Raising the Mandatory Retirement Age for Other Agencies

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Overview

The effects of raising the mandatory retirement age across federal executive branch law enforcement agencies would likely vary.

We analyzed OPM data on LEOs across the federal executive branch of government and selected nine agencies for more detailed study. We selected agencies from a range of federal departments that had large LEO populations. The nine selected agencies accounted for almost 85 percent of the total federal executive branch LEO workforce. We interviewed officials from these nine agencies about their use of individual exemptions and temporary blanket waivers to the mandatory retirement age and their perspectives on the potential effects of raising the mandatory retirement age. We found that, according to these officials:

- They generally used individual mandatory retirement age exemptions rather than temporary blanket waivers to allow some LEOs to work after age 57 (in addition to those allowed to work after age 57 to complete their 20 years of service).
- They varied with respect to their requirements to ensure exempted LEOs continued to meet the young and vigorous standard beyond age 57.
- They had varying perspectives on the potential effects of raising the mandatory retirement age.

Characteristics of the LEO Population

To identify the number and characteristics of federal executive branch LEOs, we analyzed OPM's Enterprise Human Resources Integration (EHRI) database, which includes data on LEOs' age and years of service.[39] We identified federal executive branch LEOs based on their coverage by a retirement plan with LEO enhanced retirement benefits and their occupations.[40] Our analysis found:

- The EHRI data indicate that more than 100,000 LEOs were employed by federal executive branch agencies as of the end of fiscal year 2017 (the most recent data available at the time of our review). Most LEOs were employed by agencies within DHS and DOJ (see table 2).

Table 2: Number of Federal Law Enforcement Officers (LEOs), by Age Group, as of the End of Fiscal Year 2017

Selected agency	Number of LEOs: Total	Number of LEOs: Age 57 and under	Number of LEOs: Over age 57
Selected agencies within the Department of Homeland Security (DHS): Customs and Border Protection	23,904	21,395	2,568
Selected agencies within the Department of Homeland Security (DHS): Immigration and Customs Enforcement	12,446	12,446	fewer than eleven LEOs
Selected agencies within the Department of Homeland Security (DHS): US Secret Service	3,636	3,636	fewer than eleven LEOs
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Prisons	19,418	19,418	fewer than eleven LEOs
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Investigation	13,662	13,528	150
Selected agencies within the Department of Justice (DOJ): Drug Enforcement Administration	4,416	4,382	34
Selected agencies within the Department of Justice (DOJ): US Marshals Service	3,672	3,660	12
Selected agencies within the Department of Justice (DOJ): Bureau of Alcohol, Tobacco, Firearms, and Explosives	2,012	2,012	fewer than eleven LEOs
Selected agency within the Department of Interior (DOI): National Park Service	1,771	1,771	fewer than eleven LEOs
Selected agency within the Department of Interior (DOI): All other agencies	15,270	15,190	80
TOTAL	**100,207**	**97,438**	**2,844**

Source: GAO analysis of Office of Personnel Management (OPM) data. I GAO-20-137R

Note: * Indicates fewer than 11 LEOs. We defined age 57 as the date up to 1 month before or after the LEO turned 57. For comparability, our analysis was based entirely on OPM data and does not reflect data provided by individual agencies, which sometimes varied from OPM's data. We also excluded individuals in positions that are not traditionally defined as LEOs, such as firefighters and nuclear materials couriers.

[39]EHRI data do not include information on whether LEOs working beyond age 57 did so because they received an exemption or waiver or for another reason. Also, EHRI data only include executive branch employees, not legislative branch employees. As a result, this analysis does not include USCP officers.

[40]Our analysis included both LEOs covered by plans with enhanced retirement benefits under FERS, as well as those covered by plans with enhanced retirement benefits under

- The EHRI data also indicate that of the 2,959 LEOs who retired during fiscal year 2017, 2,200 were under age 57, and 392 (13.0%) were over age 57. Among our nine selected agencies, most of the LEOs retiring over age 57 were from DHS's Customs and Border Protection. Six of our nine selected agencies had fewer than 11 officers returing over age 57 (see table 3).

Table 3: Number of Federal Law Enforcement Officer (LEO) Retirements, by Age Group, during Fiscal Year 2017

Selected agency	Number of LEO Retirements: Total	Number of LEO Retirements: Before age 57	Number of LEO Retirements: At age 57	Number of LEO Retirements: Over age 57
Selected agencies within the Department of Homeland Security (DHS): Customs and Border Protection	446	128	12	306
Selected agencies within the Department of Homeland Security (DHS): Immigration and Customs Enforcement	363	286	77	fewer than eleven LEOs
Selected agencies within the Department of Homeland Security (DHS): US Secret Service	124	124	fewer than eleven LEOs	fewer than eleven LEOs
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Prisons	799	687	112	fewer than eleven LEOs
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Investigation	585	454	60	71
Selected agencies within the Department of Justice (DOJ): Drug Enforcement Administration	195	151	29	15
Selected agencies within the Department of Justice (DOJ): US Marshals Service	140	116	24	fewer than eleven LEOs

Selected agency	Number of LEO Retirements: Total	Number of LEO Retirements: Before age 57	Number of LEO Retirements: At age 57	Number of LEO Retirements: Over age 57
Selected agencies within the Department of Justice (DOJ): Bureau of Alcohol, Tobacco, Firearms, and Explosives	123	98	25	fewer than eleven LEOs
Selected agency within the Department of Interior (DOI): National Park Service	11	fewer than eleven LEOs	11	fewer than eleven LEOs
Selected agency within the Department of Interior (DOI): All other agencies	173	156	17	fewer than eleven LEOs
TOTAL	**2,959**	**2,200**	**367**	**392**

Source: GAO analysis of Office of Personnel Management (OPM) data. I GAO-20-137R

Note: * Indicates fewer than 11 LEOs. We defined age 57 as the date up to 1 month before or after the LEO turned 57. For comparability, our analysis was based entirely on OPM data and does not reflect data provided by these individual agencies (that sometimes varied from OPM's data). We also excluded individuals in positions that are not traditionally defined as LEOs, such as firefighters and nuclear materials couriers.

Federal LEO Policies on Exemptions Vary

Federal Agency Policies on Use of Exemptions

Our nine selected agencies said they generally used individual mandatory retirement exemptions rather than temporary blanket waivers to allow a limited number of LEOs to work after age 57 (in addition to those allowed to work after age 57 to complete their 20 years of service). According to the officials we spoke with:

the predecessor federal government employee retirement program, the Civil Service Retirement System (CSRS). Also, throughout this section, references to LEOs include Customs and Border Protection officers. Most Customs and Border Protection officers generally are not included in the definition of LEOs under FERS, but similar to USCP officers, receive enhanced retirement benefits equivalent to LEO benefits.

- None of the nine agencies had offered a temporary blanket waiver in the last 10 years.
- Few officers request exemptions, but requests for exemptions were generally approved if they met certain criteria (see table 4). For example, officials said that exemptions from the mandatory retirement age were granted to ensure continuity of operations or because the officer's duties were tied to work that served the public interest, such as concluding an investigation.[41]

[41]Between 2004 and 2011, the Federal Bureau of Investigation was able to exempt employees from mandatory retirement age requirements up to age 65. See 5 U.S.C. § 8425(b)(2).

Table 4: Individual Exemptions Requested and Granted to Federal Law Enforcement Officers, Reported by Federal Selected Agencies (2008-2019)

Selected agency	Number of individual exemptions: Requested	Number of individual exemptions: Approved	Duration of approved exemptions
Selected agencies within the Department of Homeland Security (DHS): Customs and Border Protection	NA[a]	19 (since 2014)	
Selected agencies within the Department of Homeland Security (DHS): Immigration and Customs Enforcement	49[b]	45	12 - 36 months
Selected agencies within the Department of Homeland Security (DHS): US Secret Service	NA[c]	NA[c]	1 or 2 years
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Prisons	160	103	1 year
Selected agencies within the Department of Justice (DOJ): Federal Bureau of Investigation	1,156	1,032	Up to 1 year
Selected agencies within the Department of Justice (DOJ): Drug Enforcement Administration	361[d]	300[d]	12 months
Selected agencies within the Department of Justice (DOJ): US Marshals Service	150 (est.)	120 (est.)	6 or 12 months
Selected agencies within the Department of Justice (DOJ): Bureau of Alcohol, Tobacco, Firearms, and Explosives	40	36	1 year
Selected agency within the Department of Interior (DOI): National Park Service	60 (est.)[e]	58 (est.)[e]	NA[e]

Source: GAO analysis of data provided by the selected agencies, as indicated. GAO was unable to verify these figures independently, as some agencies reported collecting the data manually. I GAO-20-137R

[a]Customs and Border Protection (CBP) officials said exemption records to the mandatory separation provisions from 2008 through 2013 are not available (NA).

[b]Immigration and Customs Enforcement (ICE) officials reported that one exemption request was denied and two decisions are pending. ICE officials also stated that any requests for exemptions typically originate from officers' supervisors.

[c]US Secret Service did not know the number of requested exemptions but said all exemptions were approved.

[d]Drug Enforcement Administration (DEA) officials provided us with the number of requested exemptions from 2008 through 2019, but noted that they only had records for years 2011 through 2019. The number for years 2008-2010 was based on estimates.

[e]We received separate responses from National Park Service's United States Park Police (USPP) and Law Enforcement, Security, and Emergency Services (LESES). USPP officials said that they did not know the number of requested or approved exemptions, but estimated that since 2008, about five officers had requested exemptions and three of the requests had been approved. LESES reported that each year since 2008, their agency had an estimated five officers request exemptions and an estimated less than five officers were approved for exemptions. Neither component was able to provide information related to the length of time exemptions were approved.

- Most exemptions were granted for a year or less. Officials from five of nine agencies said LEOs had to reapply if they wanted additional exemptions to age 60.
- Mandatory retirement age exemptions are rarely revoked. Agency officials we spoke with said that in the last 10 years, at least 1,700 exemptions had been approved, and most reported none had

been revoked One agency official said the director of his agency had revoked one exemption without providing a reason. An official from another agency said they were unaware if any exemptions had been revoked, but said that reasons for revocations would include disciplinary issues and issues with fitness.

- None of the nine agencies we spoke with requested or received presidential exemptions in the last 10 years. (As noted earlier, approval from the president is required for any exemptions allowing executive branch LEOs covered under FERS to work past 60 years of age.)

Federal Agency Policies on Maintaining a Young and Vigorous Workforce

Agency officials we spoke with described varying practices for maintaining the young and vigorous standard as part of their approval processes for granting exemptions to the mandatory retirement age.[42] For example:

Five agencies required officers requesting exemptions to complete fitness or medical examinations, the same as they require periodically of all their officers.

Two agencies required officers to submit documentation from their health care provider clearing them to perform their duties.

Three agencies had additional exemption requirements, such as

being reassigned to administrative duties; and

being in good standing regarding their performance or conduct.

Potential Effects of Raising the Mandatory Retirement Age

Officials at our nine selected agencies described various potential benefits and costs to raising the mandatory retirement age, depending on the nature of their LEO's duties.

- Potential benefits to raising the mandatory retirement age cited by some agency officials included:
  - retaining experienced officers for their institutional knowledge and to assist in on-the-job training for more junior officers, and
  - delaying retirement benefit payments.
- Potential costs to raising the mandatory retirement age cited by some agency officials included:
  - retaining LEOs with higher salaries;
  - continued eligibility for promotions, raises, and cost-of-living increases for LEOs working past age 57; and

[42]Although there is no uniform standard that LEO agencies follow to ensure a young and physically vigorous workforce, agencies are able to prescribe physical requirements and medical standards for certain positions. According to one agency official, a validated physical-requirement assessment under 5 C.F.R. part 339 is the best evaluation of a LEO's physical ability to perform the requirements of a LEO position.

- relatively higher contributions to the retirement benefits for higher earning LEOs, despite being able to delay paying out retirement benefits.

As we noted earlier with respect to the USCP, the potential effects of raising the mandatory retirement age across federal law enforcement agencies would depend on the number of officers who continue to work until age 57 and who may wish to work additional years. However, predicting trends in future retirement decisions of officers is difficult and officials in our selected nine agencies expressed varying perspectives on the potential effects of increasing the mandatory retirement age to age 60:[43]

- Officials from five of the nine agencies we spoke with said they would view raising the mandatory retirement age to age 60 as a potentially positive change, generally citing the benefits of retaining a more experienced workforce. For example, officials from one agency we spoke with said that the ability to retain more experienced officers would contribute to the agency's mission by providing leadership and mentoring to junior officers.
- However, officials from another agency said they would view increasing the mandatory retirement age to age 60 as a potentially negative change, because officers at or near retirement age are typically at the top of the pay scale.
- Officials from four of the nine agencies offered no opinions, stating that they had no comment or that they would follow whatever the statutes require.

[43]Ten responses are tabulated below because we received differing responses from two subagencies within DOI's National Park Service: United States Park Police (USPP) and Law Enforcement, Security, and Emergency Services (LESES).