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MILITARY
PERSONNEL

DOD Could Make
Greater Use of
Existing Legislative
Authority to Manage
General and Flag
Officer Careers



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Highlights of [GAO-04-1003](#), a report to congressional committees

Why GAO Did This Study

Congress has established a legislative framework that shapes the careers and the management of general and flag officers. The Department of Defense (DOD) has proposed eliminating or amending a number of legislative provisions, such as revising existing statutory retirement limits based on age and years of service, to provide greater flexibility in managing its senior officers in order to retain experienced leaders. GAO is issuing this report in response to a mandate in the National Defense Authorization Act for Fiscal Year 2003. GAO's objectives were to (1) develop a profile of general and flag officer careers and (2) assess DOD's justification for its general and flag officer legislative proposals.

What GAO Recommends

To retain experienced leaders, GAO recommends that DOD evaluate options for extending general and flag officer careers within the existing legislative framework. DOD did not concur with this recommendation. DOD stated that it had studied such options and found that the desired flexibility cannot be achieved within the current statutory framework. GAO found that DOD's commissioned study did not include a review of the legislative proposals and noted that improvements could be made without changes to the law. GAO continues to believe that DOD has not presented data to justify the need for its legislative proposals.

www.gao.gov/cgi-bin/getrpt?GAO-04-1003.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Derek B. Stewart at (202) 512-5559 or stewartd@gao.gov.

MILITARY PERSONNEL

DOD Could Make Greater Use of Existing Legislative Authority to Manage General and Flag Officer Careers

What GAO Found

General and flag officers who have retired over the past several years typically retired at age 56 after having served an average of 33 years of active commissioned service and 3-1/2 years in their last pay grade. On average, retired general and flag officers were first promoted to general and flag officer at age 49, upon reaching 26 years of active commissioned service, and served 6 years as a general or flag officer before retiring.

Average Age, Years of Service, and Time in Last Pay Grade for General and Flag Officers Retiring between Fiscal Years 1997 and 2002

Pay grade	Insignia	Average age (years)	Average years of service	Average years in last pay grade
O-7	1 star	53	30	3.6
O-8	2 stars	56	33	3.7
O-9	3 stars	56	34	3.1
O-10	4 stars	58	35	3.7

Source: GAO analysis of Defense Manpower Data Center data.

DOD did not present evidence that the legislative provisions it seeks to change hinder the management of general and flag officers or the agency's ability to perform its mission. DOD presented various rationales for its proposals and sponsored a study of general and flag officer management but did not provide data to support the need for these proposals. GAO found that DOD can achieve its goal of extending some general and flag officers' careers and assignments within the parameters of the current legislative framework since many general and flag officers retire several years before reaching the statutory retirement limits. More specifically, the career profile data show that more than three-fourths of general and flag officers who retired in grades O-9 and O-10 between fiscal years 1997 and 2002 could have served at least 3 more years before reaching the current statutory retirement limits. Existing legislative authority provides some flexibility in managing general and flag officers, but the Executive Branch has not made frequent use of this authority. In particular, the Executive Branch has rarely used its existing authority to defer the retirement of general and flag officers on a case-by-case basis beyond the statutory limits on age and years of service. Additionally, factors other than the statutory limits, such as personal considerations and military service culture, may account for early retirements of general and flag officers. GAO also found that the proposals (1) would reduce congressional oversight and provide broad latitude to the Executive Branch in managing general and flag officers, (2) could impede the upward flow of officers by limiting promotion opportunities due to the extension of general and flag officer careers, and (3) would likely increase federal retirement outlays for retirement compensation, based on a cost estimate developed by GAO.

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Abbreviations

DOD	Department of Defense
DOPMA	Defense Officer Personnel Management Act
OSD	Office of the Secretary of Defense

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United States Government Accountability Office
Washington, DC 20548

September 23, 2004

The Honorable John W. Warner
Chairman
The Honorable Carl Levin
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Duncan Hunter
Chairman
The Honorable Ike Skelton
Ranking Minority Member
Committee on Armed Services
House of Representatives

General and flag officers are the senior uniformed leaders of the armed forces. Since 1996, Congress annually has authorized the military services a total of nearly 900 active duty general and flag officers. A legislative framework that has evolved over time shapes the careers of general and flag officers and the management of these officers. For example, Congress has enacted legislative provisions limiting the tenure of general and flag officers, the terms they can serve in specified senior leadership positions, and the distribution of general and flag officers across pay grades. Such provisions reflect congressional interest in maintaining oversight and accountability of general and flag officers. For fiscal year 2005, the Department of Defense (DOD) has proposed eliminating or amending a number of general and flag officer provisions to provide greater flexibility in managing its senior uniformed leaders. Among DOD's stated goals of the proposals are to extend the careers of general and flag officers and to increase the length of individual assignments. The Secretary of Defense has expressed interest in retaining experienced leaders beyond the current statutory retirement limits. We initiated this review in response to a mandate in the National Defense Authorization Act for Fiscal Year 2003.¹ As subsequently agreed with your offices, we developed information and analysis to assist Congress as it considers DOD's fiscal year 2005 legislative proposals. Our specific objectives were to (1) develop a profile

¹ Pub. L. 107-314, section 404(c) (Dec. 2, 2002).

of general and flag officer careers and (2) assess DOD's justification for its general and flag officer legislative proposals.

This is the second report we have issued in response to the fiscal year 2003 mandate. The mandate required DOD to review the existing statutory framework for the management of general and flag officers and submit any recommendations for revising the framework. The mandate directed us to evaluate DOD's recommendations. Our first report reviewed DOD's 2003 study of general and flag officer requirements and authorizations and recommended actions that DOD could take to clarify its general and flag officer requirements.² For example, we recommended that DOD clarify the magnitude and impact between DOD's validated requirements for general and flag officers and congressional authorizations, to include an analysis of the impact caused by the workarounds DOD uses to fill the gap between requirements and authorizations.

To conduct this study, we analyzed career data on retired general and flag officers who retired between fiscal years 1997 and 2002. We also reviewed DOD's rationale and supporting evidence for the legislative proposals, reviewed the legislative history of provisions affecting general and flag officers, and obtained information from the military services on the management of general and flag officers. We also obtained the perspective of several senior retired general and flag officers and other knowledgeable individuals with experience in general and flag officer policy and management. We focused our analysis on the active duty population, although some of the proposals would also apply to reserve general and flag officers. We assessed the reliability of data used in this report and determined that it was sufficiently reliable for our purposes. Additional information on our scope and methodology is provided at the end of this letter.

We conducted our work from April to August 2004 in accordance with generally accepted government auditing standards.

² GAO, *Military Personnel: General and Flag Officer Requirements Are Unclear Based on DOD's 2003 Report to Congress*, [GAO-04-488](#) (Washington, D.C.: Apr. 21, 2004).

Results in Brief

General and flag officers who have retired over the past several years typically retired at age 56 after having served an average of 33 years of active commissioned service and 3-1/2 years in their last pay grade. On average, retired general and flag officers were first promoted to general and flag officer at age 49, upon reaching 26 years of active commissioned service, and served 6 years as a general or flag officer before retiring. With respect to promotion opportunity, the military services over the past several years have selected 2.5 percent of the officers considered for promotion to the one-star rank of brigadier general/rear admiral (lower half). The services have selected 43 percent of the officers considered for promotion to the two-star rank of major general/rear admiral.

DOD did not present evidence that the legislative provisions it seeks to change hinder the management of general and flag officers or the department's ability to perform its mission, thereby justifying the need for its legislative proposals. DOD presented various rationales for its proposals and sponsored a study of general and flag officer management that DOD cited as its primary analytical support. However, the study did not specifically include an analysis of the legislative proposals. We found that DOD can achieve its goal of extending some general and flag officers' careers and assignments within the parameters of the current legislative framework since many general and flag officers retire several years before reaching the statutory retirement limits. More specifically, the career profile data show that more than three-fourths of general and flag officers who retired in grades O-9 and O-10 between fiscal years 1997 and 2002 could have served at least 3 more years before reaching the current statutory retirement limits. Factors other than the statutory limits, such as personal considerations and military service culture, may account for early retirements of general and flag officers. We also found that the proposals (1) would reduce congressional oversight and provide broad latitude to the Executive Branch in managing general and flag officers, (2) could impede the upward flow of officers, and (3) would likely increase federal retirement outlays. In addition, existing legislative authority provides some flexibility in managing general and flag officers, but the Executive Branch has not made frequent use of this authority. In particular, the Executive Branch has rarely used its existing authority to defer the retirement of general and flag officers on a case-by-case basis beyond the statutory limits on age and total years of service. For example, just one such waiver was currently in effect at the time of our review, according to DOD.

This report contains a recommendation that DOD explore options for extending the careers of general and flag officers within the framework of its existing legislative authority. In its comments on a draft of this report, DOD did not agree with the recommendation, stating that it disagreed with the premise that the desired flexibility can be achieved within the current statutory framework. We continue to believe, on the basis of our review, that DOD has not presented data to justify the need for its legislative proposals. Further, we found that there may be opportunities for DOD to achieve its goal of retaining experienced leaders without changing the current legislative framework. For example, the Executive Branch already has the authority to extend the careers of some general and flag officers beyond the current statutory retirement limits but has rarely used this authority. A more complete discussion of DOD's comments and our evaluation of them is provided beginning on page 26 of this letter.

Background

General and Flag Officer Ranks

Congress has established four military ranks above the rank of colonel (for the Army, the Air Force, and the Marine Corps) and captain (for the Navy). Table 1 displays the pay grade designation, title of rank, and insignia worn by officers at general and flag officer ranks.

Table 1: Pay Grade, Title, and Insignia Worn at General and Flag Officer Ranks

Pay grade	Title of rank		Insignia
	Army, Air Force, Marine Corps	Navy	
O-10	General	Admiral	4 stars
O-9	Lieutenant general	Vice admiral	3 stars
O-8	Major general	Rear admiral	2 stars
O-7	Brigadier general	Rear admiral (lower half)	1 star

Sources: Title 10 U.S. Code and DOD.

Title 10 of the U.S. Code establishes service-specific ceilings for active duty general and flag officers that total 877.³ Title 10 also authorizes 12 general and flag officer positions to be allocated by the Chairman of the Joint Chiefs of Staff to the services for joint duty positions. These

³ 10 U.S.C., section 526.

authorizations do not count against the service ceilings.⁴ Title 10 establishes maximum limits on the percentage of general and flag officers that may serve in certain pay grades. Specifically, no more than 50 percent of all general or flag officers in each service may serve in a pay grade above O-7.⁵ Between 15.7 and 16.2 percent of a service's general or flag officers may serve in pay grades O-9 and O-10.⁶ Finally, of a service's general or flag officers in grade O-9 and O-10, a maximum of 25 percent may be in grade O-10.⁷

DOD's Fiscal Year 2005 Legislative Proposals

The National Defense Authorization Act for Fiscal Year 2003 directed DOD to review legislative limitations affecting the management of general and flag officers and directed DOD to submit a report to Congress.⁸ DOD submitted a report in March 2003.⁹ In its report, DOD stated that its review pointed to the merit of additional general and flag officer management flexibilities that would increase the department's ability to respond to ever-changing events. The report also recommended changes in legislation to improve general and flag officer management. In April 2003, DOD submitted a legislative package to Congress—the Defense Transformation for the 21st Century Act of 2003—that included several proposals aimed at enhancing the department's flexibility in managing general and flag officers. Congress did not enact these proposals. In March 2004, DOD resubmitted many of the same proposals to Congress for consideration as part of the National Defense Authorization Act for Fiscal Year 2005. DOD's fiscal year 2005 legislative proposals are aimed at eliminating or amending statutory provisions that the department believes restrict its flexibility in managing general and flag officers.

⁴ 10 U.S.C., section 526(b).

⁵ 10 U.S.C., section 525(a).

⁶ 10 U.S.C., section 525(b).

⁷ This provision does not apply to the Marine Corps.

⁸ Pub. L. 107-314, section 404(c). This reporting requirement stems from an earlier requirement in the National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104-201, sections 1213(b) through (e)). DOD developed a draft report in response to this requirement; however, it never issued a final report.

⁹ Office of the Under Secretary of Defense (Personnel and Readiness), *Review of Active Duty and Reserve General and Flag Officer Authorizations* (Washington, D.C.: Mar. 2003).

Career Length and Retirement Compensation

One group of the fiscal year 2005 legislative proposals would make changes affecting general and flag officer career length as well as retirement compensation.

- A proposal to increase the maximum retirement age from 62 to 68. Currently, commissioned officers generally must retire upon reaching age 62.¹⁰ The President may defer the retirement of an officer serving in a grade above O-8 to age 64. No more than 10 such deferments may be in effect at any one time. DOD's proposal would extend the maximum retirement age to 68 for general and flag officers and would allow the Secretary of Defense to defer retirement of a general and flag officer to age 72. There would be no limit on the number of deferments to age 72.
- A proposal to eliminate limits on the total allowable years of military service and time in grade. Currently, general and flag officers must retire upon reaching specified limits on the total years of active commissioned service or time in grade. These limits vary by pay grade.¹¹ DOD's proposal would set no limit on the total allowable years of active commissioned service and time in grade.
- A proposal to eliminate a requirement that general and flag officers spend at least 3 years time in grade in order to retire in that grade.¹² In addition to the 3-year time-in-grade requirement, existing law mandates that a general or flag officer in pay grade O-9 or O-10 may retire in that grade only after the Secretary of Defense or his designee certifies to the President and Congress that the officer served on active duty satisfactorily in that grade. Under DOD's proposal, a general or flag officer at any pay grade may retire in their current grade as long as the officer has served satisfactorily. The proposal also would eliminate the certification requirement for officers retiring in grade O-9 and O-10 and instead would require the approval of the military department concerned and concurrence by the Secretary of Defense or his designee.

¹⁰ 10 U.S.C., section 1251.

¹¹ Under 10 U.S.C., sections 635 and 636, commissioned officers holding the grade of O-7 must retire upon reaching 30 years of active commissioned service or serving for 5 years after appointment to that grade, whichever is later; commissioned officers holding the grade of O-8 must retire upon reaching 35 years of active commissioned service or serving 5 years after appointment to that grade, whichever is later; commissioned officers serving in the grade of O-9 must retire upon reaching 38 years of active commissioned service or serving 5 years after appointment to the grade of O-8, whichever is later; commissioned officers serving in the grade of O-10 must retire upon reaching 40 years of active commissioned service or serving 5 years after appointment to the grade of O-8, whichever is later.

¹² 10 U.S.C., section 1370.

Term Limits and Lateral Reassignment

- Proposals to remove limitations on retirement pay. Currently, basic pay—the pay used to calculate retirement pay—is capped at the rate of pay for level III of the federal civilian Executive Schedule,¹³ and retirement pay is capped at a maximum of 75 percent of base pay.¹⁴ Under one DOD proposal, the basic pay cap would be removed for the purposes of calculating retirement pay. The pay cap would remain in place while the officer is serving on active duty. A second DOD proposal would allow general and flag officers who stay in military service longer than 30 years to receive retirement pay that exceeds the current limit of 75 percent of base pay.¹⁵

A second group of legislative proposals would change restrictions on the term limits for officers holding specified senior positions and on the lateral reassignment of officers.

- A proposal to eliminate existing restrictions on the length of terms of the service chiefs of staff. The service chiefs are appointed to a 4-year term by the President, by and with the advice and consent of the Senate.¹⁶ They serve at the pleasure of the President. In time of war or during a national emergency declared by Congress, a service chief may be reappointed for a term of not more than 4 years. Under DOD's proposal, after the service chief's initial 4-year term, the President may extend the service chief's term as he determines necessary, without congressional involvement.
- A proposal to eliminate statutory 4-year terms of office for officers holding specified senior positions.¹⁷ These positions include the Army's branch chiefs, deputy and assistant branch chiefs, Judge Advocate General and Assistant Judge Advocate General, Chief of Army Nurse Corps, and Chief of the Army Medical Specialist Corps; the Navy's Chief of the Bureau of Medicine and Surgery, Chief of the Bureau of Naval Personnel, Chief of Chaplains, Judge Advocate General, and Director of the Nurse Corps or Director of the Medical Service Corps; and the Air Force's Judge Advocate General and Deputy Judge Advocate General.

¹³ 37 U.S.C., section 203(a)(2).

¹⁴ 10 U.S.C., sections 1401, 1409(b).

¹⁵ This provision would also apply to military members retired in grades E-8 to O-6 under conditions established by the Secretary of Defense.

¹⁶ 10 U.S.C., sections 3033(a)(1), 5033(a)(1), 5043(a)(1), 8033(a)(1).

¹⁷ 10 U.S.C., sections 3036(c), 3037(a), 3039(a), 3069(b), 3070(b) and (c), 5137(a), 5141(a), 5142(c), 5148(b), 5150(c), 8037(a) and (d).

-
- A proposal to eliminate existing restrictions on the number of terms of the Chairman and Vice Chairman of the Joint Chiefs of Staff. Currently, the Chairman and Vice Chairman are appointed by the President, by and with the advice and consent of the Senate.¹⁸ They serve at the pleasure of the President for a 2-year term and may be reappointed in the same manner for two additional terms, for a total of 6 years. In time of war, there is no limit on the number of reappointments. An officer may not serve as Chairman and Vice Chairman if the combined service exceeds 6 years, except that the President may extend this period to 8 years if he determines such action is in the national interest. This limitation also does not apply in the time of war. Under DOD's proposal, the President may reappoint the Chairman and Vice Chairman for additional 2-year terms as he determines necessary, without congressional involvement. The provision limiting total combined service as Chairman and Vice Chairman would be eliminated under DOD's proposal.
 - A proposal to eliminate existing restrictions on the length of terms of the two Assistants to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve Matters. Each Assistant serves at the pleasure of the Chairman for a 2-year term and may be continued in that assignment in the same manner for 1 additional term.¹⁹ In time of war there is no limit on the number of terms. Under DOD's proposal, no terms would be specified for these two positions.
 - A proposal to permit the President or the Secretary of Defense to laterally reassign general and flag officers in grades O-9 and O-10 to positions at the same grade without congressional approval. Currently, the President may designate positions of importance to carry the grade of O-9 or O-10.²⁰ An officer assigned to any such position has the grade specified for that position if he is appointed to that grade by the President, by and with the advice and consent of the Senate. If the officer is subsequently reassigned to a position at the same grade, that new assignment must be confirmed by the Senate. Under DOD's proposal, the President or the Secretary of Defense may reassign such an officer to another position at the same grade without the advice and consent of the Senate. DOD's proposed change would not apply to positions established by law;²¹ appointment of

¹⁸ 10 U.S.C., sections 152(a), 154(a).

¹⁹ Pub. L. 105-85, section 901(c) (Nov. 18, 1997).

²⁰ 10 U.S.C., section 601.

²¹ These positions include the service Chiefs of Staff, the Chairman and Vice Chairman of the Joint Chiefs of Staff, the Combatant Commanders, the Chief of the National Guard Bureau, the Reserve Chiefs and Guard Directors, service branch and bureau chiefs, and others.

officers to these positions would continue to require the advice and consent of the Senate.

Distribution Among Pay Grades

One of DOD's proposals addresses the distribution of officers among the general and flag officer pay grades.

- A proposal to eliminate a provision limiting the number of active officers who may serve above the pay grade of O-7 to no more than 50 percent of the total number of general and flag officers in a service.²² Under DOD's proposal, the military services could have a higher proportion of officers in pay grade O-8 than allowed under existing law. The proposal does not affect existing caps on the percentage of general and flag officers in grades O-9 and O-10.

Legislative Framework for General and Flag Officer Management Has Evolved Over Time

DOD's fiscal year 2005 legislative proposals represent the latest in a long series of discussions between Congress and DOD concerning general and flag officer management. These discussions, which reflect a history of congressional interest in maintaining oversight and accountability of general and flag officers, have addressed such issues as the appropriate number of general and flag officers to lead the armed forces, their education and qualifications, and their age and experience level. A legislative framework has evolved that shapes the careers of general and flag officers and the management of these officers. The Defense Officer Personnel Management Act of 1980²³ established key aspects of the current legislative framework. The act codified in Title 10 many of the legislative provisions DOD is seeking to change. Some provisions have roots in earlier legislation such as the Officer Personnel Act of 1947.²⁴

Career Patterns of General and Flag Officers

The career profile data we developed show that general and flag officers who retired between fiscal years 1997 and 2002 typically retired at age 56, ranging from an average age of 53 for officers in pay grade O-7 to 57 for officers in pay grade O-10. These retired general and flag officers averaged 33 years of active commissioned service, ranging from 30 years for an O-7

²² 10 U.S.C., section 525(a).

²³ Pub. L. 96-513 (Dec. 12, 1980).

²⁴ Pub. L. 80-31 (Aug. 7, 1947).

to 35 years for an O-10. The retirees spent an average of 3-1/2 years in their last pay grade. Table 2 summarizes this data by pay grade.

Table 2: Average Age, Years of Service, and Time in Last Pay Grade for General and Flag Officers Retiring between Fiscal Years 1997 and 2002

Pay grade	Number of retirees	Average age (years)	Average years of service	Average time in last pay grade (years)
O-7	211	53	30	3.6
O-8	249	56	33	3.7
O-9	127	56	34	3.1
O-10	45	58	35	3.7

Source: GAO analysis of Defense Manpower Data Center data.

Compared with the retirees, general and flag officers who remained on active duty during these years were typically younger and had fewer years of active commissioned service. Table 3 summarizes this data by pay grade.

Table 3: Average Age and Years of Service for General and Flag Officers Remaining on Active Duty between Fiscal Years 1997 and 2002

Pay grade	Number remaining on active duty	Average age (years)	Average years of service
O-7	441	52	28
O-8	281	54	31
O-9	132	56	33
O-10	34	57	35

Source: GAO analysis of Defense Manpower Data Center data.

Note: Data as of September 2002.

General and flag officers who retired between fiscal years 1997 and 2002 were promoted to pay grade O-7, on average, at age 49. At this promotion point, they averaged 26 years of active commissioned service. Individuals who retired at the higher pay grades were generally younger and had fewer years of service when promoted to pay grade O-7 compared with those who retired at the lower pay grades. General and flag officers who retired during this time period served an average of 6 years as a general or flag officer, with individuals in higher pay grades serving longer. Table 4 summarizes this data by pay grade.

Table 4: Average Age and Years of Service at Promotion to Pay Grade O-7 and Average Years as a General or Flag Officer for General and Flag Officers Retiring between Fiscal Years 1997 and 2002

Pay grade	Average age at promotion to O-7	Average years of service at promotion to O-7	Average years as a general or flag officer
O-7	49	26	3.6
O-8	49	26	6.8
O-9	48	26	8.5
O-10	47	25	10.6

Source: GAO analysis of Defense Manpower Data Center data.

Promotion data for fiscal years 1998 to 2003 shows that of officers at the rank of colonel and Navy captain (pay grade O-6) who were considered for promotion to pay grade O-7, 2.5 percent were selected. Of officers in pay grade O-7 who were considered for promotion to pay grade O-8, 43 percent were selected. Table 5 provides promotion data by service.

Table 5: Proportion of Officers Selected for Promotion to Grades O-7 and O-8 between Fiscal Years 1998 and 2003

Service	Promotion from pay grade O-6 to O-7			Promotion from pay grade O-7 to O-8		
	Number considered	Number selected	Percentage	Number considered	Number selected	Percentage
Army	10,120	240	2.4	395	186	47.1
Air Force	9,577	232	2.4	481	157	32.6
Navy	7,736	202	2.6	282	140	49.7
Marine Corps	1,679	58	3.4	66	47	71.2
Total	29,112	732	2.5	1,224	530	43.3

Source: GAO analysis of military service data.

Additional career data for general and flag officers is provided in appendix I.

DOD Did Not Provide Evidence That the Current Legislative Framework Hinders General and Flag Officer Management or Agency Performance

Although DOD provided various rationales for its fiscal year 2005 legislative proposals and sponsored a study on issues related to general and flag officer management, DOD did not provide evidence showing that the current legislative framework has hindered DOD's management of general and flag officers or degraded the department's performance. In addition, the fiscal year 2005 legislative proposals (1) would reduce congressional oversight and provide broad latitude to the Executive Branch in managing general and flag officers, (2) could impede the upward flow of officers, and (3) would likely increase federal retirement outlays. Finally, the Executive Branch has not made frequent use of existing legislative authority that provides some flexibility to extend the careers of general and flag officers on a case-by-case basis beyond the statutory limits.

DOD Did Not Provide Data to Support the Need for Its Legislative Proposals

DOD did not provide data to support the need for its fiscal year 2005 legislative proposals to eliminate or amend current provisions governing general and flag officer management. Our prior work has shown that one of the critical success factors for strategic human capital management is the use of reliable data to make human capital decisions.²⁵ A fact-based, performance-oriented approach to human capital management is crucial for maximizing the value of human capital as well as managing related risks. DOD has asserted that the proposals would enhance its ability to manage general and flag officers and has provided various rationales in favor of the proposals. However, we did not find evidence that the existing legislative framework has hindered DOD's management of general and flag officers or the agency's ability to perform its mission.

As one example, DOD stated that its proposals to extend the statutory retirement age from age 62 to 68 would allow officers to serve longer careers and spend more time in assignments. DOD further stated that two reasons for adopting this proposal are to improve organizational stability and improve the execution of long-term initiatives under consistent leadership. However, DOD did not provide data showing that there are existing problems with organizational instability or inconsistent leadership, that the current retirement limits are a cause of these problems, or that the proposals would be effective in addressing these problems. DOD also did not provide data to explain why the pros it

²⁵ GAO, *A Model of Strategic Human Capital Management, Exposure Draft*, [GAO-02-373SP](#) (Washington, D.C.: Mar. 2002).

identified outweigh the cons. Regarding the retirement age proposal, for example, DOD stated that two cons were a reduction in opportunities for organizational change that naturally occur with new leadership and a reduction in opportunities for promotion to general and flag officer. Moreover, a data-driven analysis also would have given DOD an opportunity to consider other options for achieving its goal of extending general and flag officer careers. For instance, it could have analyzed options for extending military service of more general and flag officers to the current statutory retirement age, raising the retirement age by 1 or 2 years versus 6 years, raising the deferment age above age 64, or increasing the number of authorized age deferments beyond the 10 that are currently allowed.

The career profile data we developed show that large numbers of general and flag officers are retiring several years before the statutory retirement limits on age and years of active commissioned service. Of the 172 general and flag officers who retired in pay grades O-9 and O-10 between fiscal years 1997 and 2002, 151 (88 percent) retired at least 3 years before age 62. Of these 151 officers, 133 (88 percent) also had 3 years remaining before reaching their statutory retirement limit on years of active commissioned service. Altogether, these 133 officers represent 77 percent of the 172 general and flag officers who retired in these pay grades. The data suggests that large numbers of senior officers could serve at least one more assignment prior to retirement under the existing legislative framework. Factors other than the statutory retirement limits may affect the career length of general and flag officers. Some of the retired general and flag officers we interviewed noted that many general and flag officers in their 50s explore their employment options outside the military to increase stability for their family and earn higher salaries. Some noted a “burnout” factor associated with their work as a general and flag officer. Another factor is a military culture, as expressed in service policies and practices, that encourages general and flag officers to move aside and make way for others coming up through the ranks. These policies and practices are discussed further elsewhere in this letter.

DOD sponsored a study by the RAND Corporation that addressed general and flag officer management issues.²⁶ DOD officials said this study served as the primary analytical support for its fiscal year 2005 legislative

²⁶ RAND Corporation, *Aligning the Stars: Improvements to General and Flag Officer Management*, MR-1712-OSD (Santa Monica, Ca.: 2004).

proposals. The RAND study, using the private sector as a model, identified strategies for managing general and flag officers that would increase the time they spend in assignments, the time spent in grade, and total career length. RAND recommended that the services categorize their general and flag officer positions as either “developing” or “using” positions and determine the desired tenure for each, with a general goal of 2 years for developing positions and 4 years for using positions.²⁷ However, RAND was not specifically tasked in its study to include an analysis of the legislative proposals, and such an analysis was not included. RAND concluded that the management changes it suggested could be implemented largely within DOD’s current legislative authority. Title 10 authority permitting 40-year careers for officers in pay grade O-10 and 38 years for O-9s coupled with a statutory retirement age of 62 generally is sufficient, the RAND study stated.²⁸ RAND added that changes in law could give the services more flexibility to implement its recommended management changes. For example, allowing officers to retire with less than 3 years time in grade would allow them to leave as needed. Also, RAND saw no reason the military retirement age should not increase from age 62. Finally, RAND supported retirement compensation changes similar to those proposed by DOD.

Proposals Would Reduce Congressional Oversight and Provide the Executive Branch Broad Latitude in Managing General and Flag Officers

Some of DOD’s legislative proposals would reduce congressional oversight of senior officer appointments. Specifically, the President could extend indefinitely the terms of sitting service chiefs, with no fixed term length, after they have completed their initial 4-year appointment. The President also could extend indefinitely the number of 2-year terms served by the Chairman and Vice Chairman of the Joint Chiefs of Staff, after their initial 2-year appointment. In none of these cases would Senate confirmation be required. In addition, senior officers appointed to O-9 and O-10 positions could be reassigned to other O-9 and O-10 positions (except for those positions established by law) without going through the confirmation process.

²⁷ RAND characterized “developing” positions as early assignments that build functional skills, organizational knowledge, and personal insights and “using” positions as later assignments that tend to have more complex and ambiguous responsibilities that draw on the skills and knowledge developed in earlier assignments.

²⁸ RAND, *Aligning the Stars*, p. 59.

DOD's proposals to permit reappointment of officers to senior positions and make lateral appointments without going through the Senate confirmation process would remove a check and balance in the current system. The current legislative framework establishes congressional oversight of officer management through several provisions of Title 10 that require the President to seek the advice and consent of the Senate in order to promote or appoint military officers. For example, Title 10 states that appointments made to grades above O-3 by the President require the advice and consent of the Senate.²⁹ Prior to such codifications in Title 10, the Officer Personnel Act of 1947 contained Senate confirmation requirements, stating that officers were entitled to the rank, title, pay, and allowances of a general or lieutenant general only when appointed in such positions by the President, by and with the advice and consent of the Senate.³⁰ The confirmation process also is designed to disclose any important adverse information about the nominated officer and provides an opportunity for discussion between nominees and Members of Congress. By placing a hold on individual nominations, Senators may also use the confirmation process as leverage on military issues.

The proposed new authorities for managing general and flag officers would give DOD broad latitude in determining how extensively they are applied and for what purposes. DOD officials have stated that the proposals, if approved, would be used sparingly in cases where their use is deemed appropriate. For instance, DOD could use its proposed new authorities to extend the career of an officer who holds a key policy-making, operational, or acquisition position if maintaining continuity in that position is deemed to be in DOD's best interests. However, DOD did not present a plan showing how it would institute the proposed new authorities if approved. The proposed new authorities could be applied extensively and for purposes other than those currently intended by DOD. For example, although DOD has stated that one of its goals is to increase the length of assignments, DOD could use the authorities to extend the careers of senior officers while continuing to shift them from assignment to assignment with the same frequency as today. DOD could also choose to lengthen the time it takes for an officer to be promoted to general and flag officer rank with the knowledge that extra time could be gained at the end of the officer's career. In addition, the proposed new authorities would not preclude DOD from extending the

²⁹ 10 U.S.C., section 624(c).

³⁰ Pub. L. 80-381, section 504(b) (Aug. 7, 1947).

careers of numerous general and flag officers rather than a selected few as DOD has stated is its intent. Currently, the maximum number of age deferments authorized at any one time is 10 officers above pay grade O-8; DOD has proposed eliminating this limit. In addition, DOD has proposed eliminating existing provisions that require most general and flag officers to serve at least 3 years time in grade in order to retire in that grade. Under its proposed new authorities, DOD could retire numerous general and flag officers in their current pay grade after they have served satisfactorily for a few months, weeks, or even days.

During our interviews with retired senior general and flag officers and other knowledgeable officials, we heard concerns that some of the legislative proposals could serve to politicize the general and flag officer corps. In this view, the proposals could enable a sitting Administration to extend indefinitely the terms of individuals holding senior leadership positions who agree with the Administration's views and priorities. This change could tie appointments of officers to senior positions more closely with the Presidential election cycle. The current legislative framework includes fixed terms for senior leadership positions, which ensures, in part, reasonable independence of thought and expression of general and flag officers holding these positions. Uniform 4-year fixed terms for the service chiefs were established in 1963.³¹ Prior to that time, appointments and reappointments of service chiefs varied from periods of 4 years, 2 years, no term specified, and as low as 1 year. In its report accompanying this legislation,³² the House Committee on Armed Services stated that a service chief should serve long enough to make his imprint upon the service he represents, particularly on the budget process. The Committee further stated:

On the other hand, he should not remain indefinitely as the head of that service. Each service requires, and indeed, is entitled, to a new service chief every 4 years so that new ideas can be tested; but after 4 years he should step aside for a new appointee.

³¹ 10 U.S.C., section 5201. The Commandant of the Marine Corps was the only service chief at this time who was appointed to a fixed 4-year term.

³² H. Rep. 88-883, at 5 (1963).

Proposals Could Impede Upward Flow of General and Flag Officers

DOD's proposals, by enhancing its flexibility to extend the careers of general and flag officers, could impede the upward flow of general and flag officers. Because DOD is authorized a fixed number of general and flag officers, vacancies must open up in the general and flag officer pay grades in order to allow for promotions of lower-grade officers. Therefore, upward flow could be impeded if some general and flag officers are retained longer on active duty.

Promotion of a steady and predictable upward flow of officers from junior to more senior positions is a long-standing precept of military officer management that is grounded in the legislative framework. The "up-or-out" promotion system, created by the Officer Personnel Act of 1947, requires most commissioned officers at or below pay grade O-4 who have twice been passed over for promotion to leave military service.³³ The up-or-out system, among other things, creates promotion opportunities for lower level officers, limits stagnation, and maintains youth and vigor in the officer corps. As instituted under the Defense Officer Personnel Management Act of 1980, expectations are built into the officer management system concerning the points in an officer's career when promotions should occur from one pay grade to the next higher level. In hearings preceding adoption of the Defense Officer Personnel Management Act, DOD affirmed the value of the up-and-out system in fostering a combat ready military.³⁴ A DOD official also stated that the up-or-out system eliminated the turbulence and errors associated with replacing an aged senior leadership and provided a regularized way of replacing people that maintains a proper age and experience balance.³⁵

Service policies on general and flag officer management also promote upward flow by encouraging general and flag officers to retire prior to the statutory limits.

³³ See 10 U.S.C., sections 631 and 632. 10 U.S.C., section 637 allows those officers subject to discharge or retirement pursuant to 10 U.S.C., sections 631 or 632, to be selectively retained on active duty, subject to the needs of the service.

³⁴ Defense Officer Personnel Management Act (DOPMA): Hearings on H.R. 7486 Before the Subcommittee on Military Compensation of the House Committee on Armed Services, 94th Congress. 243-244 (1975) (Statement of Vice Admiral John G. Finneran, Deputy Assistant Secretary of Defense for Military Personnel Policy).

³⁵ Defense Officer Personnel Management Act (DOPMA): Hearings on H.R. 7486 Before the Subcommittee on Military Compensation of the House Committee on Armed Services, 94th Congress. 302 (1975) (Statement of Vice Admiral John G. Finneran, Deputy Assistant Secretary of Defense for Military Personnel Policy).

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- According to a 2002 Navy policy issued by the Chief of Naval Operations,³⁶ a steady process of both promotions and retirements goes hand-in-hand in the flag community. Since the Navy operates with fixed authorizations, flag officers promote to vacancies and vacancies come from retirements. The policy states that to maintain upward flow, there will come a time when all flag officers must acknowledge the need to step aside and make room for the youth, vigor, and vitality of those more junior flag officers. The Navy policy establishes specific retirement expectations for flag officers in grades O-7 and O-8 and reinforces the Navy's practice of not relying on statutory retirements.
 - In 2004, the Marine Corps reiterated its general and flag officer retirement policy to support the service's goal of maintaining a steady promotion flow.³⁷ The policy states that general officers in pay grade O-7 who twice have been passed over for promotion should voluntarily retire after 30 years of service and general officers in pay grade O-8 who have not been nominated for appointment to a higher position should plan to voluntarily retire after 3 years time in grade. The same policy applies to general officers in pay grade O-9 who have not been nominated for another O-9 or O-10 position.
 - An Army policy, which was rescinded in 2004, stated that general officers in pay grades O-7 and O-8 who had not reached their maximum limit for years of service were expected to request voluntary retirement at age 59. According to an Army official, the Army rescinded this policy because Title 10 restrictions were deemed to be sufficient.
 - Air Force officials told us they did not currently have a written policy on the timing of general officer retirements. A former senior official we interviewed who was familiar with Air Force policy told us that while the Air Force did not have a written policy, general officers were orally briefed that they were expected to retire after 3 years in grade if they were not selected for promotion.

The potential effects of impeding the upward flow of general and flag officers are reduced promotion opportunities, stagnation, and aging of the general and flag officer population. However, the impact would depend on the extent that DOD uses its proposed authority to extend general and flag officer careers. Some of the former senior officials we interviewed thought that youth and vigor should be maintained and that aging the general and

³⁶ Department of the Navy, Office of the Chief of Naval Operations, *Flag Officer Management and Detailing* (Sept. 15, 2002).

³⁷ Department of the Navy, Headquarters, United States Marine Corps, *General Officer Promotions and Retirements* (Feb. 17, 2004).

flag officer population would therefore be a mistake. Concern was also expressed about the creation of promotion bottlenecks and the possibility that older general and flag officers may become out of touch with current technology, training, and other aspects of the military. Others were not concerned about aging this population, stating that individuals are different and their vigor should not be judged based solely on age. Life expectancy in the United States increased by about 10 years (16 percent) since the Officer Personnel Act of 1947 and about 3 years (5 percent) since the Defense Officer Personnel Management Act of 1980.³⁸

Upward flow could be retained under DOD's proposal to eliminate the statutory requirement that an officer must serve 3 years time in grade in order to retire in that grade. Currently, other statutory provisions allow for a small number of individuals to retire with less than 3 years time in grade.³⁹ Eliminating the time-in-grade requirement would theoretically enable the services to balance the extensions of some general and flag officer careers with the earlier retirement of other officers in order to continue the upward flow of officers. The 3-year rule was instituted under the Defense Officer Personnel Management Act.⁴⁰ The former senior officials we interviewed generally favored some time-in-grade requirement rather than eliminating the requirement altogether. They stated that at least a year or two is needed for newly promoted individuals to learn their new job, make an impact on the organization, and recover from any early mistakes. A time-in-grade requirement also gives the service time to assess the performance and future potential of these officers.

Another DOD proposal that could affect the upward flow of general and flag officers is the elimination of the statutory limit requiring that no more than 50 percent of a service's general or flag officers serve in a pay grade above O-7. Eliminating this limit could result in an increase in the number of positions at pay grade O-8 and a decrease in the number of positions at pay grade O-7. Consequently, the services may have to be less selective in promoting general and flag officers from pay grade O-7 to O-8. For instance, the Marine Corps already promotes, on average, 71 percent of its general and flag officers from pay grade O-7 to O-8. If its pool of O-8

³⁸ Data as of 2001. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Health Statistics, *The National Vital Statistics Report*, Vol. 52, No. 14 (Hyattsville, Md.: Feb. 18, 2004).

³⁹ 10 U.S.C., section 1370(2)(B)-(E).

⁴⁰ Pub. L. 96-513, section 112.

positions increases relative to the O-7 pool, the Marine Corps would have to promote an even larger percentage of officers from pay grade O-7, thereby decreasing selectivity. Service officials said that the job structure for their general and flag officers is based on the current 50-percent distribution limit. DOD reviewed its general and flag officer positions in 2003 and validated requirements for 1,039 active duty general and flag officer positions, including 524 (50 percent) at the O-7 pay grade. Some of the former senior officials we interviewed expressed concerns about removing the distribution limit. The current limit creates a pyramid-shaped general and flag officer corps, with a large pool of O-7s at the base and fewer numbers at each higher rank. This pyramid shape enables the services to manage their general and flag officers in a way that allows for predictability and selectivity.

Proposed Compensation Changes Would Increase Federal Retirement Outlays

Our analysis of DOD's retirement compensation proposals to remove the basic pay cap and the 75-percent cap shows that, if implemented, they would likely result in an increase in federal retirement outlays. Based on a cost estimate we developed, federal retirement outlays would increase by a total of approximately \$55 million in fiscal year 2004 dollars over a 10-year period. Outlays over the longer term would continue to grow as more general and flag officers retire under the revised formulas and continue to receive higher retirement pay over their lifetime. Information on how we calculated this cost estimate, including the limitations of our methodology, is provided in the scope and methodology section at the end of this letter. We did not calculate the annual amount that would have to be appropriated for the military retirement fund if the proposals were implemented.⁴¹

DOD did not develop a cost estimate for its general and flag officer proposals. DOD officials, however, stated that the costs of its proposals taken together would be minimal because a smaller number of officers would serve longer in senior positions than is currently the case. A Congressional Budget Office analysis of legislative provisions to allow certain senior officers to remain on active duty longer and others to retire with less time in grade would have an insignificant impact on direct

⁴¹ Federal budget outlays to cover the costs of military retirement pay (payments to current retirees) are greater than DOD accrual outlays (money set aside to fund future retirees). Since fiscal year 1985, DOD has used accrual accounting, which reflects the estimated amount of money that must be set aside and accrued at interest.

spending.⁴² According to the Congressional Budget Office analysis, the costs and benefits of these adjustments would offset each other. The Congressional Budget Office analysis did not include the retirement compensation proposals.

DOD stated that its proposals to improve retirement pay would provide greater incentive for general and flag officers to remain on active duty and would provide more appropriate compensation for general and flag officers who serve longer careers. Our interviews with retired general and flag officers indicated that retirement pay was not a driving factor in their decision about when to retire. Some expressed the opinion that retirement pay was adequate, while others stated that retirement pay should be improved to recognize and reward longer military service.

Retirement pay for general and flag officers, as well as other servicemembers, is based on a servicemember's basic pay while on active duty times a multiplier.⁴³ The multiplier is equal to 2.5 percent times their years of service. At this rate, retirement pay rises from 50 percent of basic pay with 20 years of service until reaching 75 percent of basic pay with 30 years of service. At that point, retirement pay is capped at 75 percent of basic pay. Based on basic pay rates effective January 1, 2004, the maximum basic pay for a general or flag officer (for an officer in pay grade O-10 with more than 26 years of service) is \$13,304 per month, or \$159,654 per year.⁴⁴ However, a legislative cap on basic pay limits basic pay

⁴² Congressional Budget Office cost estimate for sections 503 and 504 of H.R. 4200, National Defense Authorization Act for Fiscal Year 2005 as reported by the House Committee on Armed Services on May 14, 2004.

⁴³ 10 U.S.C., section 1401. For personnel who first became members of the armed forces before September 8, 1980, the basic pay rate used to calculate retirement pay is the final basic pay. 10 U.S.C., section 1406. For members who first became a member of the armed forces on or after September 8, 1980, the basic pay rate used is the average of the highest 36 months of basic pay (or the "high-3"). 10 U.S.C., section 1407. Personnel who first entered the armed services on or after August 1, 1986, may opt to receive retirement pay under the "high-3" system or under another formula known as "redux." 10 U.S.C., section 1410.

⁴⁴ Basic pay is one component of a servicemember's compensation. Other components of compensation are allowances for housing and subsistence as well as other pays and allowances, tax benefits, and nonmonetary compensation.

to the rate of pay for level III of the Executive Schedule, which for 2004 equals the rate of \$12,050 per month, or \$144,600 per year.⁴⁵

Our analysis of DOD's retirement compensation proposals shows that DOD's proposal to eliminate the basic pay cap would increase retirement pay for officers in pay grade O-10, although general and flag officers at lower pay grades could be affected in later years if basic pay increases at a faster rate than the cap. DOD's proposal to eliminate the 75-percent retirement pay cap would increase retirement pay for general and flag officers at any pay grade who retire with more than 30 years of service. Table 6 shows the estimated impact of eliminating one or both of these caps on a general or flag officer's retirement pay. The table provides notional examples for an officer in each of the four general and flag officers pay grades retiring at either 30 or 37 years of service. The estimates are based on basic pay rates effective as of January 1, 2004.

⁴⁵ See 37 U.S.C., section 203(a)(2). An exception is made for officers serving as Chairman and Vice Chairman of the Joint Chiefs of Staff and the service chiefs, who for 2004 are authorized basic pay of \$14,634 per month, or \$175,610 per year.

Table 6: Estimated Annual Retirement Pay under Current Pay Formula and under DOD’s Proposals

Pay grade	Years of service	Estimated annual retirement pay			
		Under current formula	If only basic pay cap were removed	If only 75% retirement cap were removed	If both caps were removed
O-7	30	\$84,901	No change ^a	No change	No change
	37	84,901	No change	\$104,712	\$104,712
O-8	30	95,717	No change	No change	No change
	37	95,717	No change	118,052	118,052
O-9	30	105,645	No change	No change	No change
	37	105,645	No change	130,296	130,296
O-10	30	108,450	119,734	No change	119,734
	37	108,450	119,734	133,755	147,672

Source: GAO analysis.

Note: Table excludes nonpay retirement benefits such as health care and access to commissaries.

^aNo change indicates the individual would receive the same estimated retirement pay as under the current formula.

Executive Branch Has Not Made Frequent Use of Existing Legislative Authority to Extend General and Flag Officer Careers

The Executive Branch currently has legislative authority to extend the careers of general and flag officers on a case-by-case basis without congressional approval. Title 10 grants the President authority to extend the careers of as many as 10 general and flag officers to age 64, or 2 years beyond the standard retirement age.⁴⁶ In addition, service Secretaries may defer the retirement of officers in the health professions and the chaplain corps until age 68 if such a deferral is deemed to be in the best interest of the military service.⁴⁷ Title 10 also authorizes a service Secretary, based on the needs of the service, to defer the retirement of officers in the grades of O-7 and O-8 for up to 5 years beyond their years of service limit.⁴⁸ Deferment for any officer in a grade above O-8 requires Presidential approval.

⁴⁶ 10 U.S.C., section 1251(b).

⁴⁷ 10 U.S.C., section 1251(c).

⁴⁸ 10 U.S.C., section 637 (b).

The Executive Branch has not made frequent use of its existing authority to extend the careers of general and flag officers. Although DOD does not track the extent that this authority is used, DOD officials told us it has been used rarely. For instance, they stated that just one age deferment was currently in effect. Our analysis showed that few general and flag officers have exceeded the statutory retirement limits. Only three general and flag officers who retired between fiscal years 1997 and 2002 exceeded the age 62 limit, and eight general and flag officers exceeded the years of service limits.⁴⁹ According to an official in the Office of the Under Secretary of Defense (Personnel and Readiness), Officer and Enlisted Personnel Management, the existing authority to extend general and flag officer careers is seldom used because DOD prefers not to sanction routine exceptions to the normal retirement limits. The official also characterized the department's process for gaining approval of these exceptions as onerous and time-consuming. DOD's procedures call for six individuals to approve a deferment—the service chief, the service secretary, the Chairman of the Joint Chiefs of Staff, the Under Secretary of Defense (Personnel and Readiness), the Secretary of Defense, and the President. Some deferments, however, do not have a statutory requirement for approval beyond the service secretary. In addition, deferments have been included as part of the Presidential nomination process rather than treated as separate actions. In such cases, the nomination package from the Secretary of Defense to the President requesting appointment of an officer to a general and flag officer position simultaneously requests Presidential approval of a retirement deferment if a deferment is determined to be required for the officer to serve in the position.

While DOD expressed misgivings about using its existing legislative authority to exceed statutory retirement limits, DOD could make greater use of this authority in order to extend the careers of general and flag officers on a case-by-case basis. DOD has used existing authority to allow a small number of general and flag officers to retire in their current pay grade with less than 3 years time in grade. A policy decision to make greater use of its existing authority to extend general and flag officer careers could also provide an incentive for DOD to achieve greater efficiency in the deferment process.

⁴⁹ Using service-provided career profile data, we corroborated the data for all three individuals who exceeded age 62. All of these individuals were military chaplains. We corroborated the data for four of the eight individuals who exceeded the years of service limits.

Conclusions

DOD has not presented a sound business case to support the need for changing existing legislative provisions to better manage general and flag officers. DOD, for example, has not provided data showing that the existing legislative provisions have hindered general and flag officer management or led to agency performance problems such as organizational instability. Furthermore, some of the proposed changes would reduce congressional oversight of general and flag officers and could impede the upward flow of general and flag officers. DOD may have options for extending the careers and assignments of general and flag officers without raising the statutory retirement age or the limit on total years of active commissioned service. Efforts to extend general and flag officer careers, however, would have to account for factors other than the statutory limits that have a role in the timing of general and flag officer retirements—factors including personal considerations and a military culture that encourages senior leaders to step aside and make way for others to move up. DOD also has the authority, on a case-by-case basis, to extend general and flag officer careers beyond the statutory retirement limits. We see no reason for DOD not to use this authority to the fullest extent allowable under the law. If DOD makes full use of its existing legislative authority but finds that it is inadequate to achieve its goal of retaining experienced leaders, then it may be in a better position to argue for changes to this authority. Finally, DOD has not determined the long-term cost implications of its proposals pertaining to retirement compensation.

Recommendation for Executive Action

To help achieve DOD's goal of retaining experienced leaders, we recommend that the Secretary of Defense direct the Under Secretary of Defense (Personnel and Readiness) to evaluate options for extending general and flag officer careers within the existing legislative framework. This evaluation should include an assessment of (1) factors that contribute to the retirement of senior general and flag officers prior to the statutory retirement limits, (2) the need for changes in DOD policy or procedure to make greater use of existing authority to extend general and flag officers careers on a case-by-case basis beyond the statutory retirement limits, and (3) the long-term cost implications of proposals to change retirement compensation.

Agency Comments and Our Evaluation

DOD provided written comments on a draft of this report. In its comments, DOD did not concur with our recommendation and stated that it opposed the premise that the desired flexibility can be achieved within the current statutory framework. We recognize that the national security mission, including the Global War on Terrorism and transformation of the force, presents increasing complexities for military leaders, and we do not take issue with the department's position that it needs experienced and agile senior leaders. The question is whether the current legislative framework has hindered DOD's ability to manage general and flag officers effectively or the agency's performance. We continue to believe that DOD has not presented a sound business case to support the need for changing the existing legislative framework. This is not to say that changes are not needed for the future, but that DOD has not provided data to make a determination either way. Unless and until a business case for change is made, we believe our recommendation will help DOD maximize the use of its current legislative authorities in order to retain experienced leaders. In addition, DOD already has the authority to extend the careers of some general and flag officers beyond the statutory retirement limits but has rarely used this authority. For example, as noted in our report, just one age deferment was in effect at the time of our review.

DOD stated that options for extending general and flag officer careers within the existing legislative framework were considered by the RAND study and found wanting. However, the statement of work for the study established a broad objective to assess the management and policy implications of potential changes in military officer management and policy. The statement of work did not address specifically DOD's legislative proposals for general and flag officer management. The main thrust of the RAND study was to assess options for varying the length and number of general and flag officer assignments rather than a review of the existing legislative framework. RAND advocated that the military services establish goals on the desired length of assignments based on the nature of the positions. RAND concluded that the changes it suggested to improve the management of general and flag officer careers could be implemented largely within DOD's current legislative framework, although changes in law (such as extending the statutory retirement age) could give the services more flexibility to implement RAND's recommendations.

In its comments, DOD stated that it should not have to justify its legislative proposals by identifying failures in the current general and flag officer management system. Our report does not imply that this is the standard for seeking management improvements. However, DOD did not provide data to support its assertions that there were existing problems with the current system—such as organizational instability and inconsistent leadership—that the current statutory framework was a cause of these problems, or that the proposals would be effective in addressing these problems. In the absence of data, it is difficult to judge DOD’s assertions that the proposed authorities are needed. Moreover, a data-driven analysis may have identified other options for achieving DOD’s goal of extending general and flag officer careers. Our report provides examples of such options.

DOD, in its comments, further stated that retaining senior, experienced leaders requires a systemic change to the management of general and flag officers. Making greater use of its existing authorities to extend general and flag officer careers on a case-by-case basis would, according to DOD, provide only marginal opportunities for improvement and would be less preferable than a set of statutes designed to encourage retention of experienced officers. The issue of whether DOD should make more extensive use of existing authorities in lieu of the systemic changes it seeks depends in part on DOD’s intentions for extending the careers of general and flag officers. During our review, we were told the legislative proposals, if approved, would be used sparingly in cases where their use is deemed appropriate. If that is still the case, then making greater use of the existing authorities could be sufficient for achieving this goal. If DOD makes greater use of these authorities and ultimately finds them to be inadequate, then the department may be in a better position to argue for changes to the existing statutes. As we noted in our report, however, DOD had not presented an implementation plan, and the proposed new authorities could be applied more extensively or for purposes other than those currently intended by DOD.

DOD also stated that our report did not adequately address the relationship between service policy and culture and the existing statutory authorities. DOD stated that the services have had to adopt more stringent criteria than the law allows to ensure an orderly transition of senior officers as they approach their statutory age and tenure limits and to avoid organizational turmoil and personal hardship. Our report states, however, that a steady upward flow of officers is grounded in the legislative framework and reinforced by service policies on general and flag officer management. Because DOD is authorized a fixed number of general and flag officers, vacancies must open up in the general and flag officer pay grades in order to allow for promotions of lower-grade officers. The service policies cited in our report appear to be aimed primarily at ensuring that general and flag officers will retire when their services are no longer needed rather than on avoiding problems with the current statutory retirement limits. In addition, the Army's decision to rescind its policy is inconsistent with DOD's comment that the services have needed to adopt more stringent criteria than the law allows. As our report states, many general and flag officers are retiring several years before reaching their statutory limits on age and years of commissioned service. For example, more than three-fourths of general and flag officers who retired in grades O-9 and O-10 between fiscal years 1997 and 2002 could have served 3 or more years before reaching the current statutory retirement limits. Factors other than the statutory limits, such as personal considerations and military service culture, may account for early retirements of general and flag officers. As part of our recommendation, we state that DOD should assess these factors as part of its evaluation of options for extending general and flag officer careers within the current legislative framework.

Finally, in its comments, DOD stated that the costs associated with the retirement compensation proposals would be offset by a reduction in the number of O-10 retirees and the fact that longer service means fewer years of actual retirement per retiree. DOD added that a detailed discussion of this point is provided in the RAND study. DOD, however, has not analyzed the long-term cost implications of its retirement compensation proposals. In addition, while the RAND study contains a discussion of retirement compensation and recommends that DOD consider changes in this area, it does not provide an analysis of long-term cost implications. RAND officials told us that they developed some rough cost estimates but that a cost analysis was not part of their study objectives. We continue to believe that a full assessment of the retirement compensation proposals should include a cost analysis. In addition, it should be noted that the proposal to remove the 75-percent cap would increase retirement pay for general and flag officers at any pay grade—not just O-10s—who retire with more than 30 years of service.

DOD's comments are reprinted in appendix II of this letter.

Scope and Methodology

To develop a career profile of general and flag officers, we obtained data from the Defense Manpower Data Center covering fiscal years 1997 to 2002. Of the 1,535 general and flag officers in the database, 635 had retirement dates and 900 were still on active duty as of the end of fiscal year 2002. We used the general and flag officer data to build an overall general and flag officer career profile by analyzing salient characteristics of that population. For example, we identified such things as the mean-averages of years in service, years in grade, and years of age at retirement. We assessed the reliability of the data by (1) performing electronic testing of required data elements, (2) reviewing existing information about the data and the system that produced them, and (3) interviewing agency officials knowledgeable about the data. As a further check on data reliability, we independently obtained general and flag officer data from each of the military services. We concluded from our review that the data were sufficiently reliable for the purposes of this report. We also obtained data from the military services concerning promotion opportunity for officers selected for promotion to pay grades O-7 and O-8. This data covered fiscal years 1998 to 2003.

To assess DOD's justification for its fiscal year 2005 legislative proposals, we reviewed DOD's rationale and supporting evidence for the proposals, including a section-by-section analysis of the legislative proposals developed by the Office of the Secretary of Defense (OSD) and statements

made by senior DOD officials in congressional testimony. We reviewed the 2004 RAND study on general and flag officer management, met with the principal authors of the study, and obtained related information, including the statement of work and the database RAND developed of general and flag officer assignments. We discussed with RAND officials the methodology used to compile this database. We did not assess the models RAND used in its analysis. We reviewed the legislative histories of existing provisions that DOD seeks to change. We also met with OSD and service officials to discuss the legislative proposals and the management of general and flag officers under the current legislative framework. We obtained DOD and service policies and other documents and data regarding general and flag officer management.

We met with 11 retired senior general and flag officers and other officials with experience in general and flag officer policies and management to obtain their views on the legislative proposals. We identified these officials through information obtained from DOD as well as referrals from the individuals interviewed. In selecting the individuals, we sought to obtain a variety of perspectives based on their previous experiences. As a group, these individuals spanned the four military services and OSD and included senior leadership in the military services, the Joint Staff, and operational commands. Some of these individuals had worked extensively on military personnel matters and general and flag officer issues within both DOD and Congress. Since the individuals were selected judgmentally, their views are not representative of a larger population.

For our analysis of DOD's retirement pay proposals, we used the data from the Defense Manpower Data Center to determine the pay grade and years of service for general and flag officers who retired between fiscal years 1997 to 2002. We then calculated, based on the basic pay table effective as of January 1, 2004, what their retirement pay would be under the existing retirement pay formula and under the proposed changes. We calculated the annual average federal government outlay in fiscal year 2004 dollars for retirement pay and total outlays over a 10-year period. The assumptions we used for our analysis have limitations. We did not calculate annual increases either in basic pay or in retirement pay cost-of-living adjustments. We also assumed that all new beneficiaries would continue to receive retirement pay over the 10-year period; we did not include actuarial projections to account for expected life expectancy. Our calculations were based on the final pay retirement formula, although there will be future growth in the number of general and flag officers who retire under the "high-3" formula. We assumed that future general and flag officer retirees would have a similar profile in terms of number of retirees,

pay grade, and years of service to those who retired between fiscal years 1997 to 2002.

We are sending copies of this report to the Secretary of Defense and the Director, Office of Management and Budget. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions regarding this report, please contact me at (202) 512-5559 (stewartd@gao.gov) or Brenda S. Farrell at (202) 512-3604 (farrellb@gao.gov). Major contributors to this report were James Driggins, Thomas W. Gosling, David Mayfield, J. Paul Newton, Jennifer R. Popovic, and Bethann E. Ritter.

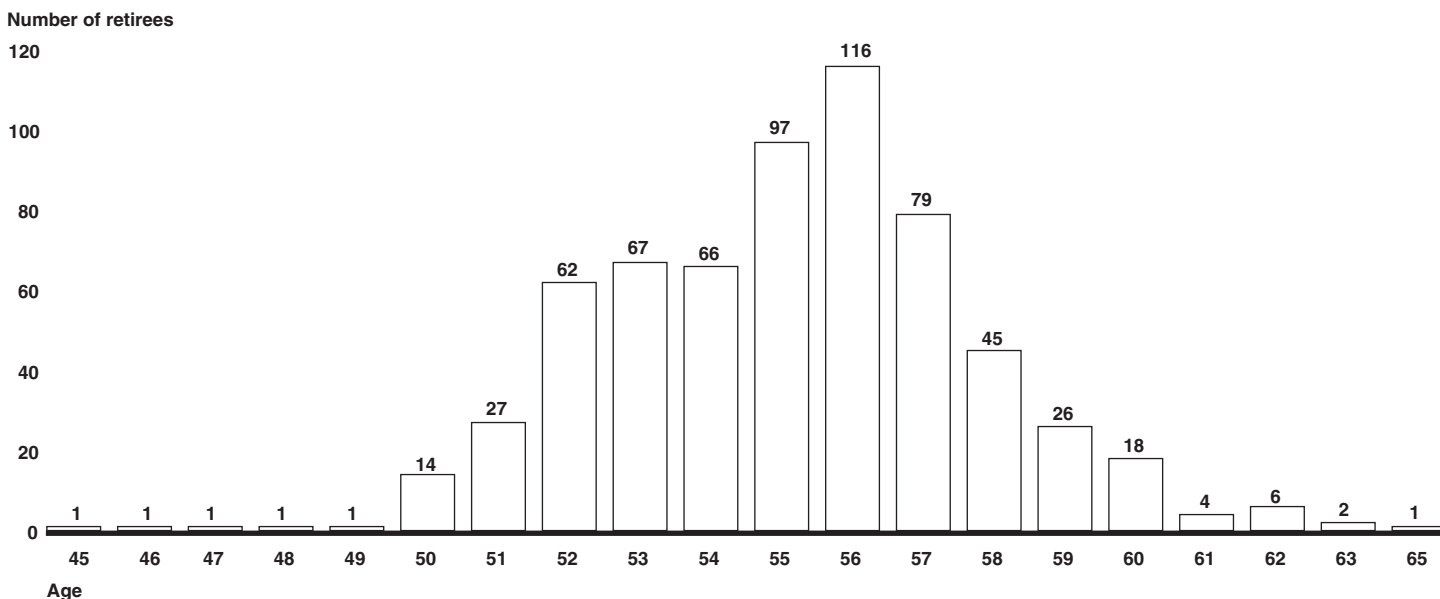


Derek B. Stewart
Director, Defense Capabilities and Management

Appendix I: Career Profile Data for Retired General and Flag Officers

This appendix presents data showing the age and years of service distributions for general and flag officers who retired between fiscal years 1997 and 2002.

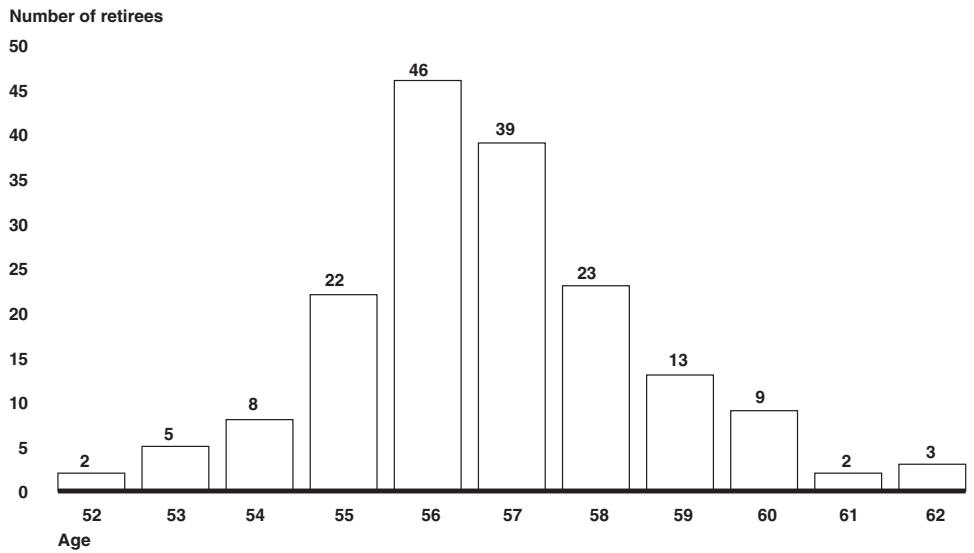
Figure 1: Age Distribution for All General and Flag Officers Who Retired between Fiscal Years 1997 and 2002



Source: GAO analysis of Defense Manpower Data Center data.

**Appendix I: Career Profile Data for Retired
General and Flag Officers**

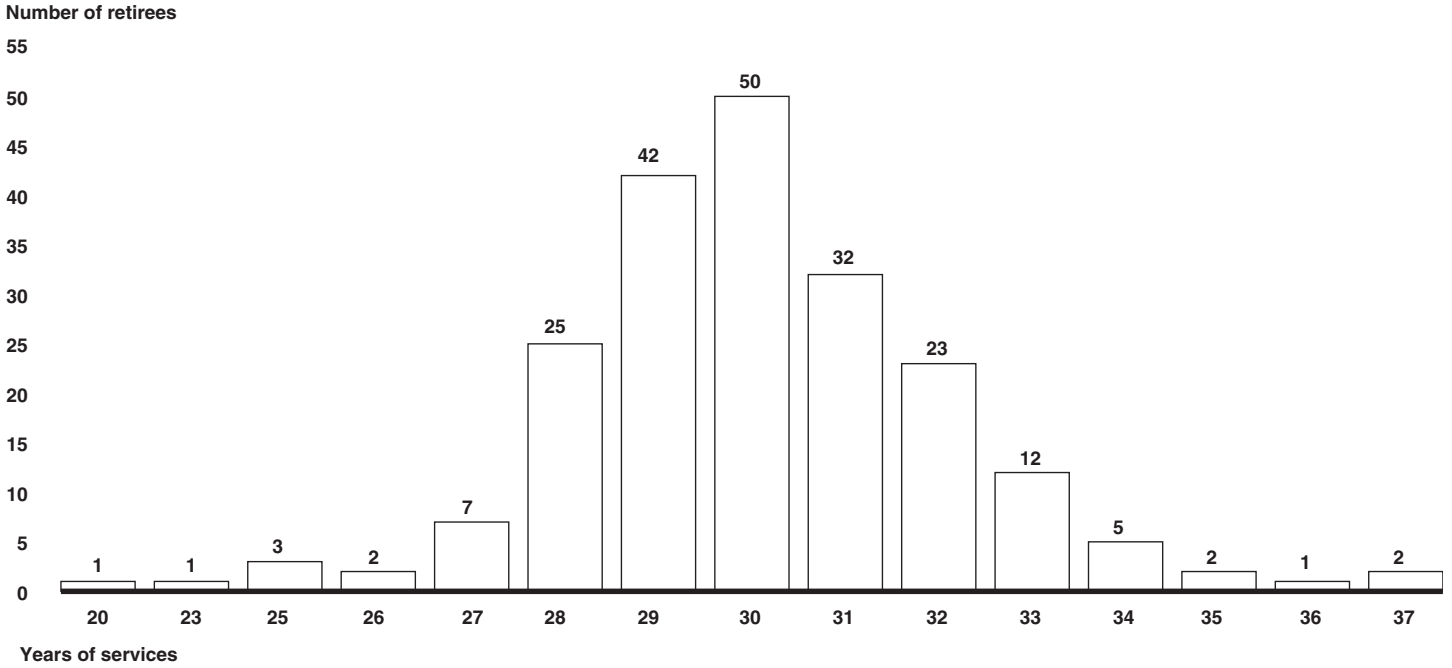
Figure 2: Age Distribution for General and Flag Officers Who Retired at Pay Grades O-9 and O-10 between Fiscal Years 1997 and 2002



Source: GAO analysis of Defense Manpower Data Center data.

Appendix I: Career Profile Data for Retired
General and Flag Officers

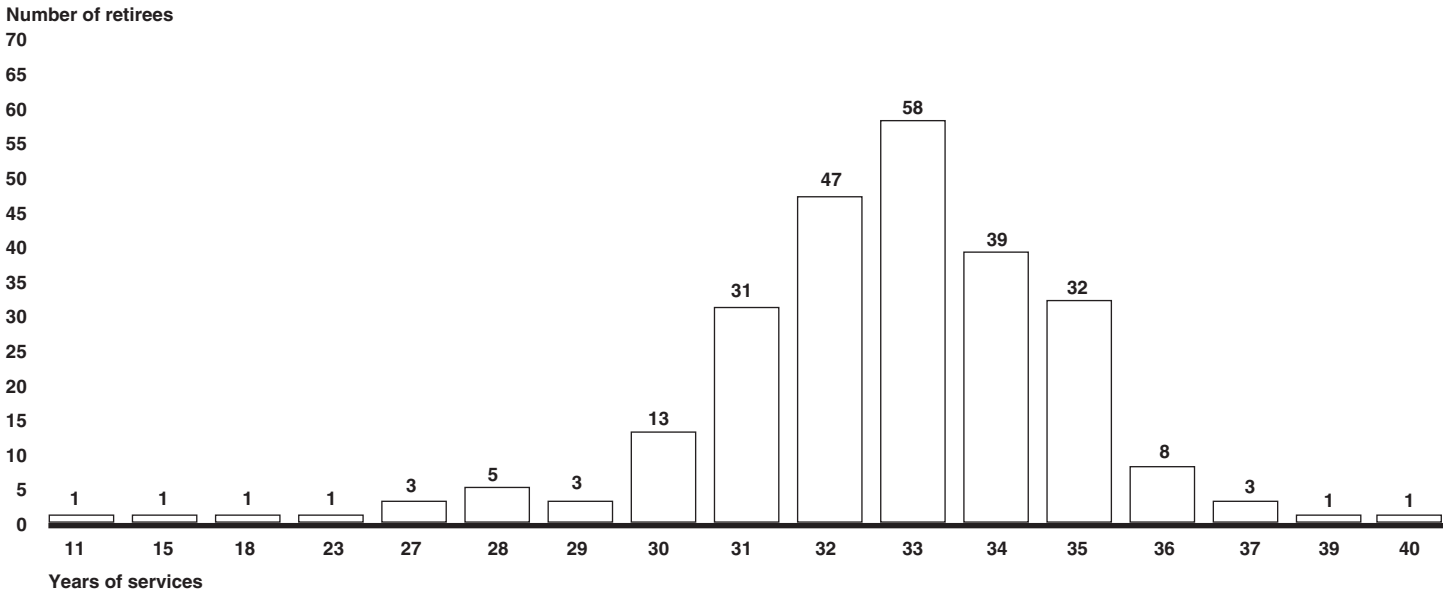
Figure 3: Years of Service Distribution for General and Flag Officers Who Retired at Pay Grade O-7 between Fiscal Years 1997 and 2002



Source: GAO analysis of Defense Manpower Data Center data.

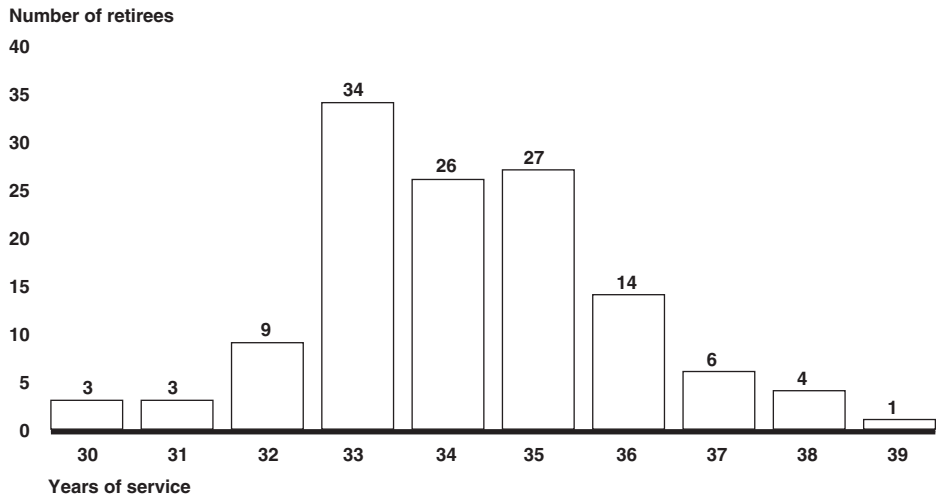
Appendix I: Career Profile Data for Retired
General and Flag Officers

Figure 4: Years of Service Distribution for General and Flag Officers Who Retired at Pay Grade O-8 between Fiscal Years 1997 and 2002



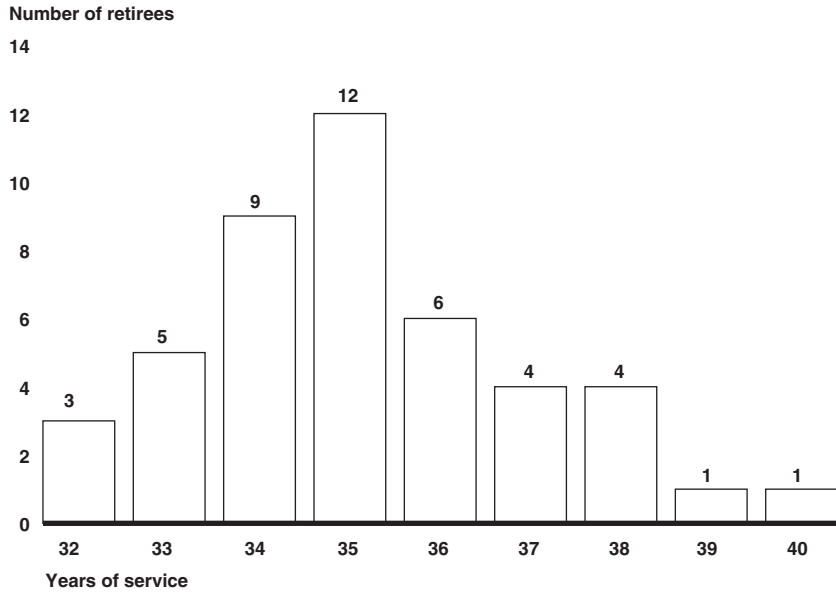
Source: GAO analysis of Defense Manpower Data center data.

Figure 5: Years of Service Distribution for General and Flag Officers Who Retired at Pay Grade O-9 between Fiscal Years 1997 and 2002



Source: GAO analysis of Defense Manpower Data Center data.

Figure 6: Years of Service Distribution for General and Flag Officers Who Retired at Pay Grade O-10 between Fiscal Years 1997 and 2002



Source: GAO analysis of Defense Manpower Data Center data.

Appendix II: Comments from the Department of Defense



PERSONNEL AND
READINESS

OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

AUG 31 2004

Mr. Derek Stewart
Director, Defense Capabilities and Management
United States Government Accountability Office
Washington, DC 20548


Dear Mr. Stewart:

This is the Department of Defense response to the Government Accountability Office draft report "MILITARY PERSONNEL: DoD Could Make Greater Use of Existing Legislative Authority to Manage General & Flag Officer Careers," (GAO Code 350523).

The Department non-concurs with the report. The Department's detailed comments to the recommendations are enclosed. There are no technical comments regarding this report.

The Department appreciates the opportunity to comment on the draft report. For further questions concerning this report, please contact Lieutenant Colonel Lernes Hebert, Assistant Director, General Officer and Flag Officer Management, (703) 695-6312.

Sincerely,


Charles S. Abell
Principal Deputy

Enclosure:
As stated

GAO DRAFT REPORT – DATED August 12, 2004
GAO-04-1003 / CODE 350523

“MILITARY PERSONNEL: DOD Could Make Greater Use of Existing Legislative
Authority to Manage General & Flag Officer Careers”

DEPARTMENT OF DEFENSE COMMENTS
TO THE RECOMMENDATIONS

RECOMMENDATION: To help achieve DoD’s goal of retaining experienced leaders, GAO recommends that the Secretary of Defense direct the Under Secretary of Defense for Personnel and Readiness to evaluate options for extending general and flag officer careers within the existing legislative framework. This evaluation should include an assessment of (1) factors that contribute to the retirement of senior general and flag officers prior to the statutory retirement limits, (2) the need for changes in DoD policy or procedure to make greater use of existing authority to extend general and flag officers careers on a case-by-case basis beyond the statutory retirement limits, and (3) the long-term cost implications of proposals to change retirement compensation. (p. 21/GAO Draft Report)

DoD RESPONSE: Non-concur –As the Department addresses the challenges posed by the Global War on Terrorism and at the same time preparing for the future by transforming the force, gaining flexibility in managing the nation’s senior military leaders is of paramount importance. We offer the following comments opposing the premise that the required flexibility can be exercised within the current statutory framework.

The options for extending general and flag officer careers within the existing legislative framework were considered and found wanting. These options were appropriately addressed in the RAND study “Aligning the Stars.” As the Congress astutely incorporated sweeping changes in authorities for managing our civilian workforce with the National Security Personnel System in the 2004 NDAA, we sought similar flexibilities for general and flag officer management in the Department’s FY 05 legislative package. While we have no specific technical clarifications to the GAO report, we do offer the following observations.

The highest priority for the Department in this endeavor is the ability to retain beyond current statutory maximums our most senior and experienced talent. To do so, requires a systemic change to the management of general and flag officers. Routinely using the exceptional authorities under the current statutory authority provides only marginal opportunities for improvement; this in no way approaches the gains that could be achieved through the enactment of the proposed legislative initiatives.

Note: Page numbers in the draft report may differ from those in this report.

Particularly beneficial are those initiatives resulting in increased age and tenure. If age and tenure are increased then the proposed legislation regarding pay is a natural extension of these initiatives. The costs associated with these pay initiatives will be offset by the reduction in the number of O-10 retirees and the fact that longer service means fewer years of actual retirement per retiree. A detailed discussion of this point is provided in the previously referenced RAND study.

The increasing complexities of today's national security mission demands a broader range of experiences of our officers and cannot be achieved in the same career span as their predecessors. While the report accurately indicates that we have not identified endemic failures, this is not the standard by which we judge whether or not to seek improvement in the management of our general and flag officer force. The report further indicates that routinely using exceptional authorities is preferred over a set of statutes designed to encourage retention of our most experienced officers. This is counterintuitive and at best is inefficient; at worst, this sets the stage for squandering fleeting opportunities to achieve our national objectives.

The report does not adequately address the fact that Service policy and culture are based on the existing statutory authorities. In order to ensure orderly transition of our senior officers as they approach their statutory age and tenure limits, the Services have had to necessarily adopt more stringent criteria than the law allows. To do otherwise, would create organizational turmoil and personal hardship. The service demographics referenced in the report indicate that as most officers approach their final three years of tenure, they opt for retirement in lieu of another assignment. Given the limited exceptional authorities to exceed tenure limits, this is a reasonable reaction.

The Department stands ready to work with the Congress to amend the language in the proposed legislative initiatives to fully and satisfactorily address concerns regarding Congressional oversight. The intent of these initiatives is to gain the required flexibilities and experience, not to create a system without positive controls.

September 11, 2001, created the realization across this nation that we must be prepared for the unexpected. It is in this vein that the Department is attempting to transform the management of general and flag officers from a static model to a dynamic one. The synergistic effect of the general and flag officer legislative initiatives put forth by the Department will provide lasting benefits to this nation in the form of more experienced and agile senior leaders; officers whose extensive experience makes them the ideal candidates for a broader range of duties and able to face any challenge the future holds.

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