

**STATEMENT OF THE HONORABLE DANNY K. DAVIS
AT THE SUBCOMMITTEE ON CIVIL SERVICE
AND AGENCY ORGANIZATION
HEARING ON**

**Federal Law Enforcement Personnel in the Post 9/11 Era:
How Can We Fix An Imbalanced Compensation System.**

Wednesday, July 23, 2003

Chairman Davis, federal officers, in varying degrees and capacities, uphold the Constitution and protect the public welfare. Over the years, however, there has been much debate and controversy, with no permanent resolution, on which types of federal employees should be classified as “law enforcement officers,” and as such, should receive enhanced pay and retirement benefits.

In 1988, the Anti-Drug Abuse Act established the National Advisory Commission on Law Enforcement (the Commission) which studied the pay, benefits, and other issues related to the recruitment and retention of employees defined as “law enforcement” under federal retirement laws. The Commission’s report, which was released in April 1990, made several recommendations for interim pay enhancements for law enforcement officers and suggested that the Office of Personnel Management (OPM) conduct a further study on the need for a new pay system for federal law enforcement.

The Commission’s report did note, however, that the statute defining “federal law enforcement officer” was broad, encompassing both traditional positions within the field and less traditional positions not generally considered part of the law enforcement community.

As recommended by the Commission, Congress enacted the Federal Employees Pay and Comparability Act of 1990 (FEPCA), which enhanced law enforcement pay and

directed OPM to conduct a study of the pay and job evaluation for federal law enforcement officers. OPM, along with a 45-member advisory committee drawn from law enforcement agencies and employee groups, produced in September 1993 a report entitled, "A Plan to Establish a New Pay and Job Evaluation System for Federal Law Enforcement Officers. Two months later, the Subcommittee on Post Office and Civil Service held a Subcommittee hearing on the report and its findings.

At that hearing, Ms. Barbara Fiss, who testified on behalf of OPM stated, "OPM determined at the outset that the definition of law enforcement officer used in the FEPCA provisions, based on retirement law, needed to be examined because it covers employees whose primary duties included such diverse jobs as health care, accounting, and cooking; but excluded employees whose primary duties include maintaining law and order and protecting, property and the civil rights of individuals. OPM's fact-finding visits confirmed OPM's belief that the coverage issue had to be reconciled."

In a hearing this Subcommittee held on this same subject in 1999, OPM said much the same thing. William Flynn, at that time Associate Director for Retirement and Insurance at OPM, testified at the hearing that, "We believe that to simply consider whether to add certain specified groups to coverage under the existing provisions is much too limited an inquiry. Instead, it is time to reexamine the program and its history. We must first determine what human resources management needs should be addressed. Then, we must analyze how those needs can best be addressed in a cost-effective manner that is fair to both employees and the taxpayers."

This subcommittee is again holding a hearing on the classification and pay of federal law enforcement officers with no comprehensive solution to the problem.

Determining the definition of a federal law enforcement officer is clearly a very complex and controversial issue. This hearing is an opportunity for us to revisit this issue and find permanent solutions to concerns that have been raised in the past and that are still lingering today.