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Special Retirement Policy for Federal Law Enforcement and Firefighter Personnel Needs Reevaluation. FPCD-76-97; B-135003. February 24, 1977. 29 pp. + appendices (73 pp.).

Report to Rep. Robert W. C. Nix, Chairman, House Committee on Post Office and Civil Service; by Robert F. Keller, Acting Comptroller General.

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The adequacy, effectiveness, and reasonableness of the Government's policy of providing earlier and more generous retirement benefits to Federal law enforcement and firefighter personnel were investigated. Findings/Conclusions: The law currently authorizes these special retirement benefits for about 52,000 Federal employees. The purpose of the special retirement law is to improve the quality of law enforcement and firefighting services by helping to maintain a young, vigorous work force. The more generous benefits are provided to make earlier retirement economically feasible. The special retirement policy is an expensive method of marginally reducing the age of retirement. Covered employees are not retiring much earlier than employees under regular civil service retirement provisions. Recommendations: If it is considered necessary to compensate certain personnel for the hazard and stress commonly associated with these occupations, that compensation should be reflected in pay, not in retirement benefits. Employees who cannot perform satisfactorily before the optional retirement age should be reassigned to less demanding duties or, as a last resort, retired under existing disability programs. If the special retirement policy continues, the Congress should amend the law to require additional retirement contributions by employing agencies and reevaluate the eligibility criteria, the mandatory retirement provision, and the benefit structure. (SC)

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**REPORT TO THE
HOUSE COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
BY THE COMPTROLLER GENERAL
OF THE UNITED STATES**



**Special Retirement Policy
For Federal Law Enforcement
And Firefighter Personnel
Needs Reevaluation**

Civil Service Commission

Federal law enforcement and firefighter personnel can retire earlier with fewer years of service and at higher annuities than most civil service personnel. These benefits are provided to encourage early retirement so that a young and vigorous work force can be maintained.

The continued need for these special benefits is questionable. Covered employees are not retiring much earlier than employees under regular civil service retirement provisions. Alternatives such as better management of personnel, other civil service retirement programs, and special pay rates, if needed for recruitment and retention purposes, could be used in lieu of special retirement.

Several matters need to be reevaluated if the special retirement policy continues.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-135003

The Honorable Robert N. C. Nix
Chairman, Committee on Post Office and
Civil Service
House of Representatives

Dear Mr. Chairman:


This report, prepared in response to the former Chairman's November 17, 1975, request, discusses the adequacy, effectiveness, and reasonableness of the Government's policy of providing earlier and more generous retirement benefits to Federal law enforcement and firefighter personnel. It recommends that the need for this policy be reevaluated and identifies revisions that the Congress should consider if the program continues.

Because the Subcommittee on Compensation and Employee Benefits, which instigated the request, said it needed this report in February 1977, advance comments from the Department of Justice (see app. VI), which were requested by November 19, 1976, were not received in time to be considered in preparing this final report.

Copies of this report are being sent to the Subcommittee on Compensation and Employee Benefits. As requested by the Chairman of that Subcommittee, we are withholding further distribution of this report for 30 days.

Sincerely yours,

ACTING


Comptroller General
of the United States

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ABBREVIATIONS

CSC	Civil Service Commission
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
IRS	Internal Revenue Service

COMPTROLLER GENERAL'S
REPORT TO THE HOUSE
COMMITTEE ON POST OFFICE
AND CIVIL SERVICE

SPECIAL RETIREMENT POLICY
FOR FEDERAL LAW ENFORCEMENT
AND FIREFIGHTER PERSONNEL
NEEDS REEVALUATION
Civil Service Commission

D I G E S T

- How much of the work in Federal law enforcement and firefighter occupations requires youthful stamina and vigor?
- When should a person in such occupations retire?
- Does the right age depend on the particular job of that person?
- What should the Government's responsibility be when that person may be unable to work in an unusually demanding job because of decreased physical and mental abilities associated with age?
- Should that person be required to demonstrate the inability to work usefully and, if this occurs, should the Government find that person another job or retire that person under existing disability programs?
- Or should the Government continue to permit that person to retire under a special retirement provision which does not consider individual abilities?

These questions need to be answered. The Congress should reevaluate the need for providing special retirement benefits to Federal law enforcement and firefighter personnel.

The law authorizes earlier and more generous retirement benefits for about 52,000 Federal employees whose primary duties are (1) investigating, apprehending, or detaining persons suspected or

convicted of Federal crimes or (2) controlling and extinguishing fires or maintaining and using firefighting equipment.

Such employees are eligible to retire at age 50 after 20 years of covered service with an annuity of 50 percent of average pay. Additionally, they receive 2 percent of average pay for each year of service thereafter.

By comparison, the earliest most civil service employees can retire is age 55 after 30 years of service, and their retirement benefits are computed under a less liberal formula.

The purpose of the special retirement law is to improve the quality of law enforcement and firefighting services by helping to maintain a young, vigorous work force. The more generous benefits are provided to make earlier retirement economically feasible.

The special retirement policy for law enforcement and firefighter personnel is an expensive method of marginally reducing the age of retirement.

In 1947 the policy offered a potential reduction of 10 years in the minimum retirement age of covered employees compared to most other civil servants. However, liberalized pay and retirement benefits for all civil servants have reduced the overall average retirement age.

This, combined with the fact that most covered employees choose not to retire when first eligible, has reduced the potential decrease of 10 years in average retirement age to an actual decrease of about 1 to 3 years. Mandatory retirement at age 55 beginning in 1978 will further reduce the average retirement age of covered employees. However, other Federal employees are also retiring earlier.

Although maintaining a trained, alert, and vigorous work force is difficult, these problems exist, to varying degrees, in most Federal occupations. Such problems are normally resolved by using available personnel management techniques, other civil service retirement programs, and special rates of pay. Moreover, many law enforcement and firefighter duties do not require youth and vigor.

If it is considered necessary for recruitment, retention, or other purposes to compensate certain law enforcement and firefighter personnel for the hazard and stress commonly associated with these occupations, that compensation should be reflected in pay, not in retirement benefits.

Employees who cannot perform satisfactorily before the optional retirement age should be reassigned to less demanding duties or, as a last resort, retired under existing civil service or Federal workers' compensation disability programs.

If the special retirement policy continues, however, the Congress should (1) amend the law to require additional retirement contributions by employing agencies and (2) re-evaluate the eligibility criteria, the mandatory retirement provision, and the benefit structure. (See ch. 3.)

The Civil Service Commission agreed that the special retirement policy needs to be re-evaluated but withheld comment on the continued need for special benefits, pending the completion of its own review. (See app. II.)

Operating agencies and employee unions generally disagreed with GAO's conclusions. They said it was premature to question the effectiveness of special benefits in helping to maintain a younger, more vigorous work force because (1) the current annuity formula had been in effect only since July 1974 and (2) the mandatory retirement provision

beginning in 1973 will eventually result in earlier and more equitable retirements for covered employees. They also said the special retirement benefits are necessary for recruiting and retaining employees, maintaining a high level of employee morale, and rewarding employees for doing demanding and dangerous jobs. (See p. 19 and apps. III through VI.)

GAO does not believe these are compelling reasons. (See pp. 20 and 21.)

CHAPTER 1

INTRODUCTION

Federal employees whose primary duties are (1) investigating, apprehending, or detaining persons suspected or convicted of Federal crimes or (2) controlling and extinguishing fires or maintaining and using firefighting apparatus and equipment are permitted, by 5 U.S.C. 8331-8339, to voluntarily retire at age 50 after 20 years of such service. These employees' annuities are computed at the rate of 2.5 percent of average pay (average high 3 years' pay including administratively uncontrollable overtime for law enforcement officers) for the first 20 years of service plus 2 percent of average pay for each year of covered service over 20. Employees and employing agencies each contribute 7.5 percent of basic pay toward retirement. Effective January 1, 1978, the law requires mandatory retirement of such employees at age 55 or upon completion of 20 years of service, whichever comes later. The head of the agency can, however, retain an employee to age 60.

In comparison, Federal employees under the regular civil service retirement provisions are generally eligible for voluntary retirement at age 55 after 30 years of service, at age 60 after 20 years of service, or at age 62 after 5 years of service. Their annuities are computed at the rate of 1.5 percent of average pay (highest average annual salary for 3 consecutive years, generally excluding all premium pay) for the first 5 years of service, 1.75 percent for the next 5 years, and 2 percent for each year of service beyond 10 years. Retirement is mandatory at age 70 after 15 or more years of service. Employees and employing agencies each contribute 7 percent of pay toward retirement.

The legislative purpose of providing early retirement to law enforcement and firefighting personnel is to improve the quality of these services by helping to maintain a young, vigorous work force. The more generous annuity formula is designed to make early retirement economically feasible. The preferential benefits are not to reward those employees for performing demanding services.

JOB COVERED

In 1947 Public Law 168, 80th Congress, was enacted, permitting Federal Bureau of Investigation (FBI) agents to retire with an increased annuity at age 50 after 20 years of service. Many agents had been leaving the FBI to receive

higher salaries in the non-Federal sector. The special retirement provisions were believed necessary to offset the lure of the higher non-Federal salaries and help the FBI become a career service. Also, a young, vigorous force was desired because FBI agents worked long hours; maintained irregular eating and rest schedules; were subject to many pressures, risks, and hazards; traveled for long periods; and were exposed to adverse environmental conditions. Congressional testimony indicated that the cost of this liberalized retirement program would not be great because only 35 agents would be eligible to retire when the law was passed and only 64 agents would become eligible for retirement during the next 5 years.

Almost immediately, other employee groups began requesting equivalent benefits. In 1948, Public Law 879, 80th Congress, extended special retirement benefits to all employees in positions with duties that were primarily investigating, apprehending, or detaining persons suspected or convicted of committing Federal crimes. In 1956, Public Law 854, 84th Congress, further extended coverage to employees of correctional institutions who had frequent and direct contact in the detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation of persons suspected or convicted of violating the criminal laws of the United States, the District of Columbia, or the Uniform Code of Military Justice. In 1972, Public Law 92-382 accorded the liberalized retirement provisions to employees in positions whose duties primarily involved controlling and extinguishing fires or maintaining and using firefighting equipment. In addition, these laws provide coverage for employees who are transferred to supervisory or administrative positions.

Finally, a 1974 law--Public Law 93-350--(1) further liberalized the benefits, (2) deleted all references to employee hazard as a basis for coverage, (3) emphasized in its legislative history that the special retirement provisions are provided to improve the quality of law enforcement and firefighting services by helping to maintain a young and vigorous work force and that the generous benefits are provided to make early retirement economically feasible, and (4) established, effective January 1978, mandatory retirement at age 55 or upon completing 20 years of covered service, whichever comes later.

The Civil Service Commission (CSC) is responsible for administering the special retirement provisions and certifying employees' eligibility. Many occupational groups of employees are eligible for benefits. Examples of the types of positions included follow.

Investigation and apprehension of criminals--includes such employees as special agents in the FBI, Internal Revenue Service (IRS), Secret Service, and Drug Enforcement Administration. Customs and immigration border patrol officers and airplane pilots, game wardens, postal inspectors, and Bureau of Indian Affairs and Panama Canal Zone police also receive benefits.

Detention of criminals--includes all employees working inside the walls of a Federal or District of Columbia detention facility. Thus, covered positions include not only correctional officers but also cooks, plumbers, carpenters, paint foremen, mailclerks, telephone operators, accountants, and secretaries. Also covered are research chemists, pharmacologists, physicists, and photographers at a drug addiction center and parole hearing examiners in the Department of Justice.

Fighting fires--includes employees fighting both structure and forest fires. In addition, the eligibility criteria have been interpreted to cover such positions as tanktruck operators, certain airplane pilots, and certain foresters.

Supervisory and administrative personnel--includes employees who transferred from covered operating positions to positions responsible for supervising operating-level employees or to positions where operating experience is required to perform the various administrative duties. Included are program administrators in headquarters organizations, accountants, personnel officers, administrative officers, and training course developers and instructors.

CSC regulations specifically exclude employees in positions whose primary duties involve (1) maintaining law and order, (2) protecting life and property, or (3) guarding against or inspecting for violations of law or investigating persons other than those suspected of violating criminal laws. Also excluded are employees whose duties only occasionally or incidentally require the investigation, apprehension, or detention of persons suspected or convicted of violating criminal laws.

About 52,000 employees in various Federal agencies and the District of Columbia government are covered under the special retirement program for law enforcement and firefighter personnel. The estimated number of covered employees by agency is shown below.

<u>Agency</u>	<u>Covered employees</u>
Federal Bureau of Investigation	8,500
Bureau of Prisons	8,000
Immigration and Naturalization Service	3,200
Drug Enforcement Administration	2,000
Internal Revenue Service	3,000
U.S. Customs Service	2,100
Bureau of Alcohol, Tobacco and Firearms	1,600
U.S. Secret Service	1,300
U.S. Marshal's Service	1,500
Department of the Navy	5,000
U.S. Postal Service	1,800
D.C. government (note a)	1,900
Department of the Army	2,600
Department of the Air Force	3,900
Administrative Office of U.S. Courts	1,500
Department of Agriculture	2,000
Other agencies	<u>2,400</u>
 Total	 <u>52,300</u>

a/Excludes D.C. police and firefighters who are in a separate retirement system along with Federal Executive Protective Service and Park Police personnel and certain Secret Service personnel.

Since the original law was passed in 1947, increasing numbers of employees have retired under the program. The number of employees retiring under the special provisions increased from only 1 in fiscal year 1948 to 1,566 in fiscal year 1975. As of June 30, 1975, 10,071 retired employees were receiving annuities totaling about \$113.4 million a year.

SCOPE OF REVIEW

Our review was directed toward evaluating the adequacy and effectiveness of the special retirement program for law enforcement officers and firefighters. We reviewed applicable legislation, reports, correspondence, and retirement records and interviewed CSC and operating agency officials. In addition, to determine the duties performed by covered employees, we reviewed position descriptions and other records and interviewed employees in the Washington, D.C., and Seattle areas.

Agencies contacted were the FBI, Bureau of Prisons, Forest Service, Customs Service, Immigration and Naturalization

Service, Postal Service, and IRS. We also sent a questionnaire to a randomly selected group of 301 program annuitants who retired between July 1, 1974, and February 20, 1976.

We discussed the special retirement benefits with representatives of the following Federal employee organizations: AFL-CIO Public Employees Department, American Federation of Government Employees (AFL-CIO), International Association of Fire Fighters (AFL-CIO), National Treasury Employees Union, and National Federation of Federal Employees.

CHAPTER 2

NEED FOR SPECIAL RETIRMENT POLICY IS QUESTIONABLE

A need for the special retirement program may have existed in 1947, when the program was established to make certain Federal jobs more attractive and to make it economically feasible for employees in such jobs to retire at a younger age. But the continued need for special retirement is questionable because

- regular civil service retirement benefits have been increased substantially, thus reducing the average retirement age for all civil servants;
- covered employees are not retiring much earlier than employees who do not receive the additional benefits but the costs of covered employees' benefits are much greater;
- many covered employees could continue to perform their jobs satisfactorily after age 50 and others could be assigned to less demanding jobs; and
- civil service disability retirement and Federal workers' compensation benefits are available to employees who can no longer perform their duties.

IMPROVEMENTS IN FEDERAL PAY AND RETIREMENT BENEFITS

Since enactment of the special retirement provisions, many improvements have been made in the pay and retirement benefits of all Federal employees. These improvements have made Federal service more attractive and reduced average retirement ages for most civil servants.

Substantial increases in Federal pay have resulted primarily from the Congress establishing the policy that Federal pay be comparable with private enterprise pay and authorizing annual pay adjustments by administrative action. Between 1947 and December 1976, the annual rate of a GS-13, step 1, position increased 227 percent (from \$7,432 to \$24,308) while the Consumer Price Index rose about 148 percent. The average FBI agent's salary in December 1975 was \$23,600--almost five times the average salary paid in 1947. The average salary of covered employees retiring between July 1, 1975, and February 20, 1976, was over \$22,000 a year.

Before enactment of the special retirement provisions, benefits available to all employees were not conducive to retirement at a young age. But retirement benefits available to all Federal employees have been liberalized, making retirement at an earlier age more economically feasible. Major improvements have included:

- Reduced minimum optional retirement age, without a reduced annuity, from 60 to 55 after 30 years of service.
- Liberalized retirement benefits, with the annuity based on average salary earned during an employee's 3 consecutive highest paid years instead of 5 years and the percentage of average salary received for service exceeding 5 years increased so that after 30 years of service an annuity would be 56.25 percent of the average salary instead of 42.86 percent.
- Automatic annuity adjustments for cost-of-living increases.

SPECIAL BENEFITS ARE EXPENSIVE MEANS OF
MARGINALLY REDUCING RETIREMENT AGES

Covered employees have never retired much earlier than other civil service employees. Since fiscal year 1971, for example, covered employees retired on the average at an age less than 1 year younger than other civil servants retiring under the regular 55 years of age and 30 years of service retirement option. Even if all employees who serve more than 30 years (career civil servants) are included in the comparison, covered employees retired only about 3 years younger over the same 5-year period. Moreover, the wage-replacement ratio--the extent to which retirement benefits replace the employee's final earnings--for law enforcement and firefighter personnel exceeds that of employees covered under regular civil service retirement provisions.

The following table compares the average age at retirement for covered employees with the average age of civil servants retiring under the 55 and 30 option and all employees who retired with 30 or more years of service.

<u>Fiscal year</u>	<u>Age 55 after 30 years of service</u>	<u>Employees with 30 years or more of service</u>	<u>Covered employees</u>	<u>Difference-- covered employees and full career employees</u>
1947	58.6	63.7	No retirees	-
1949	58.1	63.3	59.9	3.4
1950	58.0	63.2	58.8	4.4
1955	57.9	63.1	59.3	3.8
1960	57.8	62.6	59.8	2.8
1965	57.7	62.5	58.4	4.1
1970	57.7	61.1	57.3	3.8
1971	57.8	61.0	57.8	3.2
1972	57.1	60.1	56.9	3.2
1973	57.2	60.2	56.8	3.4
1974	57.2	60.0	56.7	3.3
1975	57.0	59.6	56.2	3.4

Even the passage of Public Law 93-350 on July 12, 1974, has not greatly affected the retirement age variance between covered employees and other civil servants. Although the more liberal annuity computation formula has resulted in covered employees retiring an average of 6 months earlier, other civil servants have also been retiring earlier. Thus, the variance between the groups remained relatively constant.

The primary reason for the relatively small variance in retirement ages is that most covered employees choose to work long after they become eligible for retirement. Of a sample of 301 annuitants retiring between July 1, 1974, and February 20, 1976, 253 (84 percent) continued to work after they met the minimum requirement of age 50 after 20 years of service. Moreover, of all covered employees retiring during that period, 1,066 (44 percent) would have been eligible for optional retirement under the regular civil service retirement system provisions applicable to other Federal employees.

Effective January 1, 1978, all covered employees must retire when they reach age 55 and have 20 years of service. This mandatory retirement provision will reduce the average age at retirement. Although we cannot predict future retirement patterns, the ages and years of service of the 301 sample annuitants indicate that the average retirement age for covered employees will be reduced to about 53.6 years after mandatory retirement becomes effective.

To achieve the current 1- to 3-year reduction in the average retirement age of covered employees, the Government

pays heavily. Based on CSC actuarial estimates, the Government's annual normal cost is \$311 million--\$118 million (61 percent) more than the cost would be of providing regular optional benefits to these employees (assuming a 3-percent annual salary adjustment and a 4-percent annual annuity adjustment). CSC estimates that the unfunded liability of the special retirement program is \$5.3 billion under those assumptions.

SPECIAL BENEFITS ARE CONSIDERABLY
MORE LIBERAL THAN THOSE PROVIDED
TO OTHER CIVIL SERVANTS

Retirement experience since the current benefit structure was implemented in July 1974 shows that many employees are taking maximum advantage of the liberalized benefits by not retiring and continuing to serve full careers. Of the 2,416 employees retiring from July 1, 1974, to February 20, 1976:

- 1,535 (64 percent) worked 30 years or more,
- 1,264 (53 percent) were over 55 years old, and
- 1,066 (44 percent) were eligible for optional retirement under the provisions applicable to most other Federal employees.

Although nearly two-thirds of the program retirees worked full careers (30 years or more) before retiring, they still received the financial benefits designed to compensate for shortened work careers. The average covered employee retiring between July 1, 1975, and February 20, 1976, received an annuity of about \$15,800 a year, about 74 percent of preretirement high-3-years earnings base. Actually, many law enforcement employees received more than 74 percent of general schedule salary because they were permitted to add administratively uncontrollable overtime to their earnings base.

The special retirement benefit structure enables retirees to receive annuities ranging from about 20 to over 50 percent more than those received by regular civil service retirees with the same years of service and preretirement basic salary. The service of covered employees is compensated at a rate higher than other civil servants regardless of career length. The program goes beyond compensating for an assumed occupationally shortened career by continuing to extend liberal benefits when full careers are served.

The benefit differential of 20 to 50 percent results from the liberalized annuity computation formula, which (1) adds any administratively uncontrollable overtime to a law enforcement officer's average pay and (2) multiplies average pay by 50 percent for the first 20 years of service and 2 percent for each additional year of service. Other civil servants cannot include overtime in their high-3-years salary computation and their average pay is multiplied by only 36.25 percent for the first 20 years of service and 2 percent for each additional year. Examples of the annuity increase resulting from this liberalized formula are included in the following table.

<u>Salary</u>	<u>Years of service</u>	<u>Percent of uncontrollable overtime</u>	<u>Annual annuity received by</u>		<u>Increased annuity</u>	
			<u>Covered employees</u>	<u>Other civil servants</u>	<u>Amount</u>	<u>Percent</u>
\$14,824	35	25	\$14,824	\$ 9,821	\$5,003	51
\$15,278	35	25	15,187	10,122	5,065	50
\$21,970	35	0	17,576	14,555	3,021	21
\$27,756	20	20	15,360	10,062	5,298	53
\$29,018	25	10	18,300	13,421	4,879	36
\$34,441	30	0	24,109	19,373	4,736	24

About 82 percent of the program retirees in our sample received a higher percentage of salary than that received by the average career civil servant who retired during fiscal year 1975.

MANY OLDER EMPLOYEES PERFORM SATISFACTORILY

Physical abilities normally decline with age, but the rate of decline differs among individuals. Retirement policies that disregard differences in physical abilities and productive capacity are costly and wasteful.

Although the average retirement age of covered employees was from 1 to 3 years younger than that of other career civil servants in fiscal year 1975, this difference may not be significant because the program does not differentiate between employees who should retire and those of the same age who are still productive. Most agencies contend that employees do not perform as well as they grow older. However, medical tests on employees, supervisors' comments on the performance of older employees, retirement ages of former employees, and the number of former employees continuing to work after retirement all indicate that many older employees could continue

to perform satisfactorily for the time they probably would work if the special retirement option was not available.

Several agencies, including the FBI, Postal Service, and Forest Service, require annual physical examinations for older employees. In these examinations, the employee must either pass a specific endurance test or, after a physical examination, be medically certified as capable of performing the job. Through these tests, almost all older employees are determined to be physically capable of performing their jobs. For example:

--As of May 13, 1976, 235 (14 percent) of the 1,658 covered postal inspectors were age 50 or older. Only about six postal inspectors of all ages are assigned desk jobs in a given year because of physical examination findings.

--As of January 31, 1976, 1,578 (18 percent) of the 8,521 covered FBI agents were age 50 or older. Only about 100 agents of all ages are normally assigned to limited duty at a given time because of physical examination findings or obvious injuries.

We did not determine how many of the employees placed on limited duty were age 50 or older. Even assuming that all those placed on limited duty in both agencies were age 50 or older, that would represent a very small percentage of the older employees.

Other information also indicates that employees age 50 or older can continue to perform satisfactorily. For example:

--Of the 36,943 covered employees in the Justice and Treasury Departments, the Postal Service, and the Forest Service, 5,906 (16 percent) were age 50 or older. Many are age 55 or older with 30 or more years of service.

--Of the 2,416 employees who retired under the special retirement provisions between July 1, 1974, and February 20, 1976, 1,280 (53 percent) were 55 years old or older at retirement.

--Many of those retiring since 1974 did not retire from work, they simply retired from Federal service. Of the 205 former law enforcement or firefighter personnel responding to our questionnaire, 58 (28 percent) held jobs after retirement--23 in law enforcement or firefighting occupations.

MANY COVERED POSITIONS DO NOT REQUIRE
EXCEPTIONALLY VIGOROUS EMPLOYEES

By law, coverage is granted to employees who perform specific law enforcement or firefighting functions. Many duties in these occupations, however, do not require extraordinary vigor. Those employees not able to perform demanding tasks could be assigned to less demanding duties.

To determine the types of duties performed in covered positions, we interviewed 79 incumbents and reviewed agency documents in the Washington, D.C., or Seattle area offices of the FBI; Bureau of Prisons; Federal Prison Industries, Incorporated; Forest Service; Immigration and Naturalization Service; Customs Service; Postal Service; and IRS. In analyzing these positions we first considered the day-to-day physical requirements of the job, such as amount of overtime worked and the degree of hard physical labor performed. Next, we considered the physical requirements which arise periodically, such as those involved in arresting suspects or fighting fires. In evaluating these aspects of the job, we considered how often incidents might occur, whether they might occur in a controlled or uncontrolled environment, whether help would be available reasonably soon, what the consequences would be if the employee could not handle the situation, and whether the physical requirements could be modified for older employees. The final, most important consideration was whether the 1- to 3-year difference in average retirement ages of covered employees and other civil servants would greatly affect an employee's ability to perform either his day-to-day job or the periodic requirements which might arise.

Examples of the types of positions not requiring an exceptionally vigorous work force are discussed below.

Administrative and supervisory positions

Over half of our sample of 301 program retirees served in administrative and supervisory positions at the time of retirement. Although some administrative and supervisory positions involve occasional operating-level duties, many primarily involve management activities which we believe do not require an exceptionally young and vigorous work force. For instance, as of May 1, 1976, 479 FBI agents were assigned to Washington headquarters divisions responsible for such administrative activities as personnel management, training, program planning and evaluation, budgeting, records management, and scientifically examining evidence. Because agents

serving in these capacities normally do not conduct criminal investigations, they do not face the physically demanding situations encountered by field agents. Another 259 headquarters agents were responsible for supervising and coordinating criminal and security investigations. Although these agents occasionally participate in major cases, their primary responsibilities are supervisory or administrative.

Also serving in administrative and supervisory positions are about 225 IRS criminal investigators and about 150 Postal Service inspectors. According to officials in these agencies, these positions are basically managerial and are not very physically demanding.

In addition, 385 personnel serving in the central office and regional offices of the Bureau of Prisons receive program coverage. Although these employees may periodically visit prisons, their primary duties are to guide, direct, supervise, and evaluate various correctional facilities' programs, including education, personnel administration, farm operations, and health administration. In our opinion, employees in these positions need not be exceptionally vigorous.

Employees in supervisory and administrative positions continue to earn credit toward program benefits only if they transfer directly from positions which are primarily involved with law enforcement and firefighting duties. CSC has noted that such employees were granted coverage solely to foster orderly Government operation (for example, by allowing employees to accept supervisory or administrative positions without fear of losing retirement benefits).

Auditing activities

The Postal Inspection Service, which has about 1,850 covered employees, spent about 30 percent of its manpower making financial and management audits during fiscal year 1975. Although auditing is a minor function for some employees, it constitutes the primary duty of others. In the Philadelphia and Washington divisions, for example, 48 (29 percent) of the 164 inspectors spent about 86 percent of their time conducting audits and other noncriminal investigations during fiscal year 1975. These investigations included determining whether postal revenues were properly protected, whether funds were economically expended, and generally whether the Postal Service was being operated efficiently and economically. These duties are similar to those performed by other agencies' auditors who are not eligible for special retirement coverage.

Although Postal Service officials believe auditing positions require vigorous incumbents because of long work hours and travel requirements, they also believe that older employees could be assigned to and effectively used in these positions.

As of May 1, 1976, the FBI also had 40 agents in the headquarters Inspection Division who primarily conducted internal audits of FBI headquarters divisions and field offices.

Background investigations

Making background investigations is another duty of criminal investigators in IRS, the FBI, and the Postal Service which does not require exceptional vigor. These investigations are made to determine an individual's suitability for employment. They generally involve verifying education and employment qualifications; reviewing military service, police, and credit records; and interviewing references, personal associates, and others. Many general investigators who do not receive program coverage also make such investigations.

In the FBI the distribution of agents' efforts among various investigative activities is classified. However, a number of agents in the Baltimore and Alexandria field offices that we visited were assigned full time to background investigations. Newly hired and experienced agents were assigned to these positions for varying lengths of time and then normally rotated to other duties. The FBI may be able to assign less vigorous agents to these duties.

About 133 (37 percent) of IRS's 360 inspector staff-years and 20 Postal Service inspector staff-years were spent performing background investigations in fiscal year 1975.

Unlike the FBI, IRS and Postal Service background investigation duties are divided among many employees. This activity could be isolated, however, so that less vigorous employees could be assigned to these investigations full time.

Isolation of background investigation duties occurred in 1972, when the Defense Investigative Service was created to make the background investigations formerly made by the investigative organizations in the Departments of the Army, Navy, and Air Force. About 375 civilian criminal investigators primarily performing personnel investigations (but nonetheless receiving special retirement credit) were transferred. After the transfer these employees were reclassified as

general investigators, and CSC ruled that they were no longer eligible for special retirement benefits. Defense Investigative Service officials questioned the equity of these employees losing their coverage, but they agreed that employees conducting these investigations did not need to be particularly vigorous.

Forest firefighting professionals

Fighting wildland fires in the Nation's forests is a strenuous job requiring exceptional physical stamina. During fiscal year 1974 about 14,000 permanent employees and 35,000 intermittent employees were involved in fire control activities for the Forest Service. A Service official believed that only 1,800 of these 49,000 employees will eventually be eligible for program benefits. The other employees either are not primarily involved with fighting fires or are hired to help control fires only during the fire season.

With minor exceptions, all Forest Service employees must be certified as physically fit before being assigned to firefighting duties. This certification is given at least annually after an employee passes tests measuring endurance and physical stamina. These tests are used to determine whether employees are capable of fighting uncontrolled forest fires. An employee who does not pass the test could be reassigned to nonstrenuous duties.

In 1975 an estimated 900 persons were employed in fire control duties at Mt. Baker-Snoqualmie National Forest. Only 25 were forest firefighting professionals entitled to coverage. The records show that the covered employees fought uncontrolled forest fires on an average of only about 3 percent of the time. We were told that "mop-up" duty after the fire was under control generally accounted for more time than bringing the fire under control.

Covered employees spent the remaining time performing many fire-related duties, such as planning, organizing, and training to fight fires; hiring, organizing, training, and supervising subordinates; performing administrative duties; acquiring and maintaining equipment; and performing "fuels management" duties. Fuels management involves locating and burning brush or locating, digging a fire line around, and burning waste logs from logging operations. Fuels management can be conducted at a more leisurely pace than fighting uncontrolled fires, workshifts are generally 8 hours, and the potential hazard and mental stress are reduced because of the controlled conditions. Employees do not receive

hazard pay when performing these duties, nor are they required to pass a physical endurance test required for fighting uncontrolled fires. Most of the 12 employees we interviewed stated that older employees in good physical condition could perform these duties.

The other 875 Mt. Baker-Snoqualmie employees were not eligible for program benefits because they were seasonal or short-term hires or they were not primarily involved with controlling and extinguishing wildfires. Many of these employees, however, have extensive firefighting experience and training. We believe that they could participate in fighting uncontrolled forest fires in lieu of older, covered employees who cannot meet the established physical requirements.

In view of the small percentage of time covered employees spend fighting uncontrolled fires and the many noncovered personnel available to fight forest fires, we believe the elimination of program benefits and the anticipated increase of 1 to 3 years in the average retirement age would not significantly affect forest firefighting capabilities.

Prison support positions

All Federal prison system employees working inside a prison receive program coverage because they have frequent and direct contact with inmates. Employees receiving coverage include correctional officers, teachers, secretaries, accountants, food service employees, telephone operators, medical personnel, and blue-collar employees in various occupations. Less than half of the 8,000 covered employees are correctional officers.

The primary duties of the noncorrectional officer employees do not, in our opinion, require extraordinary vigor. At McNeil Island Penitentiary, a medium-security facility, 14 of the 15 noncorrectional employees we interviewed said that older employees could perform their primary duties satisfactorily. McNeil Island officials maintained, however, that all employees must be able to physically control prisoners, thereby guaranteeing the safety of employees and maintaining institutional order.

Incidents involving the employees' safety are rare. At McNeil Island, the 350 employees have had no riots to control and have been involved in only four assaults in the last 5 years. Nationally, assaults on prison system employees were reported at a rate of 13 per 1,000 employees per year during

the 5-year period ended June 30, 1975. In contrast, the 1974 assault rates for cities with populations exceeding 250,000 and for local police officers were 7 per 1,000 residents and 151 per 1,000 officers, respectively.

Inmates also assault each other. But all nine McNeil Island employees who were asked what they would do upon witnessing a fight between inmates said that they would call for help if necessary. Help is available at the McNeil Island institution and industry facilities within 60 to 90 seconds of dialing an emergency telephone number or almost immediately if other employees are within earshot.

Institutional disorders are also rare. At McNeil Island there have been no riots in the last 5 years. In the event of a major disturbance, the controlled environment and the telephone communications system procedures provide for quickly concentrating employees at the scene. Moreover, the current level of control over inmates has been maintained even though about 28 percent of the employees at McNeil Island are age 50 or over. Nationally, about 23 percent of the Federal prison system's employees are age 50 or over.

Considering the infrequency of threats to institutional order and employee safety, the existing inmate management procedures, and the ability of older workers to perform satisfactorily, we do not believe that every prison employee must be young and vigorous. Consequently, we do not believe that the 1- to 3-year increase in average retirement ages which would probably occur without the special retirement program would significantly affect prison operations.

Related Federal jobs

In addition to the less demanding duties performed by covered employees, many less demanding jobs in other job classifications or other organizations require knowledge and skills similar to those developed by covered employees. Older, less vigorous employees may be able to take on such jobs for the last few years of their career.

For example, as of October 1975 about 2,000 general investigators were employed by various Federal agencies. General investigators deal with such matters as the character, practices, suitability, or qualifications of persons

or organizations seeking, claiming, or receiving Federal benefits, permits, or employment. This work requires a knowledge of the civil and administrative aspects of law and is somewhat similar to background investigations made by criminal investigators. Although general investigators perform duties similar to criminal investigators, they are not required to maintain surveillance, perform undercover work, make arrests, or take part in raids.

Over half of the 8,000 covered prison employees, including secretaries, medical employees, accountants, and employees in various blue collar occupations, have as their primary qualifications various trade, professional, or clerical skills. Older employees may be able to use their skills in similar positions outside the Federal prison system if they are no longer vigorous enough to perform correctional duties.

OTHER PROGRAMS EXIST TO PROVIDE
BENEFITS FOR EMPLOYEES WHO CAN
NO LONGER PERFORM THEIR DUTIES

The program provides benefits to employees who, because of age, are presumed unable to perform their jobs. In a sense, the program is a broadly based disability program which enables employees to receive higher benefits than other civil servants without demonstrating a disabling condition. All civil servants, including law enforcement officers and firefighters, who are unable to perform their jobs because of disease or injury are entitled to an annuity under two disability programs--the civil service disability retirement program and the Federal workers' compensation program.

The civil service retirement program permits an employee to retire on disability after 5 years of civilian service if he is unable to perform useful and efficient service in the grade or class of position last occupied because of disease or injury. CSC construes that total disability for one position, including the inability to perform even one essential function, constitutes disability for all other positions within the same occupational series. Disabled annuitants receive a guaranteed minimum annuity equal to the lesser of (1) 40 percent of average salary or (2) the percentage of salary that would be obtained after increasing the years of service from the date of separation to age 60. At the end of fiscal year 1975, 258,000 disabled annuitants were on the civil service retirement rolls.

Federal employees who experience job-related disabilities are eligible for Federal workers' compensation benefits. This program provides benefits ranging from two-thirds to three-fourths of pay for employees disabled from a job-related injury or disease.

All civil servants can receive a guaranteed minimum annuity if they are disabled and can no longer perform effectively. Much higher benefits are available if the disability is job related. Law enforcement officers and firefighters who because of disease or injury are unable to perform satisfactorily before optional retirement age can use these programs.

AGENCY AND UNION COMMENTS ON NEED FOR SPECIAL BENEFITS

CSC agreed that the time has come to reevaluate the need for providing special retirement benefits to law enforcement and firefighter personnel. CSC said, however, that it was withholding substantive comment on the continued need for special retirement benefits pending the outcome of its independent review of that policy, which is expected to be completed in May 1977.

Operating agencies and employee unions generally disagreed with our conclusions. They said it was premature to question the effectiveness of the special benefits in helping to maintain a younger, more vigorous work force because (1) the current annuity formula had been in effect only since July 1974 and (2) the mandatory retirement provision which becomes effective in January 1978 will eventually result in earlier and more equitable retirements for covered employees. They said that the continued need for special retirement benefits should not be reevaluated until about 1980, when the full effects of the 1974 amendments can be considered.

Operating agencies and unions took the position that the special retirement benefits are justified and necessary for efficient and effective operations, that is, such benefits are necessary for recruiting and retaining employees, maintaining a high level of employee morale, and rewarding employees for doing demanding and dangerous jobs. They said that our conclusions were based on a combined analysis of all types of covered occupations and that if the data had been gathered and reported by occupation and agency, we would have found the special benefits necessary for some occupations.

EVALUATION OF
AGENCY AND UNION COMMENTS

The effectiveness of the special retirement benefits in helping to maintain a younger, more vigorous work force is only one of several factors which raise serious questions about the continued need for the special retirement policy. Covered personnel are retiring at earlier average ages, but so are all other Federal personnel. Mandatory retirement will, of course, further reduce the average retirement age of covered personnel beginning in 1978. However, we question whether further reductions in retirement ages will be great enough to justify the high costs of the special benefits. And mandatory retirement at age 55 will still permit most covered employees--those who begin their law enforcement or firefighting careers at age 30 or less--to complete a 25- to 30-year career and to receive greater benefits than regular employees with similar preretirement earnings and years of service. Also, many of the covered employees who will be mandatorily retired at age 55 will be supervisors or administrators who generally do not need to be particularly vigorous.

Over the early retirement policy's 30-year history, including periods when there were substantial differences between the special and regular retirement benefit structures, covered employees have never retired much earlier than employees under the regular civil service optional retirement provisions. We believe that a 30-year period is long enough to judge the special policy's overall effectiveness.

Because the special benefits for certain law enforcement personnel have existed for 30 years, we could not determine exactly what effects they have had on recruitment and retention. We could also not ascertain exactly what impact eliminating or reducing the special benefits would have on the recruitment and retention of prospective employees. The special benefits obviously enhance recruitment and retention. But that is not the issue. The issue is whether or not the special benefits are justified and necessary to attract and retain competent people.

In that regard, CSC recently said that, nationwide, there are about 24 applicants for every Federal job opening--about 30 applicants for every Federal job in the Washington, D.C., area. There are reportedly about 1,000 qualified applicants for FBI special agent jobs, but there are no openings. In comparison with local governments' retirement systems, Bureau

of Labor Statistics compensation surveys in major U.S. cities show that the benefits of 38 of 47 local police and firefighter retirement systems are generally less liberal than the special Federal benefits. In relation to the 38 local retirement systems, the Federal system generally has more liberal minimum age and service requirements and provides a higher percentage of salary. Also, a recent CSC study shows that Federal criminal investigators and firefighters are generally paid more than their non-Federal counterparts.

Like all other Federal white-collar positions, law enforcement and firefighter jobs are placed in appropriate grades in accordance with their duties, responsibilities, and qualification requirements. The knowledge, skills, and abilities required by these jobs' characteristics have been considered in setting position classifications which in turn establish basic rates of pay. Job characteristics (for example, hazard; working conditions; and the physical, mental, and emotional stress commonly associated with law enforcement and firefighting occupations) are generally not considered directly in valuing or classifying Federal positions. If it is considered necessary for recruitment, retention, or other purposes to provide additional compensation for certain Federal jobs because of such factors, that additional compensation should be reflected in pay, not in retirement benefits.

CONCLUSIONS

How much of the work in Federal law enforcement and firefighter occupations requires youthful stamina and vigor? When should a person in such occupations retire? Does the right age depend on the particular job of that person? What should the Government's responsibility be when that person may be unable to perform in an unusually demanding job because of decreased physical and mental abilities associated with age? Should that person be required to demonstrate the inability to work usefully and, if this occurs, should the Government find that person another job or retire that person under existing disability programs? Or should the Government continue to permit that person to retire under a special retirement provision which does not consider individual abilities?

It is time for these questions to be answered. It is time for the Congress to reevaluate the need for providing special retirement benefits to law enforcement and firefighter personnel.

The special retirement policy for law enforcement and firefighter personnel is an expensive method of marginally reducing the age of retirement. In 1947 the policy offered a potential reduction of 10 years in the minimum retirement age of covered employees compared to most other civil servants. However, liberalized pay and retirement benefits for all civil servants have reduced the overall average retirement age. This, combined with the fact that most covered employees choose not to retire when first eligible, has reduced the potential decrease of 10 years in average retirement age to an actual decrease of about 1 to 3 years. Moreover, many law enforcement and firefighter duties do not require youth and vigor.

Although we recognize the difficulty in maintaining a trained, alert, and vigorous work force, these problems exist, to varying degrees, in most Federal occupations. We believe that such problems could be resolved by using available personnel management techniques, other civil service retirement programs, and special rates of pay, if needed for recruitment and retention purposes. If the employee is not physically capable of performing satisfactorily before the optional retirement age, he or she should be reassigned to less demanding duties or, as a last resort, retired under existing civil service or Federal workers' compensation disability programs.

Federal law enforcement and firefighter personnel have traditionally performed these essential services commendably, and we have no reason to believe that such excellence will not continue. Accordingly, we question whether further reductions in their average retirement age are needed. The regular civil service retirement provisions provide fair and generous benefits at a relatively early age.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress reevaluate the need for providing special retirement benefits to Federal law enforcement and firefighter personnel.

CHAPTER 3

EVALUATION OF ELIGIBILITY CRITERIA, BENEFIT STRUCTURE, AND OTHER MATTERS

As discussed in chapter 2, we believe that the continued need for the special retirement policy is questionable. However, if the policy continues, the Congress should reevaluate several matters.

ELIGIBILITY CRITERIA--PRACTICAL CONSIDERATIONS

The special retirement program is based on the assumption that a young, vigorous work force is required in certain occupations, but the program's eligibility criteria do not address this matter. The criteria are limited to employees in positions whose primary duties are performing specific functions--investigating, apprehending, and detaining criminals; controlling and extinguishing fires; or maintaining and using firefighting equipment. Consequently, many employees are covered even though their primary duties do not require unusual vigor but other employees are not covered although their duties may require such vigor. Occupational criteria, however, may be the most practical for determining coverage for special retirement if the program continues.

In establishing the special retirement policy, the Congress considered many job characteristics of law enforcement officers and firefighters which it believed dictated the need for exceptionally vigorous incumbents. These job characteristics included

- working long hours under arduous or environmentally adverse conditions,
- working under significant physical, mental, and emotional stress,
- being exposed to hazard during the day-to-day performance of the job,
- maintaining irregular eating and rest schedules,
- being absent from home and family for extended periods,

--being continually on call to respond to emergencies,
and

--having to meet stringent physical demands.

In combination, these factors were believed to make it difficult, if not impossible, for older employees to perform at the required pace.

Despite the concern over maintaining a vigorous work force, the present retirement eligibility criteria do not address the need for vigorous incumbents in determining coverage. Instead, benefits are provided to all employees who occupy certain positions. As a result of these occupationally based criteria, many individuals receive coverage even though the primary duties of their positions do not require extraordinary vigor.

These occupational criteria are probably the result of law enforcement and firefighter personnel persuasively stating their case to legislators and the public over the years. On the other hand, many other groups have sought and been denied coverage throughout the 30-year history of the program because of the occupationally based eligibility criteria. Included among these groups have been customs and immigrations inspectors, aircraft pilots, coal mine inspectors, and employees with abnormal exposure to disease or accident. The law automatically excludes coverage of these positions because the duties do not primarily involve the "investigation, apprehension, or detention" of criminals or the "control and extinguishment of fires," and not because the positions do not require exceptional vigor.

To more fully meet the law's objective, the eligibility criteria would have to be based on the need for extraordinarily vigorous employees. We interviewed both covered and noncovered employees, supervisors, and administrators and considered the job characteristics outlined by the Congress in establishing the program. Based on this, we believe that especially vigorous employees could be necessary where lapses in performance significantly and immediately inhibit accomplishment of the agency mission and where the duties of the position require

--extraordinary physical stamina and continual mental alertness over long periods or

--frequent short-term extraordinary physical exertion under environmentally adverse conditions.

These criteria could encompass, for example, the duties of an individual frequently required to maintain continual alertness during all night investigative surveillances or to make arrests of dangerous criminals or fight forest or structural fires. In such situations, lapses could result in immediate negative consequences. However, we know of no practical eligibility criteria or administrative procedures which would make certain that special retirement is granted only to employees whose duties require exceptional youth and vigor.

CSC is responsible for applying the eligibility criteria and making coverage determinations. CSC bases such determinations mainly on official position descriptions. Position descriptions, however, generally describe the primary duties of a group of employees rather than the duties of a specific individual. For example, the position description for postal inspectors states that the inspectors conduct criminal, civil, and administrative investigations and financial and operational audits. Of these functions, conducting criminal investigations is the only one which satisfies the special retirement eligibility criteria. Many inspectors primarily perform functions other than criminal investigations. However, because postal inspectors as a group conduct criminal investigations, all receive coverage.

Agency officials point out that existing employee rotational policies would be disrupted by providing program coverage to only some employees functioning under the same general position description. By restricting coverage to only those positions requiring exceptionally vigorous incumbents, agency rotational flexibility could be restricted because of employee reluctance to accept a noncovered assignment. Additionally, recording and maintaining records to determine whether each employee is performing covered or noncovered duties could be administratively burdensome.

Considering the administrative and financial burden that would be incurred in trying to identify specifically which Federal employees perform duties that require youth and vigor and considering the employee rotational policies employed by some agencies, we believe that continuing to grant special retirement coverage on the basis of the primary duties of overall job classification may be the most practical criteria for coverage under the special retirement program.

Agency and union comments

CSC withheld comment on the eligibility criteria pending completion of its independent review expected in May 1977. Operating agencies generally believed that the eligibility criteria should be left alone. Some agencies said, however, that coverage has been unduly expanded over the years to positions that do not require exceptional youth and vigor through changes in law, innovative interpretations of law, and modifications to or interpretations of job descriptions. Employee unions said the eligibility criteria should be expanded to specifically include other Federal jobs which involve hazard or physical stress.

MANDATORY RETIREMENT PROVISION MAY ENCOMPASS TOO MANY

Effective January 1, 1978, all covered employees must retire when they reach age 55 or complete 20 years of service, whichever comes later. Agency heads may grant individual waivers up to age 60 on a selected basis.

The mandatory retirement provision will apply to all covered employees, including supervisors and administrators who frequently possess valuable experience. Especially young and vigorous individuals are normally not needed to perform supervisory or administrative duties or many covered operating duties. The premature retirement of such employees through the generalized application of the mandatory retirement provision may unnecessarily cost the Government the vital resource of experience.

Agency and union comments

CSC withheld comment on mandatory retirement pending completion of its independent review. Operating agencies indicated that they do not plan to seek exceptions to the age 55 mandatory retirement provision. Employee unions generally were opposed to mandatory retirement at age 55.

AN ALTERNATIVE BENEFIT STRUCTURE IS AVAILABLE

The existing benefit formula--2.5 percent of average pay for each of the first 20 years and 2 percent of average pay for each year thereafter--provides an economic incentive for law enforcement and firefighter personnel to retire at an earlier age and with fewer years of service than regular

civil service employees. But, as discussed in chapter 2, the program goes beyond compensating for an assumed occupationally shortened career by continuing to extend liberal benefits when full careers are served. That is, covered personnel who work full 30-year careers receive greater benefits than regular employees with similar preretirement earnings and years of service. To correct this, the benefits could be restructured like those for air traffic controllers.

The law--5 U.S.C. 8336(e) and 8339(e)--also provides special retirement benefits to air traffic controllers. Controllers are eligible to retire on an immediate annuity after 25 years of service or upon reaching age 50 after 20 years of service. Like law enforcement and firefighter personnel, the purpose of special retirement for controllers is to improve public safety by maintaining a young, vigorous work force. Controllers' annuities are not, however, computed under a more generous benefit formula. Instead, their annuity is equal to the higher of (1) that produced by the regular civil service formula or (2) 50 percent of average pay. Thus, controllers meeting the age/service criteria are guaranteed an annuity of at least 50 percent of average pay. The special retirement provisions for controllers provide an economic incentive to retire early, but they do not permit controllers choosing to serve full 30-year careers to receive greater retirement benefits than other civil service employees.

A benefit structure based on the regular civil service benefit formula, with an established minimum level of benefits, would be a better method of compensating law enforcement officers, firefighters, or other personnel who may be unable to serve a full career because of the special demands of their jobs. Such a benefit structure would be more consistent with that applicable to other civil service employees.

Agency and union comments

CSC withheld comment on the special benefit structure pending completion of its independent review. Operating agencies generally took the position that covered employees should receive greater benefits than other employees with similar earnings and years of service. In that regard, most agencies said the benefit structure used for air traffic controllers would not be appropriate for law enforcement or firefighter personnel. Employee unions said the more liberal benefit structure is justified.

FULL COSTS OF RETIREMENT BENEFITS
SHOULD BE RECOGNIZED AND FUNDED

We have continually taken the position that the full costs of retirement benefits should be recognized and funded. Also, the Government's share of the costs should be charged to agency operations. This applies equally to the additional costs of special benefits.

Besides agency and employee contributions towards retirement, the Government makes additional annual contributions to the civil service retirement fund, including (1) payments by the Treasury for interest on the unfunded liability and the cost of allowing retirement credit for military service and (2) annual appropriations over a 30-year period for new liabilities created by employee pay increases, liberalization of retirement benefits (except retirement annuity cost-of-living adjustments), and extension of retirement coverage to new groups of employees.

Retirement funding is a serious, growing problem. Retirement costs are increasing dramatically. Federal payments to the civil service retirement fund increased 244 percent from fiscal year 1970 to fiscal year 1975 (to \$6.7 billion in 1975), but the unfunded liability increased 84 percent to \$97 billion. Payments to retirees from the fund increased 162 percent over the same period (to \$7.2 billion in 1975).

The "normal cost" of a retirement system is the present value of all benefit rights earned annually and is generally expressed as a percentage of total payroll. The composite normal cost of the civil service retirement system, including special retirement provisions, is currently estimated by CSC to be about 13.6 percent of pay, or slightly less than the regular combined agency and employee contributions of 14 percent. However, increased benefits payable because of future pay raises and annuity adjustments are not considered in CSC's actuarial determination of normal cost, thereby resulting in a significant understatement of the true cost of providing retirement benefits. The latest report of the board of actuaries of the retirement system indicated that normal cost would actually be about 28.7 percent of pay if the conservative assumptions of annual general pay increases of 3 percent and Consumer Price Index increases of 4 percent were considered in the cost calculations.

The normal cost of the special retirement benefits, without considering pay and annuity increases, is estimated

by CSC to be 19.7 percent of pay, considerably more than the combined agency and employee contributions of 15 percent. On a dynamic basis--assuming 3 percent pay and 4 percent annuity increases--the estimated cost is 43.6 percent of pay.

In previous congressional testimony and reports to the Post Office and Civil Service Committees, we have taken the position that the true costs of civil service retirement benefits, including expected pay and annuity increases, should be fully recognized and fully funded. The proper recognition of retirement costs would enable the Congress not only to make well-informed decisions on retirement matters but also to better evaluate the cost effectiveness of agency programs. In our opinion, the preferable approach to retirement funding would require cost recognition and funding on a "dynamic" basis, with full consideration of the effect of pay raises and cost-of-living adjustments on ultimate annuity payments, and allocation of all Government retirement costs to agency operations.

RECOMMENDATIONS TO THE CONGRESS

Until the true costs of civil service retirement benefits are fully recognized and fully funded, the Congress should amend the law to require contributions from employing agencies equal to the difference between employee contributions (currently 7.5 percent of pay) and the static normal cost of special benefits (currently about 20 percent of pay). Such additional contributions would serve to better recognize the costs of special retirement benefits and law enforcement/fire-fighting functions.

Also, the Congress should reevaluate the eligibility criteria, the mandatory retirement provision, and the benefit structure.

NINETY-FOURTH CONGRESS

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U.S. House of Representatives
 COMMITTEE ON POST OFFICE AND CIVIL SERVICE
 207 CANNON HOUSE OFFICE BUILDING
 Washington, D.C. 20515

November 17, 1975

H-135002

Honorable Elmer B. Staats
 Comptroller General of the United States
 U.S. General Accounting Office
 Washington, D. C. 20548

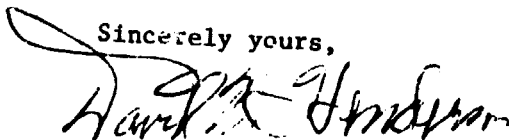
Dear Mr. Comptroller General:

The Subcommittee on Retirement and Employee Benefits of this Committee is concerned about the adequacy and effectiveness of the Government's policy of early retirement for Federal law enforcement officers and firefighters. The Committee, as well as the Subcommittee, has received complaints from many excluded employee groups that they should be covered by the early retirement provisions. The existing policy may be too general and too difficult to administer.

I am hereby requesting that the General Accounting Office conduct a comprehensive evaluation of the early retirement provisions which could serve as the basis for new legislation redefining policies for these classes of employees. The evaluation should include the effectiveness of the existing policy as well as the manner in which the current provisions are being administered.

Thank you for your cooperation.

Sincerely yours,



DAVID N. HENDERSON
 Chairman

DNH:bj1



UNITED STATES CIVIL SERVICE COMMISSION
BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH
WASHINGTON, D.C. 20415

IN REPLY PLEASE REFER TO

YOUR REFERENCE

December 27, 1976

H. L. Krieger
Director, Federal Personnel
and Compensation Division
U.S. General Accounting Office
441 "G" Street, NW
Washington, D.C. 20548

Dear Mr. Krieger:

This is a response to your October 19, 1976 letter which enclosed a draft of your proposed report to the Congress "Early Retirement Policy For Federal Law Enforcement and Firefighter Personnel Should be Reevaluated".

As a result of a request by the House Subcommittee on Retirement and Employee Benefits, we have under way a review of the area. On October 1, 1976, we informed the Subcommittee that we expect to complete our review in May 1977. Until we complete the review and reach our conclusions, we are withholding substantive comment.

I believe we can state that we agree with your general conclusion that it is time to reevaluate the need for providing early retirement benefits to those groups and individuals presently covered under 5 U.S.C. 8336(c) and defined in 5 U.S.C. 8331 (20)-(21). We are not ready to go as far as your report seems to in concluding that the continued need for early retirement is questionable in all situations.

Your report is a valuable contribution to the study and review we are conducting.

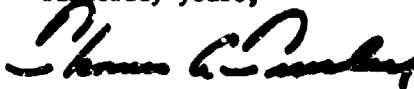
We certainly join you in recommending that the Congress review existing law and the policy concerning early retirement in this area. Your report and our review when completed early next year should be most helpful in this regard.

[See GAO note, p. 32.]

[See GAO note.]

Thank you for giving us an opportunity to comment on the draft report.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas A. Tinsley". The signature is written in a cursive style with a large initial "T".

Thomas A. Tinsley
Director

GAO note: Deleted comments related to matters present in the draft report which have been revised in the final report.



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

November 29, 1976

Dear Mr. Lowe:

We appreciate the opportunity to review and comment on your proposed report on the need to reevaluate the policy of providing early retirement benefits to Federal law enforcement and firefighter personnel.

With approximately 6,500 Treasury employees serving in criminal investigator positions, we are very concerned when proposals are being considered that could have an adverse economic impact on their future employment. Therefore, the draft report and the recommendation that Congress reconsider the need for providing early retirement benefits to this group has received the attention of top executives of the Office of the Secretary and Treasury bureaus who have law enforcement programs and employees.

Due to the concern and opposition to the general thrust of the draft report by Treasury officials, I am enclosing a composite package of their correspondence. Many and various points are made in the respective correspondence that question the rationale in the draft report. In addition, the feeling is shared that any reevaluation of the early retirement benefits should be done after the impact is realized from the statutory provision for mandatory retirement at age 55; this provision becomes effective January 1, 1978, and the objectives of the early retirement benefits cannot be validly assessed until after that time.

Thank you for letting us comment on the draft report.

Sincerely,

Warren F. Brecht

Warren F. Brecht

Assistant Secretary (Administration)

Mr. Victor L. Lowe
Director
General Government Division
U. S. General Accounting Office
Washington, D. C. 20548

Enclosures



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEPUTY ASSISTANT SECRETARY

NOV 18 1976

MEMORANDUM FOR: Warren F. Brecht
Assistant Secretary
(Administration)

FROM: James J. Featherstone *JF*
Deputy Assistant Secretary
(Enforcement)

SUBJECT: Comments on GAO Report Related
to 6(c) Retirement

The attached memoranda from Secret Service, Customs and BATF contain their comments on the GAO proposed report on the need to reevaluate the policy of providing early retirement benefits to law enforcement personnel. While we generally endorse the bureaus' views, we would like to emphasize the following points.

- (1) There is, currently, no need to reevaluate the retirement provisions pertaining to law enforcement personnel. The statutory provision that will have the greatest impact on the average retirement age will not be effective until January, 1978. At that time, mandatory retirement at 55 becomes operative, and the full effect of the current law should become evident. It would seem that any study undertaken before that date would be premature.

[See GAO note 2, p. 61.]

[See GAO note 2, p. 61.]

- (3) To illustrate how Federal pay has improved, the report comments on the fact that in 1975, the average FBI agent's annual salary of \$23,000 was almost five times higher than it was in 1947. Such a comparison does not seem to be relevant to the question, and

[See GAO note 2, p. 61.]

(4)

[See GAO note 2, p. 61.]

- (5) The sample of retirees used in the study described in the report seems to be biased.

[See GAO note 2, p. 61.]

In addition, over half of the original sample of 301 retirees selected for the study were serving in administrative and supervisory positions at the time they were retired. While this might nonetheless be a representative sample, it obviously lacks face validity, and it seems to invite further investigation as to its reliability.

- (6) The sentence that begins at the bottom of page 12 of the report and carries over to page 13 gives the impression that, by some means, law enforcement personnel are paid higher salaries ("compensated at a rate higher") than are other civil servants in comparable grades. To our knowledge, there is nothing in the report to support such an assertion. If the value of the retirement benefits is taken into consideration, it might be said that employees who retire from covered positions realize, on the average, greater benefits than other civil service employees. The statement in the report, however, is overly broad.
- (7) We would recommend that the proposed study be delayed for at least 18 months and that the study be structured so that data pertaining to law enforcement positions are tabulated and analyzed independently of data related to other covered positions.

I would like to suggest that the Department's response to GAO be signed by Under Secretary Thomas to give an appropriate indication of our support of 6(c) benefits for law enforcement personnel.

Attachments

DEPARTMENT OF THE TREASURY
UNITED STATES SECRET SERVICE



WASHINGTON, D.C. 20223

DIRECTOR

NOV 16 1976

MEMORANDUM FOR: James J. Featherstone
Deputy Assistant Secretary (Enforcement)

FROM : H. Stuart Knight
Director
U. S. Secret Service

SUBJECT : Proposed GAO Report on Reevaluating Early Retirement
Policy for Federal Law Enforcement and Firefighter Personnel

This is in response to your memorandum of November 5, 1976, requesting Bureau comments on the above subject.

As requested, we have reviewed the draft GAO Report to the House Committee on Post Office and Civil Service entitled, "Early Retirement Policy For Federal Law Enforcement and Firefighter Personnel Should Be Reevaluated." A section by section analysis together with comments is attached as a separate document.

As you know, the Secret Service has only one occupational series, Criminal Investigator, GS-1811 (Special Agent), which is covered under the provisions of Title 5, U. S. Code 8331 - 8339. All employees in this series must be capable of performing the full range of criminal investigative duties which include those described in Title 5, U. S. Code 8331(20). Since this is a relatively small bureau, this group also includes all employees in supervisory positions, as their management duties are in addition to their primary function as Criminal Investigators. Even incumbents in high level management positions are required to occasionally participate in criminal investigative duties or protective assignments.

The Service requires annual physical examinations for all Criminal Investigators. Those employees failing to meet the established physical standards for continued duty as a Criminal Investigator may no longer remain in this capacity. Should a position vacancy exist for which the employee is qualified, and which would accommodate the limitations of the employee's performance, the employee is given the option of continuing with the Service in the available position. However, considering the size of the Service and



its limited but critical mission, other appropriate vacancies rarely occur. In this event the employee is separated from duty on the basis of disability and provided with assistance in obtaining retirement benefits under the appropriate disability retirement program. This process has assisted the Secret Service in maintaining a vigorous workforce which can perform physically arduous tasks and work under sustained stressful situations.

We believe that the future impact of the segment of P. L. 93-350 (making retirement mandatory at age 55 and including premium pay in calculating the high 3 year average salary beginning January 1, 1975) which becomes effective on January 1, 1978, will facilitate an increase of early retirements. For this reason we are of the opinion that it is premature to reevaluate the present retirement policy with respect to the need for continuing the retirement policy.

However, we agree that there is an apparent need for reassessment of the retirement policy to ensure that only appropriate positions are covered. That is, exclude those positions not meeting the strict definition for Law Enforcement Officer and Firefighter as per Title 5, U. S. Code 8331(20 and 21). In this regard we encourage reverting to the use of occupational guidelines, as originally established by the Congress, to be the most practical criteria for determining coverage for early retirement. If the retirement policy were to be amended it should require that covered positions include those which involve the performance of hazardous duty. Throughout this country, in every state and municipality, the difference in the requirements of employment between Law Enforcement and Firefighter personnel and the requirements of employment for other professions are acknowledged by a difference in retirement programs based on the inherent difference in tasks and their consequent requirements. Without exception, Criminal Investigators and Firemen in the states and municipalities are accorded earlier retirement ages and additional benefits beyond those accorded other employees.

[See GAO note 2, p. 61.]

It should also be recognized that the present retirement program is an asset in the recruitment of high quality law enforcement candidates essential to successfully performing our missions. The unique and vital protective mission of the Service demands that we continue to be able to attract highly qualified individuals as candidates for employment as Special Agents. In order to do this the Service must be able to extend benefits such as the present retirement program to retain a competitive edge over state and local government. The program benefits, therefore, also serve as an enticement in securing and retaining highly qualified candidates who are interested in a career in law enforcement.

While the GAO obviously spent a great deal of time and effort in preparing their draft report we cannot agree entirely with their conclusion that the retirement policy be reevaluated for its continued need. The report condemns the entire system rather than recommending correction of the apparent inequities.

A handwritten signature in black ink, appearing to read "H. Stuart Knight". The signature is stylized with a large, looped initial "H" and a long, sweeping tail.

H. Stuart Knight

**Analysis and Comments on the Proposed GAO Report on
Reevaluating Early Retirement Policy for Federal Law Enforcement
and Firefighter Personnel**

Chapter 1

Introduction

We agree with and strongly support the legislative purpose of providing early retirement to law enforcement and firefighting personnel so as to improve the quality of these services by ensuring a young and vigorous workforce.

Jobs Covered

Originally, coverage was intended only for those Federal employees whose duties are primarily the investigation and apprehension of persons suspected of Federal crimes. Later, coverage was extended to other classes of employees, some of which were appropriate, such as firefighters, but most of which were not.

Since the original establishment in 1947 of the Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel, coverage under the system has been unduly expanded to include persons not actually performing hazardous duty. Additional classes of employees have been included in a number of agencies through changes in the law, through innovative interpretations of the legislation and through additions to or interpretations of existing job descriptions for administrative personnel.

This expansion has resulted in the distortion of the statistics used throughout the GAO Report. Excluded from coverage should be all those employees whose duties do not require youth and vigor, with the exception of employees who have risen through the ranks and who are actively engaged in activities requiring youth and vigor.

Among the kinds of employees who should be excluded are plumbers, cooks, carpenters, paint foremen, mail clerks, telephone operators, accountants, secretaries, personnel officers, administrative officers, chemists, pharmacologists, parole hearing examiners and a host of others whose performance is not related to the youth and vigor required of law enforcement and firefighting personnel.

The data as it was derived for use in the report includes these employees. It therefore casts an undue light on the law enforcement and firefighter personnel, who, by the nature of their strenuous and hazardous duties, are entitled, in the best interest of the Government, to early retirement.

From the above, it would appear that in lieu of doing away with early retirement, revisions in the law are necessary to clarify which occupations, by the nature of their duties, should be allowed early retirement.

Chapter 2

Need For Early Retirement Policy Is Questionable

The proposed report questions the continued need for early retirement based on a number of factors, some of which are questionable. Among the items mentioned is the fact that regular Civil Service retirement benefits have increased substantially resulting in a reduced average retirement age for all civil servants. While this observation is probably correct, it is also true that the average age for all retirees in both the public and private sector has been reduced over the years. The mere fact that the social and economic conditions in the country have benefited most workers through an earlier retirement does not negate the necessity for youthful and vigorous personnel in law enforcement and firefighter activities.

Also mentioned is the fact that employees covered by early retirement provisions are not retiring at a significantly earlier age than those who are not covered. No doubt, this condition is caused by several factors. The most significant factor is that the coverage of many of the employees presently subject to early retirement was only instituted in recent years and, since many of these employees' duties do not involve vigorous activities, there is no incentive for them to retire early. Another significant factor is the natural desire to maximize retirement benefits to keep abreast of inflation. In many cases, this represents a deferral of retirement.

Additionally, the proposed report points out that many covered employees could continue to perform their jobs satisfactorily after age 50 while others could be assigned to less demanding jobs. This statement only serves to support the contention that coverage has been extended in recent years to employees whose duties do not involve rigorous activities and who should never have been covered in the first place.

The fact that Civil Service disability retirement and Federal workers' compensation benefits are available to employees who can no longer perform their duties should have no bearing on the early retirement provision providing that these programs are being administered in accordance with their original intent.

Improvements In Federal Pay And Retirement Benefits

The proposed report points out that pay and retirement benefits have increased over the years with the implication that these increased benefits do away with the necessity for early retirements. In the next sentence, the report concedes that these increased benefits are only an attempt to keep even with private industry through the medium of comparability. The report cites the fact that the average salary of an FBI agent today is almost five times higher than the average salary paid in 1947

[See GAO note 2, p. 61.]

Cost Of Early Retirement Outweighs Advantages

The proposed report contends that covered employees do not retire at a significantly younger age than other Civil Service employees. This contention is based on statistics which include a large number of employees not performing hazardous duty and employees who do not require youth and vigor in the effective performance of their duties. Therefore, the statistics do not provide an adequate and accurate basis for such a comparison and conclusion.

Without question, the cost of early retirement exceeds that of other employees who are not covered. But, to say that this outweighs the advantages fails to give cognizance to the unjustified expansion of coverage to other employees and to the fact that, now more than ever before, young vigorous personnel are needed to perform law enforcement and firefighting duties.

Benefits Not Fairly And Directly Related To Those Provided To Other Civil Servants

It can easily be recognized that the benefits of early retirement are not directly related to those provided other civil servants, but then neither are the duties of those who are properly covered, that is, the law enforcement and firefighting personnel. There is no equation between the two and there should not be. The fact that the report even mentions this, together with the observation that the benefits are not fair, again supports the contention that there are persons covered under the early retirement provisions who should not be. Otherwise, there would be no basis whatsoever to even attempt such a relationship.

In this connection it should be noted that the base pay and benefits for law enforcement personnel and firefighters takes into account the hazardous nature of their duties. In all other occupational categories

such as chemists and others who might perform hazardous duty, either temporary or permanently, additional compensation in the form of hazardous duty pay is provided over and above the base salary.

Many Older Employees Perform Satisfactorily

If it is a fact that many older employees, who are covered by early retirement perform satisfactorily, then it is just as much a fact that many of these employees are in job categories that should not be covered in the first place. Generally, a person in his fifties or sixties can not retain the strength and stamina required to perform law enforcement and firefighting activities except in a supervisory capacity.

Many Covered Positions Do Not Require Exceptionally Vigorous Employees

The observation to be made here is that if it is true that many covered positions do not require vigorous employees, it is also true, with the exception of supervisors and program directors, that the positions should not be covered under the early retirement provisions.

Administrative And Supervisory Positions

It seems clear on the surface, that a great many of the retirees in the sample, as well as many of the examples cited regarding administrative and supervisory positions, should not be covered. However, it is equally clear that covered employees who have risen through the ranks to supervisory and program director positions directly related to the direction of law enforcement and firefighting activities should retain their coverage. It is also clear that many of the occupations cited should not have been covered.

Auditing Activities

In the absence of law enforcement duties, it would seem that pure auditing activities should be classified so as to preclude coverage. In this regard, it is important to differentiate between law enforcement and firefighting personnel who are titled inspectors and who, as the need arises, regularly perform operational duties in addition to their roles as inspectors.

Background Investigations

Normally, the performance of only background investigations would not seem to fall within the intent of coverage. However, it is believed that a person trained as a criminal investigator can conduct a much more complete investigation of this type than one who is not. No doubt this edge is due

to the training a criminal investigator receives and the experience acquired in criminal investigations which involve all kinds of people as well as an assessment of the veracity of what they say. Accordingly, it would appear that background investigations should be performed by covered personnel only as an adjunct to their criminal investigation duties or during temporary periods of recuperation from the more rigorous duties of law enforcement.

Firefighter Positions

The same comments, observations and principles previously expressed with respect to law enforcement activities are applicable to firefighting positions.

Prison Positions

The same comments, observations and principles previously expressed with respect to law enforcement activities are applicable to prison positions.

Other Related Federal Jobs

It is not fair to the employee or the Government to consistently assign a covered employee to other non-covered duties after he has attained a certain age or becomes incapacitated. A covered employee who becomes incapacitated should be allowed to utilize either a disability retirement or the appropriate coverage under the Federal Workers Compensation Act.

The proposal to assign older, covered employees to other positions to avoid early retirement is not always fair to the employee, who by virtue of his rigorous work has earned the right to an early retirement. Furthermore, it is doubtful that covered employees could qualify for other uncovered positions at their grade level because of the special qualifications required for other professional positions, as is the case for law enforcement and firefighter positions.

Other Programs Exist To Provide Benefits For Employees Who Can No Longer Perform Their Duties

The implication in the report under this heading is that early retirement represents a broadly based disability program which enables covered employees to receive higher benefits than other civil servants. The report completely ignores the long hours, missed sleep, physical and mental strain, and other

debilitating conditions under which law enforcement and firefighting personnel perform. Without question, they burn themselves out faster than the average civil servant and hence have earned an early retirement. To require these employees to continue working the same number of years as employees performing less demanding duties is inconceivable and would be a gross injustice to the employees concerned.

Chapter 3

Evaluation of Eligibility Criteria, Benefit Structure And Other Matters

The statement in the report that the continued need for early retirement is questionable is not supported by the facts. At the same time, it is apparent that the coverage has been extended beyond reason and need because of the additional categories of employees who have been covered.

Eligibility Criteria - Practical Considerations

The proposed report recognizes that coverage has been extended beyond what was originally intended and the suggestion to revert to occupational criteria seems to have merit. The effect of this would be to remove from coverage those employees whose duties do not require vigorous activity.

Mandatory Retirement Provisions May Be Too All-Inclusive

The mandatory retirement provisions that becomes effective January 1, 1978, was designed to guarantee a young and vigorous posture for law enforcement and firefighting organizations. However, since this provision has not yet become effective, it is premature to assess its effect on retirements or the operating effectiveness of organizations which have a substantial number of covered employees.

A More Equitable And More Appropriate Benefit Structure Is Available

The statement that the early retirement program goes beyond compensating for an occupationally shortened career by continuing to extend liberal benefits when full careers are served does not appear to be supported by the facts. We must first consider that the mandatory retirement provision passed in 1974 has yet to go into effect. We believe it is proper that covered personnel who work 30 year careers receive greater benefits than regular employees with similar earnings and years of service. This is because the basic formula is different, as it should be, to compensate for the more

rigorous work performed by covered employees.

The attempt to equate air traffic controllers to law enforcement and firefighter personnel does not appear to be appropriate for the reason that air traffic controllers, while subject to great mental stress, are not also subject to physical rigors under arduous conditions as are law enforcement and firefighter employees. And while the purposes for early retirement for air traffic controllers may be the same as that for law enforcement and firefighter personnel, to retain a young vigorous workforce, the physical requirements are different.

With respect to the statement that a more equitable benefit structure would be based on the regular Civil Service benefit formula with a minimum level of benefits, completely disregards the vast differences in the duties performed by law enforcement and firefighter personnel compared to those performed by other Government employees.

Chapter 4

Conclusions And Recommendations

Conclusions

The statement in the report under conclusions raises many questions, but provides no answers other than the opinion that it is time to evaluate the need for providing early retirement benefits for law enforcement and firefighter personnel. Instead of evaluating this need, which has been established by precedent, a better approach to the expenses of early retirement might be to evaluate the kinds of personnel that are covered, with the view of reducing the number of covered employees.

The report pretends to recognize the need for a youthful and vigorous workforce of law enforcement and firefighter personnel together with the special demands inherent in this work. On the other hand, it attempts to place these personnel in the same vein for retirement purposes as other government employees with less demanding duties. Obviously, this kind of action would represent an injustice to the currently covered employees with deleterious effects on future recruitment for these demanding positions.

Recommendations To The Congress

The report recommends that the Congress reconsider the need for early retirement. A better recommendation might be to reconsider the extent of coverage as the need for this is clearly established in the Report.

UNITED STATES GOVERNMENT
MemorandumDEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

DATE: NOV 12 1976

FILE: PER 11 A:P:ER JC

TO : James J. Featherstone
Deputy Assistant Secretary
(Enforcement)

FROM : Commissioner of Customs

SUBJECT: Proposed GAO Report on Need to Reevaluate 1811 Retirement

This is submitted in response to your request for input into the Departmental response to the draft GAO report dealing with law enforcement retirement benefits.

There appears to be a twofold theme to the report, (a) it questions the equity of having a "preferential" retirement system for both law enforcement officers and fire fighters; and (b) it implies that the present system as modified by PL 93-350 has not had the desired effect of encouraging retirement at an earlier age by those who are covered by the special provisions. In addition to these two main points there are many other subordinate questions also explored.

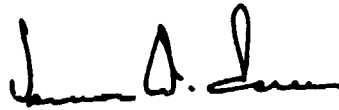
Historically, U.S. Customs Service employees serving in positions covered under the provisions of 5 USC 8336(c) as law enforcement officers have always completely met the job characteristics contained in the draft report which was the basic premise of the law when it was originally written. These job characteristics include:

- working long hours under arduous or environmentally adverse conditions,
- being exposed to hazard during the day-to-day performance of the job,
- working under significant physical, mental and emotional stress,
- maintaining irregular eating and rest schedules,
- being absent from home and family for extended periods of time,
- being capable of meeting stringent physical demands.

The report further provides information regarding the number of supervisory/managerial positions which are covered under the special provisions which indicates, perhaps, a leniency in the approval of such coverage by the Civil Service Commission. It is important to note that within Customs the covered positions of a supervisory/managerial type are and must be filled almost universally through internal sources. To deny coverage under the program would do two things, (1) it would destroy the incentive of line employees to seek promotion to such positions, and (2) the positions would go unfilled or be filled with sub-standard personnel in a situation where line experience was necessary to perform satisfactorily in the position. The report rightly states that more than half of the employees who retire under the special provisions retire from supervisory positions. That statement does nothing more than reaffirm normal career progression from trainee to journeyman to supervisor/manager. The Customs Service supports the concept of the preferential retirement system for those engaged in the enforcement of the laws of the United States as originally set down by the Congress in 1947 and its evolution to the present. To determine that the need for this program is nonexistent would stymie efforts to do several things including the recruitment of quality candidates and the stability of the workforce once recruited. It would appear that agencies who look to the provisions of 5 USC 8336(c) as an inducement to maintaining a workforce have, if not a contractual, a moral obligation to provide the benefits. Programs of this type should be consistent for these job categories at the federal, state, and local levels.

Regarding the (b) portion above, the GAO Report indicates that the provisions of 5 USC 8336(c) have not had the desired effect -- primarily to make early retirement economically feasible to covered employees. The Congress realized the inadequacy of the provisions which led to enactment of PL 93-350, or else this legislation would not have been necessary. With the provisions of PL 93-350, mandatory retirement at age 55 was established to be effective on January 1, 1978. In addition, PL 93-350 provided for the computation of the annuity to include Administratively Uncontrollable Overtime (AUO) in the establishment of the high-three average salary. In effect, what has occurred by this change in procedures has been the establishment of an incentive to long-time employees to hang on until January 1, 1978, in order to better their retirement annuities. We feel that an appropriate review of the retirements under the special provisions at a future date will show that not only is retirement more economically feasible for covered employees earlier but that employees will take advantage of the opportunity. The time for a study or review of this portion of the report is not at the present. The anticipated number of employees who would take advantage of the opportunity for early retirement will bring about the initial legislative goal of maintaining a vigorous youthful workforce in these occupational categories. It should also be noted that PL 93-350 requires additional retirement contributions on the part of the employee and the agency. The Customs Service, in support of the youthful, vigorous workforce concept, has established the policy that there will be no requests for exception of the mandatory retirement age forwarded to the Department as provided for in the legislation.

In the draft report, the GAO is making the recommendation that the Congress reconsider the need for providing early retirement benefits to law enforcement and fire fighter personnel. It is felt that this approach draws a conclusion from the facts presented in the report which could be detrimental to the program. It may very well be that certain job categories that have been included under the provisions of PL 93-350 should not have been. However, for the Congress to reconsider the need for the whole program could defeat the ability of agencies with a true requirement to maintain the youthful vigorous workforce which is necessary to promote government efficiency. It is our recommendation that the GAO report be altered to include the recommendation that existing policies be changed to disallow those categories of positions which do not meet the true definition of law enforcement and also provide for the proper administration of the program.



Commissioner of Customs



OFFICE OF
THE DIRECTOR

DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, D.C. 20226

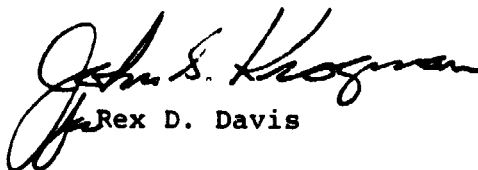
November 12, 1976

MEMORANDUM TO: Deputy Assistant Secretary
(Enforcement)

FROM: Director

SUBJECT: Proposed GAO Report on Need to Reevaluate
1811 Retirement

Attached is our evaluation and comments on the proposed General Accounting Office report on the need for the Congress to reevaluate the policy of providing early retirement benefits to Federal law enforcement personnel.


Rex D. Davis

Attachment

The proposed General Accounting Office (GAO) report pertaining to the need to reevaluate the policy of providing early retirement benefits to Federal law enforcement personnel has been reviewed as requested. Although we are cognizant of the fact that the GAO report was prepared at the request of the Honorable David M. Henderson, Chairman of the House Committee on Post Office and Civil Service, we submit that its findings, conclusions, and recommendations are premature and not sufficiently convincing to warrant that the Congress should reconsider the need for providing early retirement benefits to law enforcement personnel at this time.

Public Law 93-350 went into effect on January 1, 1975. As you know, the law liberalized retirement benefits for Federal law enforcement personnel, deleting all references to employee hazard as a basis for coverage, and emphasized that the early retirement provisions were designed to improve the quality of law enforcement by ensuring a young and vigorous workforce by making early retirement economically feasible. The law further established that effective January 1978, mandatory retirement would become operative when an employee attained the age 55 or upon completing 20 years of covered service, whichever comes later, but permitting the head of any agency to retain an employee on duty to age 60.

From what we can determine, the GAO report was based on information obtained from a sample of 301 annuitants, more than one-half of whom were retirees since July 1, 1974, and served in administrative and supervisory positions at the time of retirement. We would have expected the sample to be less skewed and more representative of all Federal law enforcement personnel retiring since July 1, 1974. Nevertheless, we will address ourselves to the GAO findings which again we submit should be evaluated from the perspective that Public Law 93-350 has been in effect less than two years and can hardly be expected to have realized its objective to build a young, effective force while providing equitable treatment for covered employees.

Our review of the GAO report disclosed that GAO is convinced that to achieve a one to three year reduction in the average retirement age of covered employees "the Government pays heavily," 61% more than the cost would be of providing regular optional retirement benefits. Although GAO admits that it cannot predict future retirement patterns, their sample of 301 indicates that the average retirement age for covered employees will be reduced to about 53.6 years after mandatory retirement becomes effective. Cannot we reasonably expect that in future years the average retirement age will be lower simply

because current recruitment policy requires hiring Federal law enforcement personnel at an earlier age to achieve the maximum benefit of their services which the law mandates be terminated at the age of 55 once 20 years of satisfactory service have been completed. We believe this recruitment policy will pay off and result in the acquisition of a young and vigorous workforce that can be expected to take advantage of early retirement benefits. We also recognize that the retirement benefits will be expensive but we also realize, as did the Congress, that "if we want to improve police protection, if we want to protect the President of the United States, and protect all distinguished visitors who come to this country, if we want to preserve our streets from crime and muggings and all the other types of criminal offenses that are taking place, if we are going to provide for such protection it is going to have to be paid for." Current Federal law enforcement recruitment policy is aimed at screening and selecting the best qualified applicants available. This policy puts the Federal Government in direct competition with many local law enforcement agencies that can and do offer more generous retirement and fringe benefits.

Federal law enforcement personnel serving in administrative and supervisory positions are obvious targets of GAO. We

recall that over one-half of their sample of 301 program retirees since July 1, 1974, served in administrative and supervisory positions with management functions for which, according to GAO, "there is no compelling need for an exceptionally young and vigorous workforce." The Civil Service Commission has noted, however, "that such employees were granted coverage solely to foster the orderly conduct of Government by allowing employees, for example, to accept supervisory or administrative positions without fear of losing retirement benefits. It was never intended to imply that supervisors or administrators primarily perform true law enforcement...duties and therefore need to be young and vigorous." It appears that on one hand, GAO would penalize this group of employees and exclude their positions from coverage under Public Law 93-350 and on the other would extend them coverage because GAO admits that they "know of no practical eligibility criteria or administrative procedures which would ensure that early retirement is granted only to employees whose duties require exceptional youth and vigor." Far more practical a consideration, in our view, is the thought that should be given to evaluating the consequences of excluding Federal law enforcement personnel filling supervisory or administrative positions. Where is the incentive for a young and vigorous employee who is covered to seek and earn advancement to a non-covered position? We cannot think of any. In fact, we concur with the other

Federal law enforcement agencies who have pointed out "that existing employee rotational policies would be adversely affected by providing program coverage to some employees rather than all employees functioning under the same general position description. By restricting coverage to only those positions requiring exceptionally vigorous incumbents, agency rotational flexibility could be restricted because of employee reluctance to accept a non-covered assignment." It is interesting to note that GAO is in accord with this viewpoint as evidenced by the first paragraph on page 38 of their report. In this paragraph, which we quote in its entirety, GAO supports the economic practicality to grant coverage on the basis of overall job classification.

"Considering the administrative burden and costs that would be incurred in trying to identify specifically which Federal employees perform duties that require youth and vigor and the employee rotational policies employed by some agencies, we believe that continuing to grant early retirement coverage based on the primary duties of overall job classification may be the most practical criteria for coverage under the early retirement program."

As an alternate to Public Law 93-350, the GAO proposes that law enforcement officers be blanketed under 5 U.S.C., 8336(c), 8339(c), the early retirement system for air traffic controllers. While not detracting in any way from the work performed by the dedicated air controllers, we feel that this is a case of mixing apples and oranges. While there may be stress factors related to both occupations, the Congress of the United States and the courts have recognized that those confronting law enforcement officers exceed by far those which the air controllers must face.

In establishing the early retirement policy, the Congress identified a number of job characteristics of law enforcement officers which mandated the need for a young and vigorous force. Some of the areas identified were:

1. Working long hours under arduous or environmentally adverse conditions.
2. Working under significant physical, mental, and emotional stress.
3. Being exposed to hazard during the day-to-day performance of the job.
4. Maintaining irregular eating and rest schedules.
5. Being absent from home and family for extended periods of time.

In summary, we submit that the findings, conclusions, and recommendations in the GAO report are based on insufficient data collected over a relatively short span of time to support a fair evaluation of the effectiveness of Public Law 93-350 to build and maintain a youthful and vigorous workforce. In our opinion it would be premature for Congress at this time to reconsider the need for providing early retirement benefits to Federal law enforcement personnel.

Date: NOV 20 1976

MEMORANDUM FOR: Deputy Secretary Dixon

From: Commissioner of Internal Revenue

Subject: GAO Draft Report on Evaluation of the Retirement Provisions of
5 U.S.C. 8336(c)

Thank you for the opportunity to review and comment on the proposed GAO report which recommends reevaluation of the early retirement policy for Federal law enforcement and firefighter personnel. The proposed report appears to draw conclusions and bases recommendations on data for the period up to and including FY 1975 (page 10), thereby limiting the impact of P.L. 93-350 passed July 12, 1974, on the GAO findings. In our view, the period of transition which began in FY 1975 with the passage of P.L. 93-350 will continue, with greater impact on the average age of law enforcement officer retirees when the mandatory retirement provisions of the law become effective on January 1, 1978. We believe, therefore, that the conditions upon which the GAO report are based will continue to change and suggest that the reevaluation recommended by GAO be held in abeyance until 1978.

On page 7 of the report, GAO questions the need for a unique retirement policy for law enforcement officers and, on page 10, points to a difference of only 3.4 years between the average retirement ages of covered employees and full career employees during FY 1975. This small difference, which was similar to the experience of Internal Revenue Service prior to enactment of P.L. 93-350, was a primary reason for the passage of these amendments to 5 U.S.C. 8336(c), commonly referred to as 6(c). Prior to enactment of the amendments, the differential between retirement annuities for law enforcement officers and full career employees had gradually eroded until the financial incentive for law enforcement officers to retire early was seriously diminished. Consequently, a number of older officers remained on the job and did not plan their retirements until passage of the amendments in 1974. These older employees swelled the number of retirements of law enforcement officers in FY 1975 compared to FY 1974 and artificially elevated the average age of retirees. This aberration in the average age of retirees did, of

Deputy Secretary Dixon

course, narrow the gap between the average age of law enforcement retirees and full career employees. We believe that the full impact of the amendments will register after January 1, 1978 and result in a widening of the gap between the average age of law enforcement retirees and full career retirees.

The following comparison shows the number of persons eligible to retire under Section 6(c) and the number actually retiring:

Year	Eligible	Retirees	% Retiring
FY 73	280	108	46%
FY 74	229	68	30%
FY 75	276	171	62%
FY 76	211	137	65%
FY 77	118	74*	63%
FY 78	68	• 42*	62%

* Projected Computations

We now have only 70 covered employees in Internal Revenue Service who will be 55 years of age or older and forced to retire on January 1, 1978. Following these mandatory retirements, our experience indicates that covered employees in Internal Revenue Service will generally retire shortly after becoming eligible, and the difference in the average age of both retirees and employees will widen, reflecting the intent of P.L. 93-350.

The current experience of the Internal Revenue Service indicates that the new law is effective in accomplishing the purpose for which it was intended as evidenced by the trend which can be noted in the average age of our Intelligence personnel. The average age in 1973 was 36.9 years, in 1975 it was 35.7 years, and in 1976 it had dropped to 35.0 years. When the mandatory retirement provision takes effect, we expect further reductions in the average age of our enforcement personnel. We also expect to take full advantage of the provision in the law which permits us to limit our recruitment to a younger age group as another step toward a younger force.

The report also cites significantly greater benefit costs for covered employees than for regular employees. The cost/benefit analysis (page 14) indicates an increase of twenty-one to fifty-three percent in annuity costs for covered employees. The rate of premium pay included in these calculations has a direct correlation with the increased cost of annuities. For example, a high-three average salary which included

Deputy Secretary Dixon

twenty-five percent premium pay resulted in an increased annuity of approximately fifty percent; use of ten percent premium pay resulted in about a thirty-six percent increase. But without premium pay the increased annuity is twenty to twenty-four percent reflecting the different multiplication factors in the basic annuity for covered positions. In IRS premium pay is authorized sparingly and on a very limited basis. It is very unlikely that an IRS enforcement agent would receive to any great degree the uncontrollable overtime differential during the three-year period preceding retirement. In our view, the increased costs of annuities for 6(c) retirement of IRS enforcement personnel would be in the lower range of additional costs portrayed by GAO.

As indicated by GAO on page 2 of the report, the early retirement provisions under 6(c) were intended to improve the quality of law enforcement activities by ensuring a young and vigorous work force. We subscribe wholeheartedly to that objective. We believe it is in the best interest of the Service to offer 6(c) benefits in order to attract and retain a work force with high physical standards, equal to the risks concomitant in criminal law enforcement, and possessing professional accounting and criminal investigator skills.

The GAO report takes the position (page 7) that older enforcement officers are able to perform satisfactorily. This argument certainly has some merit. Many of the day-to-day duties are necessarily mundane or routine. The report further suggests that older enforcement officers might be assigned to less physically demanding positions. We believe we need strong, vigorous officers who are readily available for those duties which are physically demanding and potentially hazardous. IRS law enforcement personnel are expected to handle a wide range of activities. For example, as noted on page 24 of the report, our inspectors, who are a small percentage of our investigative force, spend a minor percentage of their time in conducting background investigations, the suggestion to isolate this activity for assignment to less vigorous employees is not practicable. Since the inspectors work force is so widely dispersed geographically, it is more economical and expeditious to require investigators concerned primarily with criminal investigations to undertake the occasional character investigation in that geographic area as the workload permits.

We believe that the use of Civil Service Disability Retirement benefits or the Federal Employees Compensation Act would not, from a management viewpoint, be advisable as an alternative to the retirement benefits under 6(c). The GAO suggestion (page 7), we feel, would result

Deputy Secretary Dixon

in a negative climate which would be detrimental to employee job attitudes, particularly if such a policy were to be interpreted as a preconceived intention of requiring employees in law enforcement to work until actually becoming disabled before being eligible for retirement benefits.

The GAO report recommends that consideration be given to extending the law applicable to Air Traffic Controllers to all GS 1811 employees. The Civil Service Commission made this same proposal to Congress in the hearings on H.R. 9281 on June 19, 1974; however, the House Post Office and Civil Service Committee declined to adopt the proposal. We believe that stress conditions are present in both law enforcement and air traffic controller activities. However, the personal risk taken by the law enforcement officer and the degree of stress involved sets this activity apart from others.

The provisions of 5 U.S.C. 8336(c) as amended under P.L. 93-350 have provided IRS with the means for maintaining the young, vigorous work force which is necessary to accomplish our enforcement programs. We do not expect the full impact of P.L. 93-350 to be reflected until 1978 when the mandatory retirement provisions of the law become effective. We believe that an analysis of the situation at that time would result in substantially different findings than those proposed by GAO in its report. We suggest, therefore, that the reevaluation of the early retirement policy recommended by GAO be postponed until 1978.

- GAO notes:
1. Page references in this appendix may not correspond to pages of this final report.
 2. Deleted comments related to matters present in the draft report which have been revised in this final report.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

OFFICE OF PERSONNEL

November 22, 1976

Mr. Henry Eschwege
Director, Community and
Economic Development Division
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:


This replies to your letter of October 22, 1976, to John A. Knebel, Acting Secretary of Agriculture, requesting our views on the draft report on the need to evaluate the policy of providing early retirement benefits to Federal law enforcement and firefighter personnel. Comments on the draft by the Forest Service and the Office of Investigation of the U.S. Department of Agriculture are also enclosed.

We agree with the comments of the Forest Service and the Office of Investigation but do wish to emphasize certain points:

1. Public Law 93-350 has only been in effect since July 12, 1974. The Act has not been in effect long enough to afford management the opportunity to achieve the desired youthful and vigorous work force or to measure the effectiveness of the Act.
2. Since passage of PL 93-350 we have been submitting various jobs for inclusion under the law. In the case of the Forest Service the review and approval process will take at least one more year.
3. Mandatory age for retirement, minimum age and maximum age limits should in time result in most covered employees retiring prior to age 55. This should reduce the average annuities of covered employees.
4. The audit made of firefighters in the Forest Service did not include a representative sampling of their jobs or firefighting environments in that the sample was drawn from only one National Forest - the Baker-Snoqualmie National Forest.

It is recommended that a more comprehensive audit be performed in 1980. This would result in a more accurate evaluation of Public Law 92-382 of 1972 and Public Law 93-350 of 1974. This audit would be of particular value in evaluating the mandatory retirement provisions of Public Law 93-350 which becomes effective in January 1978.

Sincerely,



S. B. PRANGER
Director of Personnel

Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE

Washington, D. C. 20013

REPLY TO: 6180 Announcements

November 17, 1976

SUBJECT: GAO Draft Report FPCD-76-97

TO: S. B. Pranger
Director of Personnel

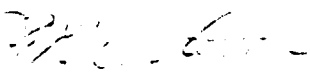
This letter carries our comments on the report entitled "Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel Should be Reevaluated." Here are some more general reactions:

The report lumps law enforcement and firefighting together. We believe the results for firefighting alone would be different.

Judging by our experience, early retirement for firefighters, which began in 1972, has not stabilized to the point where accurate figures on the long term average age of retirees under the special provisions of 5 USC 8336(c) are available. For example, the Civil Service Commission often takes 6 months to determine whether an employee is eligible for early retirement.

The GAO gathered field data from the Mt. Baker-Snoqualmie National Forest because it is convenient to their Seattle Regional Office. We do not consider it representative of all Forest Service firefighting positions.

Our page by page comments on the report are enclosed.


W. R. OTTERSON
Director of Personnel Management

Enclosure

GAO REPORT EVALUATING EARLY RETIREMENT
FOR FIREFIGHTING AND LAW ENFORCEMENT PERSONNEL

PAGECOMMENTS

[See GAO note 2, p. 69.]

- 9-10 In the case of firefighters, the program has not yet stabilized enough to show accurately the average age of retirees. For example:
- mandatory retirement is not yet in effect
 - many older employees did not become eligible until 1972 and so represent an unnaturally large proportion of the firefighter retirees in 1972-76.
 - applications often take more than 6 months to process. This time will shorten as time passes.
- 19 The statement about personnel retiring from the Government, but not from work, did not involve a sample of [See GAO note 2, p. 69.] non 5 USC 8336(c) annuitants.
- 20 The 79 employees interviewed represent law enforcement agencies almost exclusively. Most of the following 10 pages is heavily oriented to law enforcement positions.
- 21 We believe a greater proportion of supervisory/administrative employees in firefighting have operating duties than do those in law enforcement.
- 25 Using the Mt. Baker-Snoqualmie National Forest as a sample for the Forest Service is misleading.

[See GAO note 2, p. 69.]

Hazard pay is not a complete measure of fire involvement, for example, mop up is a covered duty which does not justify hazard pay.

The 2.6 percent of time spent fighting fire is not reliable or meaningful because it is apparently tied to hazard pay records.

[See GAO note 2, p. 69.]

27

Paragraph 2 is misleading to the degree that it implies comment on the entire Forest Service. The sampling of a few employees during only one fire season may not be accurate even for that Forest.

35

Paragraph 3 - the statement "Numerous individuals receive coverage even though the primary duties of their job do not require extraordinary vigor," is misleading in that it combines law enforcement and firefighting personnel. We feel a greater proportion of firefighter positions require a high degree of vigor. In addition to fireline jobs, most supervisory/administrative positions require some fireline work.

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF INVESTIGATION
WASHINGTON, D.C. 20250

November 15, 1976

Subject: Draft Report, FPCD-76-97, dated October 22, 1976,
Entitled "Early Retirement Policy for Federal Law
Enforcement and Firefighter Personnel Should be
Reevaluated"

To: S. B. Pranger
Director, Office of Personnel

The Office of Investigation's comments on the Draft Report are directed primarily to law enforcement officers but some may have equal application to firefighter personnel.

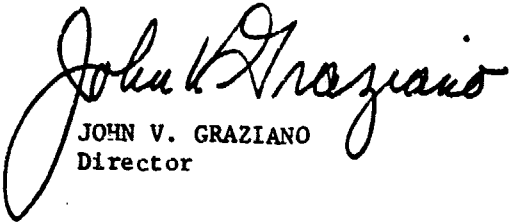
1. The intent of "early retirement" legislation was based on the nature of the work involved and the determination that the positions covered should be composed "***, insofar as possible, of young men and women physically capable of meeting the vigorous demands of occupations which are far more taxing physically than most in the Federal Service (See Legislative History PL 90-350, U.S. Code Congressional and Administrative News, No. 7, dated August 15, 1974, page 2217).
2. Liberalization of regular Civil Service retirement benefits does not meet the objective of building and maintaining a law enforcement organization composed mostly of young people. If benefits are comparable most young job seekers will not be attracted to the rigors of law enforcement work. There must be special incentives which Congress sought to provide in existing legislation. At a minimum bona-fide law enforcement work does, of necessity, involve working conditions of the type described on P. 34 of the Draft Report, i.e. long hours under arduous or environmentally adverse conditions or conditions of significant, mental and emotional stress, etc.
3. The satisfactory performance of some employees in covered jobs after age 50 is not quite the point. The aim of early retirement legislation is to have a law enforcement work force composed insofar as possible, of young people capable of meeting the vigorous demands of law enforcement work. And, despite the element of experience, the level of performance of older employees in bona-fide law enforcement jobs does more frequently require special considerations in type, place and location of work assignments, in meeting deadlines, in transfers of official duty stations, in meeting emergencies, and in other job requirements.

The Draft Report considers employees age 50 or over as "older employees". Presumably those under 50 can then be considered as "younger employees". On this basis of demarcation the Draft reflects (p. 18) that only about 16 percent of the approximately 37,000 covered employees considered were age 50 or older. This appears to demonstrate that the covered employee work force is overwhelmingly in the younger category and thus is in the line with Congressional objectives.

4. The mandatory age for retirement and the minimum and maximum age limits which may be set for original law enforcement officer appointments under PL 93-350 and Executive Order 11817 (39 F.R. 39427) will in time require covered employees to retire at age 55 after 20 years service. This will reduce the retirement annuities of covered employees to 50% of "the high 3 years" plus uncontrollable overtime, after present covered employees who are over age 50 but have less than 20 years qualified service are phased out. This will correct the inequities resulting from individuals working full careers (30 years or more) prior to retirement while receiving early retirement benefits. It is to be noted that the present covered position retirement benefits of 2½% for first 20 years of service and 2% for balance has been in effect only since passage of PL 93-350 on July 12, 1974. Prior to that law enforcement retirement benefits was 2% for all covered service.
5. Office of Investigation covered positions are primarily devoted to criminal investigations which involve demanding physical duties including, undercover and surveillance work which may be extensive and hazardous, irregular unscheduled hours, personal risks, extensive travel, arduous exertion under adverse conditions, strict mobility on areas of assignment and related rigorous requirements. The CSC has determined as of January 21, 1976 that the Office of Investigation positions qualify as covered occupations.

OI has no purely audit activities but some audit techniques are applied in criminal investigations. Internal investigation and inspections are conducted by supervisory/administrative employees. The present staff on these activities consists of 2 employees. Background investigations are made by the CSC.
6. The advantages of law enforcement over regular are apparent. The extra benefits are designed to attract qualified young people to the rigorous demands of law enforcement work.
7. It is agreed that the mandatory retirement provision may deprive management of experienced administrators and supervisors, at an early age. On the other hand it will open the door to career advancement at an age of maximum productivity and provide the agency with a continuing supply of vigorous, innovative managers and supervisors.

Finally, OI believes that the Draft Report sought to evaluate the 1974 amendments to early retirement legislation prematurely. Many of the conclusions reached are based upon limited data from which long range projections are made. We recommend that a further evaluation of the system be made after the mandatory retirement and employment age requirements of PL 93-350 have been operative for a reasonable period.



JOHN V. GRAZIANO
Director

- GAO notes:
1. Page references in this appendix may not correspond to pages of this final report.
 2. Deleted comments related to matters present in the draft report which have been revised in this final report.



THE POSTMASTER GENERAL
Washington, DC 20260

December 3, 1976

Mr. Victor L. Lowe
Director, General Government
Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Lowe:

Thank you for the opportunity to comment on your proposed report to the House Committee on Post Office and Civil Service concerning early retirement policy for Federal law enforcement and firefighter personnel.

The report concluded that (1) many law enforcement and firefighter duties do not require youth and vigor; (2) the preferential early retirement program is an expensive method of marginally reducing the age of retirement, and (3) the regular civil service retirement provisions provide fair and generous benefits at a relatively early age. The report recommends that the Congress reconsider the need for providing early retirement to law enforcement and firefighter personnel.

We cannot argue that administrative and supervisory positions covered by the law enforcement retirement provisions demand the same degree of vigor and youth as other covered positions. However, we believe that the Civil Service Commission's point that supervisory and management positions are granted coverage "solely to foster the orderly conduct of government by allowing employees, for example, to accept supervisory or administrative positions without fear of losing retirement benefits..." is a compelling reason for extending coverage to these positions. To deny coverage to those who move into the administrative and supervisory areas would seriously hamper effective operations, causing the law enforcement agency to be managed by non-professionals, and making it extremely difficult for the agency to maintain the credibility necessary for its function.

The audit activities which Postal Inspectors provide to the Service are not restricted to the narrow traditional internal audit-type function. Inspectors are responsible for detecting criminal activities within postal

installations during their audit activities and are trained fully in both audit and criminal investigative disciplines. We interchange Inspectors on audit and criminal assignments on a frequent basis. The disciplines learned in each area mutually support the responsibilities in the other areas. Denying coverage to Inspectors currently on an audit assignment would result in problems similar to those anticipated should administrators and supervisors be denied coverage. We do not believe it would be practical or wise from an operational standpoint.

Consolidating background investigations work of Postal Inspectors would be geographically impossible. Postal Inspectors conduct these investigations throughout the 50 states and in the territories and possessions of the United States. It would be both costly and physically stressful in terms of the travel that would be required.

The report states that employees covered by the law enforcement retirement provisions have never retired at a significantly younger age than other Civil Service employees. However, we question raising this issue at this time since the mandatory retirement feature of the current law does not become effective until January 1978, and it would seem more appropriate to survey the results of the amended law after it has been in effect for a reasonable length of time.

The report makes several points concerning benefits of the law enforcement retirement provisions that are not fairly and directly related to those provided to other civil servants. Several of these points do not pertain to the Postal Service in that Postal Inspectors are not eligible for premium (overtime) pay. Thus, a Postal Inspector and Postmaster with identical years of service, and high-3 salary average, would retire with a 14% difference in retirement annuity. This is well below the 20 to 50% difference cited in the report. We do not support the inclusion of premium pay for annuity purposes.

The liberal benefits provided by the law enforcement retirement provisions enhance our ability to recruit the most qualified personnel. These same benefits provide incentive for professionally trained law enforcement officers to remain in their law enforcement agency. The investment made in training law enforcement personnel over a number of years tends to be much greater than for personnel in other Federal professions. Should the law enforcement retirement provisions be eliminated, we believe the Federal law enforcement agencies would become major training grounds for management positions in other sectors of the Federal Service. This would be particularly true in the Postal Service due to the extensive postal knowledge acquired by Postal Inspectors in both their law enforcement and

audit activities. The strong work discipline exercised by our law enforcement personnel makes their abilities very attractive to other areas of the Postal Service. The turnover rate would increase significantly, and we would lose our substantial investment in training as well as suffer a considerable loss in productivity.

Sincerely,


Benjamin F. Bailar



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

February 4, 1977

Mr. Victor L. Lowe
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

Thank you for the opportunity to review and comment on the draft of your report entitled "Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel Should be Reevaluated."

The Department of Justice is, as you know, a major employer of Federal law enforcement personnel and is substantially affected by changes to personnel systems for law enforcement employees. Because of the significance of the early retirement system to law enforcement staffing and work force management, comments were solicited from the Heads of all our affected Bureaus. Their comments are enclosed for your consideration. We believe the comments of the Bureaus and the additional issues discussed below adequately reflect the overall views and concerns of the Department.

Employees in law enforcement positions are subjected to protracted periods of physical and emotional stress as well as the more readily recognized exposure to physical violence and danger. It has been well recognized that such conditions produce cumulative degenerative effects. It is also well recognized that these effects can, only in part, be offset by a regimen of physical conditioning and health care. These factors are present in law enforcement positions to a degree found in few other occupations in our society, and certainly to a degree not appreciated by your auditors.

Methods need to be found to deal with these conditions which protect the individual employee's health and dignity as well as providing effective law enforcement for the public. Most progressive employers of law enforcement personnel (city and state) have recognized and responded to this problem, at least in part, through systems of early retirement. So has the Federal Government but with a system that has not been fully effective. The initial system did not include a mandatory early retirement requirement nor a maximum initial entry age policy. These factors are now in place or about to become effective.



Their impact should be (1) to improve our ability to ensure a vigorous and vital law enforcement work force and (2) to reduce the average age of retirement for law enforcement personnel.

An assumption is made in your report that the problem of the aging law enforcement employee can be dealt with largely by realigning work and by reassigning older personnel to less demanding assignments. Unfortunately, our experience does not bear this out. For example, the Bureau of Prisons found that its "secondary coverage positions", those that are the most likely alternatives to direct law enforcement positions, represent only about 5% of its covered employment. This alternative could not begin to accommodate our older employees unless we increased the number of management positions in each of our law enforcement agencies; this would be a trend that neither we nor the Congress would want. Other placements may be possible through retraining for non-law enforcement related occupations. It is doubtful however, that significant numbers of employees could be accounted for by this tactic or that their previous grade levels could be retained. In any case, such programs are not accomplished without substantial cost yet the benefit of such retraining would be minimized since the expected duration of retention would be only three to four years (as indicated by your chart on page ten of the report).

Your report concludes that the early retirement system has not been effective since the average age of retirement for law enforcement personnel was only 3.4 years younger than for non-law enforcement personnel in 1975. It seems to me that the conclusion is unwarranted. The same table (see page ten) reveals that the early retirement system has resulted in the average age of retirement for law enforcement employees dropping from 59.9 in 1949 to 56.2 in 1975, an important improvement. Additionally, the newly enacted age 55 mandatory retirement provision has yet to have an impact. This should depress the average age of law enforcement retirements. Still further down the road will be the effect of the maximum age limits of initial employment for covered employees. Rather than reflecting the results of a mature program, as I noted earlier, the statistics presented in your report simply reflect the difficulties encountered during the initial stages of the early retirement program. We have recognized these problems and have initiated remedial steps to resolve these deficiencies.

The Federal enforcement agencies have since the inception of early retirement interpreted that mechanism as an advantage to both the government and to the law enforcement employee and have so advised their employees, for both recruitment and retention purposes. In our view, this is quite appropriate. The advantage to the government is to assure a young and vigorous enforcement work force by correcting for the effects of unusual pressures; the advantage to the employee is in

being compensated by early retirement for the probable effects on him of those pressures.

Should this system be eliminated, the Department, and other Federal agencies which have law enforcement responsibilities, would be at a distinct disadvantage in the labor market competing against (1) state, county, and municipal law enforcement agencies, who offer early retirement; and (2) all other agencies of the Federal government, who can offer identical benefits with only normal job pressures and inconveniences.

Sincerely,



Glen E. Pommerening
Assistant Attorney General
for Administration

5 Enclosures

NATIONAL FORM NO. 16
 JULY 1973 EDITION
 GSA FPMR (41 CFR) 101-11.6
 UNITED STATES GOVERNMENT

Memorandum

TO : Assistant Attorney General
 for Administration

FROM : *[Signature]* Director, FBI

SUBJECT: REQUEST FOR COMMENTS ON GAO DRAFT
 REPORT ENTITLED "EARLY RETIREMENT POLICY
 FOR FEDERAL LAW ENFORCEMENT AND FIREFIGHTER
 PERSONNEL SHOULD BE REEVALUATED"

Reference is made to your memorandum of October 28, 1976, captioned as above from Harry L. Shepherd, Jr., of your Office of Management and Finance.

I have carefully reviewed the captioned draft report of the Government Accounting Office (GAO), and do not agree with its conclusions and recommendation. The following are the views and comments of the Federal Bureau of Investigation (FBI) which are submitted for your consideration.

Basically, the FBI firmly believes that the more liberal retirement benefits for Agents as approved in 1947 and not again significantly improved until 1974 are justified in view of the uniquely inherent differences in their duties as compared with other Civil Service employments. Over that span of time, the responsibilities imposed on the FBI greatly increased as did the complexities of combating an upsurge in the crime rate.

The FBI has supported legislative efforts to improve the retirement system affecting its personnel since such is considered necessary to the continued efficiency and ability of the organization to carryout its mission. Essentially, the FBI's reasons for supporting such legislation have been: (1) The Special Agent position demands active, vigorous, and alert personnel, yet they are subject to a high degree of "burn-out" (declining physical prowess due to physical and psychological stress) because of the very nature of their duties. The Special Agent contends not only with the criminal element but with other health destroying factors attendant to his duties such as irregular hours, tension, and



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Assistant Attorney General
for Administration

pressure; (2) Retirement benefits should be such that Special Agents are encouraged to remain in the service sufficiently long to fulfill their optimum potential but yet provide the opportunity to retire before they lose the qualities demanded by law enforcement work such as vigor and prime physical condition; (3) Attractive retirement benefits greatly assist in recruiting top quality applicants and retaining those appointed during their optimum production years. Whatever the reason may be that prompts an individual to pursue a law enforcement career with all its unique and sometimes unattractive demands, a determining factor is certainly a favorable retirement plan. If we are to continue to attract top quality applicants, we must be able to offer them the best possible retirement plan.

The above arguments which influenced the Congress to establish the FBI's retirement system in 1947, were again considered in the passage of Public Law 93-350 in July, 1974, and continued to be viewed as valid due to the continually expanding jurisdiction imposed upon the FBI as well as the increasing complexity of modern day law enforcement. Based on the experience of this Bureau, the original (1947) legislation greatly contributed to making the FBI a law enforcement career service. It has been, in part, responsible for the recruitment and retention of highly qualified and capable personnel. The fact that the program's cost has escalated is not in itself sufficient reason to alter the policy of early retirement. The question should be whether the program has been and continues to be successful in helping maintain a professional, highly qualified and respected law enforcement agency adequately serving the public. This being the desired objective, then the benefits which attract and hold the best qualified people must be provided. To that end, it is the cost of excellence.

The GAO draft report concludes that "the preferential early retirement program provided to law enforcement and firefighter personnel is an expensive method of marginally reducing the age of retirement." The report's preoccupation is with reduction of the age of retirement and costs. No discussion is directed to the effects on morale of changing a program which has existed for the FBI since 1947 and which has been utilized as an invaluable recruitment and retention vehicle. Certainly the benefits provided have been the cornerstones of income and retirement planning for Agents recruited since 1947. The draft report also points out

Assistant Attorney General
for Administration

that liberalized pay and improved retirement provisions for all civil servants has reduced their average retirement age by providing fair and generous benefits at a relatively early age. This same statement certainly applies to the private sector just as more liberalized and earlier retirement age applies to local law enforcement personnel including those who advance to supervisory and/or assume administrative duties in support of the field or "beat" officer/detective.

Testimony during Senate hearings prior to the passage of Public Law 93-350 vividly pointed out the inherent differences between the duties of regular Federal employees and the Federal employees to be covered by the bill. Whereas the former performs necessary Governmental tasks, the latter additionally may be faced with daily placing their lives on the line. As an advocate stated, the bill "simply acknowledges that the everyday physical and psychological stress which they must endure all too often result in fatalities and serious injuries not ordinarily encountered by other dedicated public servants."

Public Law 93-350 was designed to maintain a young and vigorous Federal criminal investigative workforce by providing a mandatory retirement provision, and attendant thereto, a necessary annuity formula that would make early retirement economically feasible. Conversely, the fact that retirement benefits for other Federal employees have been liberalized by no means implies that employees will retire earlier. If applied to criminal investigators they could conceivably continue in service until age 70 which is counter to the needs to which Public Law 93-350 was addressed. On this point the GAO position is retrogressive.

GAO report further cites the retirement plan for Air Traffic Controllers as a possible model on which to reconstruct the current law enforcement early retirement system in order to correct the "inequities" the latter presents when compared with the regular Civil Service Retirement System. To discuss inequitable benefits would require further discussion of the equitability of responsibilities and to do so would be redundant. It is my sincere belief that to subject Federal law enforcement personnel to retrogressive action of this nature would recreate the problems of recruitment and retention of career employees that existed in the 1940s.

Assistant Attorney General
for Administration

The average age of Special Agents entering on duty is 27.9 years to some extent due to the fact that educational, maturity, and experience requirements tend to preclude an earlier starting age. This makes the annuity factor particularly important. As previously noted, the very nature of Agents' duties leads to earlier burn-out and thus top efficiency wanes at an earlier age than that of someone in a less demanding occupation. Thus a Special Agent who enters on duty later normally should leave the service earlier but can only do so if retirement benefits are such that retirement is economically feasible. Under the Air Traffic Controller plan it does not appear such would be possible.

The conclusions and recommendation of the GAO set forth in instant report are premature particularly as regards Public Law 93-350, passed July 12, 1974. The full impact of that law will not be felt, therefore, cannot be accurately measured until sometime subsequent to its full implementation - January 1, 1978. At that time the "grandfather clause" will have expired and the thrust of the legislation should be realized - a constant influx of new blood - the young and vigorous - into the system on the one end and a constant outflow of older, less vigorous personnel at the other end. Certainly the effectiveness of Public Law 93-350 in insuring a young, vigorous, and alert workforce cannot be judged in figures generated prior to and during the period of the "grandfather" provisions. However, it is noted that we have already experienced a reduction in the average age of Agent retirees. In Fiscal Year 1974, the average age of retirement was 56.2 years but since approval of Public Law 93-350 effective July 12, 1974, we note the average age of retirement was 55.8 years for Fiscal Year 1975 and 54.6 years for Fiscal Year 1976.

One of the arguments set forth in GAO's draft is that many covered employees retire from the job but not from continued work and seek other positions subsequent to their retirement indicating they are not "burned-out." While it is true that some employees may seek post-retirement jobs, it is unlikely that they reenter jobs as physically and mentally demanding as those in active law enforcement. At any rate the goal of the Act is to replace these Agents with those younger and more vigorous.

With regard to the use of physical examinations to determine employees' ability to perform CAO argues that those found not physically capable prior to optional retirement age can be reassigned to less demanding duties or retire under existing Civil Service or Federal Workers' Compensation Disability programs.

Assistant Attorney General
for Administration

The FBI affords all Special Agents physical examinations annually after age 34. Prior to that age the examinations are afforded every three years. It should be noted that each Special Agent must be able to fulfill the full spectrum of his duties, including participation in raids and dangerous assignments. Even though physically fit, an Agent over 50 would undoubtedly have lost some of the reflex action and coordination necessary to insure success in such situations.

With regard to the foregoing, it must be noted that the FBI has Agents assigned to 59 field offices and 493 resident agencies. Thus, our force must be flexible and adaptable, and a given Agent must be available for assignment anywhere and to any work in the FBI's jurisdiction. The FBI operates on a Congressionally allocated manpower table and cannot afford a program that would foster a build-up of a significant percentage of its Agents who must be assigned, even temporarily, to other than normal Agent duties and who would not be involved in the full range of Agent activities.

Public Law 93-350 was researched and drafted by the Congress to improve the quality of these services by insuring a young and vigorous workforce and was passed on July 12, 1974. The more generous annuity formula makes early retirement economically feasible. The preferential benefits are not to reward these employees for performing demanding services but are designed to satisfy the Government's need for the type of workforce that can effectively perform these services - young and vigorous. Although the FBI was not officially permitted to testify before Congress, it fully supported this legislation based on the aforementioned three reasons and believes that these reasons remain valid today. In summary we feel the benefits currently provided are justified and are consistent with the needs of this Bureau to efficiently and effectively carryout its ever increasing responsibilities.

1 - Harry L. Shepherd, Jr., Director,
Internal Audit Staff, Office of
Management and Finance
(Attention: Mr. Austin Ross)

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Harry L. Shepherd, Jr., Director
Internal Audit Staff
Office of Management and Finance

DATE: December 3, 1976

FROM : Norman A. Carlson, Director *NA Carlson*
Bureau of Prisons

SUBJECT: Request for Comments on GAO Draft Report Entitled "Early Retirement Policy For Federal Law Enforcement And Firefighter Personnel Should Be Reevaluated"

We disagree in virtually every respect with the draft GAO Report. With regard to the Bureau of Prisons, the report illustrated a complete lack of knowledge of basic organization and operations. The small sample utilized and other statistical base material resulted in a distorted view of the Bureau and thus GAO arrived at erroneous conclusions. Further the report lacks integrity in that much of the analysis compares inconsistent data.

On page one of the draft report GAO indicates that administratively uncontrollable overtime (AUO) is included in computing annuities. While this is true, GAO fails to clearly emphasize that this is not true for all covered employees including those employed by the Bureau of Prisons which accounts for one out of seven law enforcement employees. This bias is carried through out the report and is particularly distorted in the chart on page 14. On page 12 GAO clearly implies that all retirees have annuity computations which include AUO. This is simply not true.

On page 12 GAO states that the average covered employee received an annuity of about \$15,800. This may be an accurate statistic for the group but unfairly represents the Bureau of Prisons. The average grade of Bureau of Prisons employees is 8.4 (see attachment 1) as of 10/23/76. Using the current pay chart as the average high three salary years, and figuring at the GS-8/4 (14,038) and GS-8/10 (16,588) salary the various annuity computations would be:

Years Service	GS-8/4	GS-8/10
20	7,019	8,294
25	8,429	9,157
30	9,827	11,612

These computations are far below the \$15,800 figure used in the report.

In any event the conclusions reached based on a randomly selected group of 301 program annuitants (page 6 of draft report) should be severely questioned since it represents only a 3% sampling. Frankly the



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pool is so small that few conclusions can be realistically drawn. As an example of GAO's failure to analyze the statistical base, at page 19 the report would have us believe that "...one-half of these retirees held jobs involving law enforcement". The conclusion is based on approximately twenty-one responses out of a total of 144 responses. The report fails to indicate what post-retirement jobs were, in fact, held. Security supervisors of industrial property, teachers, consultants or administrators of state correctional facilities could all be included but only the latter could truly be considered comparable. Further the conclusions are stated as a condemnation of the current law enforcement retirement system but what percentage of other Civil Service employees work after retirement and/or how many of them are employed in related jobs?

The Bureau of Prisons employes 9000 persons of whom approximately one-half are correctional officers. Since the Bureau has an internal promotion policy most of our employees begin their careers as correctional officers and thereafter progress to careers in their specialty areas usually within an institution. Less than 400 employees are in positions other than within a correctional institution. The less than 400 supervisory and administrative positions are almost exclusively filled by transfer directly from a position within a correctional institution, so that coverage is retained by the incumbent (secondary coverage). Elimination of secondary coverage at this stage of the organization would result in an adverse impact of major proportions. In essence, it would result in the Bureau of Prisons being administered by persons without field correctional experience which is an unacceptable policy. Since this group consists of no more than five percent of the Bureau of Prisons, elimination of secondary coverage would not result in any significant savings. More importantly field experience is essential to good management. Since 95% of our positions are located in field facilities, the field is where most of our problems and programs are located. Our managers must be aware of the variety of institutions, inmate populations and the resulting problems presented by the various combinations in order to develop solutions which will be realistic and capable of implementation. Not only are there physical limitations based on the institution configuration and composition of staff but also limitations based on the need and acceptance by the inmate population and impact on other existing programs.

Priorities cannot be realistically established without field experience. For instance food taste, quality, quantity, and appearance might be considered unimportant by some managers. However, a correctional worker knows that food deficiencies can quickly cause an inmate strike or riot. In short, corrections today is still more art than science such that experience is an essential ingredient of good management.

GAO concludes that there is no need for early retirement based partly on assault data gathered at the United States Penitentiary McNeil Island. The comparison of the assault rate at McNeil Island to various national assault rates is not unlike comparing the assault rate

at a retirement community in Arizona to the national assault rate. McNeil Island has not had the frequency of assaults reflected in other institutions as indicated by other data gathered by GAO. Unfortunately the assaults which did occur at McNeil were particularly tragic in that one of the hostages was raped.¹

The assault rate utilized by GAO reflects only serious assaults on staff which were referred to the Federal Bureau of Investigation for possible prosecution. From this data GAO concludes on page 29 that there is an "infrequency of threats". Threats were not measured nor were minor assaults and "confrontations". Frankly, a system cannot be developed to determine "reportable confrontations". Suffice it to say, "confrontations" are too numerous to document but must be taken very seriously. Improper reaction to "confrontations" would be hazardous and could precipitate an assault or riot.

Further, inmate on inmate assaults were excluded from the data and this would assist in determining the total environment in the institutions. Such data is essential to determine the hazard and stress to which institutional employees are exposed. For example, during the last one-half of fiscal year 1976 five inmates were murdered in the United States Penitentiary at Terre Haute, Indiana, and another five inmates were murdered in the United States Penitentiary at Lewisburg, Pennsylvania.

In this regard, GAO erroneously concluded at page 28 of the draft report: "[a]lthough inmates also assault each other, we do not believe every employee must be capable of physically stopping these inmates". There is a statutory duty to provide for the safety of each inmate confined in federal facilities. Many inmates who were victims of assaults have filed suit under the Federal Tort Claims Act alleging negligence in their protection. This is one reason all employees are required to respond to emergencies and must be capable of responding. Failure to provide an adequate level of protection would dramatically increase the risk of liability. Staff response to these incidents increases the hazard to which staff are exposed for, although aggression is not directed toward them, they may easily become victims by their "interference".

The rationale for a vigorous work force was based on certain job characteristics including working under significant mental and emotional stress, exposure to hazard during day-to-day functions, being continually on call to respond to emergency situations, and being capable of meeting stringent physical demands. Although "hazard" was eliminated from the statute in 1974, it was not eliminated from the rationale for early

¹One inmate held four female employees hostage. The hostages were secretaries in the Classification and Parole Office. The hostages were forced to undress and one was raped by the inmate. After the incident several female employees including the rape victim terminated employment with the Bureau of Prisons.

retirement. All the positions in our institutions meet these criteria; many employees, although primarily involved in administrative functions, are nonetheless required to render immediate assistance in emergencies (assaults, other confrontations, and escapes). The correctional officers which compose more than 50% of the work force in an institution are usually directly involved in emergencies. All employees, however, are required to converge at the place of the incident and render such assistance as is necessary - e.g., restrain aggressors and control other inmates in the immediate area.

Needless to say, emergencies are periods of extreme mental stress since frequently an officer's life is in danger; over-reaction or under-reaction could equally precipitate greater danger. The physical demands are likewise extreme in that often help is quite some distance from the incident; the employee must quickly run the distance, and yet be in sufficient physical condition to restrain offenders who are not always cooperative. I do not wish to be melodramatic, but a difference of seconds is the difference between life or death.

In those few instances in which any employee has failed to respond in an emergency, the employee has been discharged. There is no excuse for any employee whether he/she is a business manager, personnel officer, accountant, plumber, cook or teacher to fail to aid when another person is endangered. It matters not at all whether that person is a staff member or an inmate. The safety of the entire institution requires such a policy, for a small incident if not controlled could easily spark a riot.

In the final analysis I do not wish to "prove" that our institutions suffer a massive crime wave because they do not. Despite the death of two correctional officers at United States Penitentiary, Leavenworth (in 1973² and 1974³ respectively) and another at Federal Correctional Institution,

²In July 1973 a 40 year old correctional officer employed for ten months was murdered in the inmates living quarters (A Cell House) during a riot. He was stabbed numerous times about the upper chest and back. The officer was survived by a wife and three children.

³In 1974 a 25 year old correctional officer employed for eight months was murdered in the inmates' living quarters (B Cell House). He was stabbed 19 times mostly about the upper chest and throat. The inmate murdered the officer because the officer broke up an illicit poker game. The officer was survived by a wife and a 3 year old daughter. The wife was pregnant but subsequently miscarried.

El Reno in 1975⁴ our institutions are fairly crime free considering the population. It is the potential of a riot such as the one at U.S.P. Lewisburg in 1970 or the rape at the Youth Center, Morgantown in 1976, or the hostages at FDH, New York in 1975, to the hostages at FCI, Petersburg in 1975 and other incidents too numerous to mention which create stress and constitute exposure to hazard. The potential for each of these incidents is ever present in each institution each day whether it occurs or not.

The total environment must be considered and GAO did not evaluate other matters such as escapes and contraband. Escapes such as the one at U.S.P., Marion where sophisticated electronics were used to open the outside gates constitute a threat to society. Recently several guns were found inside U.S.P. McNeil Island⁵ and a shot gun shell and several bullets were found inside U.S.P., Lewisburg.⁶ On November 14, 1976 two loaded handguns and three shotgun shells were seized in FCI Ashland.⁷ Such contraband to be used for escapes, hostages, or whatever surely constitutes a hazard to employees. Constant vigilance in every aspect of daily prison life is required to prevent escape and introduction of

⁴In March 1975 a 58 year old correctional officer employed since 1958 was murdered in the institution's chapel. The officer's throat was slashed in an execution style murder. A group of black muslims had held religious services in the chapel and the motive appeared to be merely the killing of a white officer. Although a telephone was nearby, the cord had been cut.

- ⁵The following weapons with serial numbers removed and ammunition were found:
- a. .32 caliber Paramount semi-automatic pistol with eight(8) rounds of ammunitions (discovered in the mail).
 - b. .38 caliber Smith and Wesson, two and one-half inch revolver loaded with five(5) rounds and four(4) rounds extra.
 - c. .38 caliber Smith and Wesson, two and one-half inch revolver loaded with five(5) rounds
 - d. .41 caliber Colt, double action, four(4) inches, loaded with six(6) rounds.
 - e. .22 caliber Browning, six(6) inches, loaded with nine(9) rounds in magazine and nine(9) extra rounds.

- ⁶The following ammunition was found:
- (a) 2-12 gauge shotgun shells
 - (b) 3-38 special cartridges

- ⁷The following weapons, ammunitions, and money were found:
- a. Two .22 caliber revolvers with six rounds in each.
 - b. Three 12 gauge shot gun shells
 - c. One ten dollar bill.

weapons and drugs. The use of metal detectors, TV monitors, electronic trip wires, inspections of mail, unannounced searches, and other security measures constantly remind one of the potential...and the consequences.

Although physical abilities decline with age and individuals age at different rates, it is a generally held opinion by correctional administrators that employees in a prison setting should retire at age 55 or sooner if possible. There is simply a "burn out" after that many years which, while not debilitating, results in decreased effectiveness. The correctional worker simply loses his/her ability to respond as quickly and effectively whether he/she is a caseworker, counselor, or correctional officer. One can discharge one's duties aggressively and effectively just so long in a prison environment. Abolition of early retirement would result in our work force becoming older at a time when the offenders confined in our prisons are becoming younger (the median age is 29.8) and more aggressive (See GAO Draft Report: Youth in Prison). It is my opinion that a young vigorous work force is needed to relate to this population and to cope with the many problems encountered as above indicated.

GAO uses a comparison of one to three years average earlier retirement for covered employees (page 9 of draft report). This is an intellectually dishonest comparison when by their own projections (page 11 of draft report) the difference will be 6.3 years under the mandatory retirement law. Also GAO points out that 23% of our employees are age 50 or more but does not state that only 7.2% (attachment 2) are over age 55 and only 6.6% (attachment 3) of our employees have over 25 years of service. Therefore most of our employees are retiring when eligible for early retirement and few are serving full-careers.

As GAO points out only 44 percent of the covered employees are eligible for optional retirement at age 55 after 30 years service. This simply means that 56% were not eligible and would have been required to work beyond age 55 but for early retirement eligibility.

In any event we recognized that some employees were not retiring early and this we felt reduced the efficiency of the service. Lack of early retirement was due to several reasons not the least of which was that prior to 1974, basic annuity was computed at the rate of two percent for each year of service for a cumulative increase of 3.75% above civil service retirement. After 1974 basic annuity was computed at the rate of 2 1/2% for each year of service up to maximum of twenty years for a cumulative increase of 13.75%. Therefore, prior to 1974 there was an incentive to prolong one's service. We are just now beginning to see the fruition of the early retirement policy and we feel it must be given a greater period of time to reach its maximum potential. This is particularly evident when considering the maximum entry age and mandatory retirement age policy.

In the past, the Bureau of Prisons has had difficulty recruiting a young work force because the correctional officer registers were "loaded at the top" by military retirees and because correctional work suffers low social esteem. The registers have been purged of the military retirees and the increased early retirement benefits have increased the

pool of qualified young applicants. In a few years our work force should be considerably younger, better qualified, and better able to meet the challenges in a rapidly changing prison environment.

Other federal personnel programs do not offer reasonable alternatives. Our employees are not disabled, they are just not as effective or able to handle emergencies. Thus, only transfers are available. As stated earlier, 95% of our employees work in prison facilities. Each of the jobs require ability to respond in emergencies. Only 5% of our positions are located outside institutions thereby not providing enough positions available to handle the potential number of transfers required. There may very well be many other similar jobs in the Federal Service for which our employees may compete. Nevertheless, our facilities are generally in rural areas and there are no near or at best insufficient federal agencies to which they could transfer without dislocating. This practical certainly makes the Bureau of Prisons' employee a second class citizen in the Federal establishment.

The Civil Service Commission construes total disability as an inability to perform even one essential function. All employees have a correctional component (render assistance in emergencies) and certainly older employees cannot generally perform this function as effectively as younger employees. Currently, these older employees are retiring early. If not permitted to do so, they could take disability retirement and are likely to do so at a greatly increased rate. For instance there are a number of retired employees who have applied for compensation retirement based on the stress of their work environment. Such stress constitutes an "injury" and has resulted in approval of their application by the Office of Workers Compensation. The effect is to increase their annuity to a minimum of 2/3 or 3/4 of salary. If early retirement is withdrawn, such cases may rapidly increase and be much more costly than early retirement. Also some persons believe there is a stigma to "disability retirement". Why should employees be forced to accept this "stigma" when they are less effective by virtue of the stress of prison service?

Almost 95% of our employees are engaged in work which results in primary coverage i.e, direct and frequent contact with persons charged with or convicted of violations of the criminal laws of the United States. Clearly a young vigorous work force is needed to meet the demands of this profession and the early retirement features of the existing law have helped accomplish this goal. A maximum hiring age and a policy of mandatory retirement at age 55 will also assist. The Bureau already has a maximum entry age of 35 and the policy of mandatory retirement at age 55 will be effective January, 1978. This will increase the retirement age difference between covered employees and full-career employees to 6.3 years resulting in a loss of 12.6% of retirement income without early retirement. With early retirement our employees receive a 13.75% increase in retirement income for which they and the agency pay at an increased rate of 14.28% in deductions. It is in my opinion far better that this small percentage difference fall on the Federal Government than on the individual (12.6%) when in fact it is the individual's covered service that has resulted in a shortened career.

EMPLOYMENT BY YEARS OF FEDERAL SERVICE - PERMANENT EMPLOYEES

AS OF JUNE 30, 1976

	UNDER 2 YEARS		2 THRU 5 YEARS		6 THRU 15 YEARS		16 THRU 25 YEARS		OVER 25 YEARS ¹		TOTAL EMPLOYMENT
	TOTAL	%	TOTAL	%	TOTAL	%	TOTAL	%	TOTAL	%	
Offices, Boards and Divisions	598	14.1	1,300	30.6	1,507	35.5	492	11.6	340	8.0	4,237
Offices of the United States Attorneys	486	15.1	1,109	34.6	1,108	34.6	331	10.3	167	5.2	3,201
Drug Enforcement Administration	176	4.3	1,174	29.2	1,975	49.2	547	13.6	136	3.3	4,008
Federal Bureau of Investigation	3,810	19.0	4,707	23.5	7,085	35.4	3,060	15.3	1,332	6.6	19,994
Federal Prison Service	623	7.2	1,864	21.7	3,496	40.8	2,004	23.4	573	6.6	8,560
Immigration and Naturalization Service	1,136	12.6	2,198	24.4	2,704	30.0	1,745	19.3	1,217	13.5	9,000
Law Enforcement Assistance Administration	104	12.5	245	29.6	344	41.6	105	12.7	28	3.3	826
United States Marshals Service	100	4.9	265	12.9	1,101	54.3	421	20.7	142	7.0	2,027
TOTAL DEPARTMENT	7,033	13.5	12,860	24.8	19,320	37.2	8,705	16.7	3,935	7.5	51,853

¹Over the last several years an increase in retirement has caused a consistent decline in the percentage of employees with over 25 years of service. This is chiefly attributable to increased annuities based on cost-of-living adjustments. Employees may retire with 30 years service at a minimum age of 55, or in certain occupations at age 50 with 20 years of service.

TABLE 3
EMPLOYMENT BY GRADE

AS OF JUNE 30, 1976

	ORD	OUSA	DEA	FBI	FPS	INS	LEAA	USMS	TOTAL EMPLOYMENT
GS-01		1	2		1	1	1		6
GS-02	36	5	12	317	5	126	2	4	507
GS-03	134	50	43	2,193	26	798	18	11	3,273
GS-04	254	190	176	2,640	128	951	46	28	4,413
GS-05	394	533	355	2,810	521	1,540	86	212	6,451
GS-06	428	553	400	973	950	560	52	154	4,070
GS-07	483	291	201	1,019	1,053	930	96	284	4,957
GS-08	151	114	35	198	1,178	370	13	8	2,067
GS-09	180	77	185	328	1,072	1,792	56	1,115	4,811
GS-10	20	13	5	1,123	52	19		1	1,233
GS-11	252	12	386	1,398	825	1,332	64	186	4,455
GS-12	389	7	995	2,319	568	421	94	60	4,853
GS-13	543	11	691	3,213	158	314	142	74	5,146
GS-14	445	2	391	764	167	188	122	45	2,124
GS-15	451	5	144	276	78	129	73	9	1,165
GS-16	73	1	13	81	18	14	13		213
GS-17	34	1	2	40	3	8			88
GS-18	8		1	18			4	1	32
OTHER	128	1,562	31	284	1,337	170	7	4	3,523
AV GD	9.8	6.0	10.3	8.3	8.4	7.8	10.6	8.8	8.5
TOTAL DEPT.	4,403	3,428	4,068	19,994	8,740	9,665	889	2,196	53,387

TABLE 5
EMPLOYMENT BY AGE - PERMANENT EMPLOYEES
 AS OF JUNE 30, 1976

	UNDER 22		22 thru 25		26 thru 35		36 thru 45		46 thru 55		OVER 55		TOTAL EMPLOYMENT
	TOTAL	%	TOTAL	%	TOTAL	%	TOTAL	%	TOTAL	%	TOTAL	%	
Offices, Boards, and Divisions of the U.S. Attorneys	218	5.1	511	12.0	2,014	47.5	682	16.0	504	11.8	308	7.2	4,237
Drug Enforcement Administration	117	3.6	268	8.3	1,579	49.3	493	15.4	469	14.6	275	8.5	3,201
Federal Bureau of Investigation	91	2.2	351	8.7	2,028	50.5	957	23.8	479	11.9	102	2.5	4,008
Federal Prison Service	3,033	15.1	3,973	19.8	6,785	33.9	2,931	14.6	2,674	13.3	598	2.9	19,994
Immigration and Naturalization Service	44	.5	608	7.1	2,735	31.9	2,240	26.1	2,313	27.0	621	7.2	8,561
Law Enforcement Assistance Administration	306	3.4	876	9.7	2,794	31.0	1,893	21.0	2,029	22.5	1,102	12.2	9,000
U.S. Marshals Service	31	3.7	84	10.1	330	39.9	193	23.3	142	17.1	46	5.5	826
	17	.8	71	3.5	604	29.7	576	28.4	572	28.2	187	9.2	2,027
TOTAL DEPARTMENT	3,857	7.4	6,742	13.0	18,869	36.3	9,965	19.2	9,182	17.7	3,239	6.2	51,854

OPTIONAL FORM NO. 10
 JULY 1973 EDITION
 GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Harry L. Shepherd, Jr., Director
 Internal Audit Staff
 Department of Justice

DATE: NOV 18 1976

FROM : Frederick A. Rody, Jr. *Frederick A. Rody*
 Acting Administrator
 Drug Enforcement Administration

SUBJECT: Request for Comments on GAO Draft Report Entitled "Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel Should be Reevaluated"

Reference your October 27, 1976 memorandum, requesting DEA's comments and observations on the captioned draft report.

DEA's comments follow.

Major Omissions in Study Suggest Preconceived Conclusion

DEA finds basic fault with the limitations in scope and depth of the draft report, to the degree that we are caused to question the objectivity of the study design.

We are disturbed by omissions such as the following:

- 1) The report fails to consider that it is an accepted truth, supported by recruitment literature and statements of the various Federal agencies, that liberal retirement is compensation for the additional extraordinary demands of law enforcement positions.
- 2) The report fails to address the question which is obviously the object of the report: what position in this matter is to the best advantage of the Federal Government? The report does not consider that compensation other than pay (i.e., early retirement) could be a factor in motivating people to be in Federal law enforcement jobs. The report is silent on the question of attitudes, and therefore, does not address the possible adverse consequences to the recruitment and retention of qualified Federal enforcement officers if early retirement were abolished.



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3) The report fails to examine the reasons for and consequences of early retirement for State and local enforcement officers--a much larger segment of the enforcement community than Federal officers and a segment with a longer history of involvement with the early retirement concept (frequently with much more liberal plans).

4) The report fails to solicit the views of enforcement personnel from DEA, the Secret Service, and the Alcohol, Tobacco and Firearms Bureau, a significant and unexplainable omission when it is considered that these officers are more regularly subjected to the inconveniences and hardships of the enforcement discipline than are the officers of many of the agencies which were interviewed.

5) The report argues that the diminishing age differential between regular and early retirements is one reason why the early retirement plan should be discontinued. A balanced and objective report would also consider further modifications to the early retirement plan (such as retirement after 20 years of service irrespective of age) which might contribute to the Government's goal of having youthful and vigorous law enforcement personnel.

When we view the number of things which the report did not address and the avenues it did not explore, we are forced to conclude that it is an incomplete and unbalanced study which does not supply the necessary facts or logic to either support its recommendation that the Congress should reconsider the need for providing early retirement benefits, or to provide the information for such reconsideration.

In the interests of brevity and because of time constraints, we will not attempt to develop each of the above-mentioned problems. Following are discussions of some of the major weaknesses.

Legislative Intent an Unrealistic Limitation on the Discussion

The primary thrust of the draft report is to show that the objective of early retirement for Federal law enforcement (and firefighting) personnel is not being met by the early retirement system.

The report, however, exhibits serious error by only partially defining the objective of early retirement. It defines the objective solely from the standpoint of expressed legislative intent: "...to improve the quality of these services by ensuring a young and vigorous workforce" (p.2), which need is dictated by certain characteristics inherent in law enforcement jobs (e.g., long hours, adverse conditions, stress, hazard, irregular conditions, absence from home and family).

The fact is that almost all current Federal law enforcement personnel entered on duty subsequent to the initiation of the early retirement system in 1947. They were affected in accepting and continuing in their positions by the generally accepted truth that, in compensation for a variety of inconveniences and disadvantages to them and their families which are not experienced by or expected from other Federal civil servants, they are compensated by a liberal early retirement plan.

This has been made an accepted truth in a singular manner: the United States Government has told them repeatedly that this is the situation. Recruitment material and presentations, and brochures for the various agencies suggest, in effect: you have to do many things other Government employees don't, and you may be faced with injury or death in the course of your duties, but you will be additionally compensated for these extraordinary requirements by the benefit of early retirement.

The draft report has chosen to ignore this basic fact and to engage in the fiction that the only objective of the early retirement system is to provide a young and vigorous workforce. As a matter of fact, the draft report goes much further than ignoring this basic situation; it denies it exists: "The preferential benefits are not to reward those employees for performing demanding services, but are designed

to satisfy the Government's need for...young and vigorous employees" (p.2). It is true that the 1974 law (page 3) "deleted all references to employee hazard as a basis for coverage." But deleting the reference does not thereby expunge the fact of hazardous working conditions as part of the rationale for desiring a youthful and vigorous workforce.

This denial of a basic fact which is both relevant and material to this analysis and to the Government's interests casts serious doubts on the objectivity and value of the study.

Retirement A Part Of Compensation Package

By excluding extraordinary job demands as the basis of additional compensation (i.e., early retirement) and admitting only to legislative intent, the draft report has closed the door on addressing the questions which the GAO study was designed to answer: Should there be additional compensation for Federal law enforcement officers, that is, is it to the Government's advantage? If there should be, what form should such compensation take?

The Government, like all other employers, is in the job market, and, if we set aside extraneous issues (such as equity and the setting of moral tone and example by the Federal Government), it is primarily interested in promoting its own efficiency and effectiveness.

The entire thrust of the draft report is, laudibly, the promotion of effectiveness and efficiency through avoiding the expenditure of Government funds for additional compensation which might not be necessary.

The report recognizes that a primary Federal principle in achieving effectiveness and efficiency is obtaining the highest quality employee by ensuring comparability of compensation with that of non-Federal employers. It states: "These increases in pay (numerous Government-wide pay increases over the years) resulted primarily from Congress establishing the policy that Federal pay be comparable..." (p. 8).

The draft report is in error, however, in assuming that pay is the equivalent of compensation. There are a number of factors which are involved in Federal compensation other than level of pay: the retirement system in general, job protection, provisions for disability, etc.

Because of this basic error, there is a predictable failure of further attempts by the study to determine whether early retirement for law enforcement officers is to the Government's advantage or disadvantage.

Essentially, the logic of the study is that there is already comparability in pay with non-Federal sectors, early enforcement retirement is very expensive, and law enforcement personnel would be justly compensated by their pay and the general retirement provisions if the special retirement plan no longer existed.

The study totally ignores the fact that the Federal Government was late in providing early retirement to law enforcement officers in relation to State and local police departments, many of whom have more liberal plans in terms of number of years of service and age required for retirement.

The study did not attempt to elicit the attitudes of Federal law enforcement officers towards early retirement. It did not attempt to locate and examine studies by the International Association of Chiefs of Police, outside consultants, State and local agencies, etc., concerning attitudes.

As a result, it did not raise or answer the question: would applicants for Federal law enforcement positions find them less attractive if there were no early retirement, and would incumbents be less disposed to remain on the job without such a benefit?

DEA can respond to these questions for its own enforcement personnel. The general attitude is: the early retirement option was a key factor in my accepting and remaining in a position which has such extraordinary additional demands on me and my family, and it is doubtful that I would accept such demands for no additional compensation.

DEA believes that enforcement officers in other Federal agencies would echo these sentiments. If we are correct in our belief, the result would be that, with the removal of the early retirement provision, the Federal Government would be at a disadvantage in recruiting or retaining qualified enforcement officers, who would instead opt for other positions in the Federal Government (with identical benefits and no extraordinary demands) or in State and local law enforcement (where early retirement benefits exist).

Other Inconsistencies and Errors In the Report

GAO reports that there were two basic reasons for the initial legislation providing early retirement benefits for agents of the FBI. One was to help the government be competitive in the labor market. The second was to assure a "young and vigorous" workforce able to withstand irregular and long hours, irregular eating and rest schedules, many pressures and hazards to health and life, long travel, and adverse environmental conditions. We have already indicated that, in the labor market in which Federal enforcement agencies such as DEA must compete, an early retirement program is a standard employee benefit. It is also DEA's contention that its special agents must regularly endure all of the adverse conditions that prompted passage of the initial program. In addition, DEA agents know they can be reassigned anywhere in the world and can expect to be moving themselves and their families at periodic intervals.

GAO examined sub-groups of the covered population to determine if job conditions and duties demanded a young and vigorous workforce. GAO found that many covered positions do not require exceptionally vigorous employees. Among the positions GAO identified were auditors with the U.S. Postal Inspection Service and secretaries, telephone operators and accountants with the Federal Prison System. It must be kept in mind that whether or not these positions should be covered is a separate issue from whether or not there should be an early retirement program. The fact is that there are Federal law enforcement personnel, such as DEA agents, whose duties unquestionably fall within the original intent of the legislation.

Another problem GAO found is that law enforcement personnel who are serving in supervisory and managerial capacities are covered under the program. The program does not purport to require that beneficiaries endure adverse conditions and risk to life one hundred per cent of the time. Many special agent supervisors participate in enforcement activities on a regular basis as part of their job. It is true there are some supervisors and managers who do not regularly participate in law enforcement activities in their current assignment. These personnel are, however, available to be called into a law enforcement assignment at any time, and many will be rotating into and out of strictly law enforcement positions.

Also, many enforcement management positions are operations involved. In these positions, the supervisors endure even greater psychic stress than agents on the street due to their responsibilities for coordinating operations, involving large numbers of agents, where their decisions can affect life, safety, and property.

GAO also found that covered employees were retiring only 1 to 3 years earlier than employees not covered. Covered employees retired less than 1 year younger than other civil servants retiring under the 55 years of age and 30 years of service retirement plan, and about 3 years younger than all employees who served 30 years or more. It may not be reasonable to assume that all covered employees have completed 20 years of service by age 50. The average age of eligibility may well be above 50. Further, there are several reasons that covered employees may retire at earlier ages the longer the provisions of the new 1974 law are in effect.

Employees eligible for retirement soon after the 1974 legislation may have made short-term postponement of retirement to add administratively uncontrollable overtime to their base salaries. Also, enforcement retirement decisions have been affected by the annuity base change from 5 to 3 years. When the provision for mandatory retirement at age 55 goes into effect in January 1978, there is certain to be a reduction in the average retirement age.

If the Government finds the average retirement age too high after the 1978 provision has been in effect, it might consider adopting the provision of some State and local plans: a retirement option after 20 years of service, regardless of age.

Another error in GAO's study is the recommendation that if employees become too old to perform their duties as criminal investigators, they be reassigned to positions as general investigators. This recommendation subverts the Civil Service policy and good management principle of fostering the development of career paths and expertise in government service. It over-emphasizes the few similarities between the work of general investigators and criminal investigators and underestimates the differences.

It is our understanding that this response will be coordinated for the Department by Mr. Robert S. Smith, Director, Personnel and Training Staff. If our response requires clarification or elaboration, we are available to assist. If there is any lack of unanimity or emphasis on the part of the responding Bureaus, we would request that we be consulted and given the opportunity to advocate our position.

OPTIONAL FORM NO. 10
 JULY 1973 EDITION
 GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

CO 1320.4-P

TO : Harry L. Shepherd, Jr.
 Director, Internal Audit Staff

DATE: NOV 1 2 1976

FROM : L. F. Chapman, Jr., Commissioner
 Immigration and Naturalization Service

SUBJECT: Draft GAO Report Entitled "Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel Should be Reevaluated"

The Service has no objections to the recommendations that Congress reconsider the law authorizing the 50/20 Retirement Program.

However, if such a reevaluation is conducted by Congress it is recommended the advantages and disadvantages perceived under the current law be carefully evaluated and considered. Attention should be directed toward:

1. Attractiveness as a recruitment tool and the mandatory provisions of retirement allowing for younger personnel to more easily advance.
2. Potential for an increase in the number of job-related accidents.
3. Potential decrease in apprehensions and the slowdown in overall production levels related to a lessening of physical abilities.

The Service appreciates the opportunity to comment on this report.

L. F. Chapman



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
 JULY 1973 EDITION
 GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Harry L. Shepherd, Jr., Director
 Internal Audit Staff

DATE: NOV 11 1976

FROM : William H. Russell, Assistant Director *WHR*
 for Administration and Finance

SUBJECT: GAO Report, "Early Retirement Policy for Federal Law Enforcement and Firefighter Personnel Should Be Reevaluated."

The following comments respond to your memorandum of October 28, 1976 and the subject GAO report.

- The concern about the application of secondary coverage is restricted to one agency. This concern might be easily resolved by strict enforcement of the provisions of FPM Letter 831-41 "Civil Service Retirement: Law Enforcement Officers and Firefighters", December 27, 1974. To be eligible for secondary coverage, a position's duties must be law enforcement duties. Under the provisions of the FPM Letter, it should be impossible for positions such as personnel officers and accountants to have secondary coverage.
- GAO's proposal to reassign older employees not fit for law enforcement duties is not realistic in the Marshals Service. We do not have such alternative positions. There are no other duties a Deputy U. S. Marshal may perform commensurate with his grade. Although a lower graded clerical position may be possible, it is not practicable.
- While it is true that disability retirement is available to employees not fit for duty; many employees are unwilling to voluntarily pursue this course. Indeed, many actively resist agency-initiated retirement actions. Initiating an agency-filed retirement action is a costly administrative procedure which may or may not be successful. Workers Compensation is available only if a medical problem is job-related.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

- Dropping secondary coverage would severely damage career progression opportunities within the Service. The result is that talented operational personnel do not rise to top management positions. Few if any covered personnel are willing to leave covered positions even for promotions.

Finally, it should be noted that the average age of criminals is decreasing. This means that Deputy U. S. Marshals and other law enforcement officers are facing younger, stronger, and more active opponents. The need for a younger force of law enforcement officers is greater today than ever before. Rather than eliminating the early retirement provision, stricter enforcement of existing provisions should meet this requirement.

- GAO notes:
1. As stated in the transmittal letter to the Chairman, House Committee on Post Office and Civil Service, Department of Justice comments were not received in time to be considered in preparing this final report.
 2. Page references in this appendix may not correspond to pages of this final report.

PRINCIPAL CSC OFFICIALS RESPONSIBLE
FOR ADMINISTERING ACTIVITIES
DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
COMMISSIONERS:		
Chairman (Vacant)	Jan. 1977	Present
Georgiana H. Sheldon, Vice Chairman	Mar. 1976	Present
L. J. Andolsek	Apr. 1963	Present
Robert E. Hampton, Chairman	Jan. 1969	Jan. 1977
John W. Macy, Jr., Chairman	Mar. 1961	Jan. 1969
Jayne B. Spain, Vice Chairman	June 1971	Dec. 1975
James E. Johnson	Jan. 1969	June 1971
Robert E. Hampton	July 1961	Jan. 1969
EXECUTIVE DIRECTOR:		
Raymond Jacobson	July 1975	Present
Bernard Rosen	June 1971	June 1975
Nicholas J. Oganovic	June 1965	May 1971
DIRECTOR, BUREAU OF RETIREMENT, INSURANCE AND OCCUPATIONAL HEALTH:		
Thomas A. Tinsley	Jan. 1974	Present
Andrew E. Ruddock	Sept. 1959	Dec. 1973