series	27 Miscellaneous Other Occupational Series

NOTES:

1. Law enforcement officer (LEO) means an employee covered by the Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) law enforcement officer retirement provisions.
2. Under CSRS and FERS, the definition of “law enforcement officer” includes employees whose primary duties are the “investigation, apprehension, and detention of individuals suspected or convicted of offenses against the criminal laws of the United States” and employees who have “frequent and direct” contact with convicted criminals, such as prison support staff. (See 5 U.S.C. 8331(20) and 8401(17). Also see Part II of this report.)



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