REPORT ON PEACE OFFICERS RETIREMENT IN WYOMING

October, 1974

The Governor's Planning Committee
on Criminal Administration

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STATEWIDE RETIREMENT SYSTEM PROPOSAL

The Governor's Planning Committee on Criminal Administration was formed by Section 9-276.18:11 through Section 9-276.18:17 of the Wyoming Statutes to organize, plan and conduct statewide programs of activities designed to strengthen and improve the criminal justice system for the State of Wyoming. Last November, the Committee identified, as its number one priority for the coming year, the improvement and development of legislation designed to improve salaries and fringe benefits for law enforcement officers in the State of Wyoming.

In March of 1973, a special task force on law enforcement salaries and fringe benefits presented their report. Their major recommendation was the "creation of a uniform retirement system which would allow retirement after a certain period of time worked or upon reaching a certain age, that it be of sufficient size to be efficient, and allows the individual law enforcement officer the ability to transfer his interest from one location in the state to another."(1)

Current efforts of the Governor's Planning Committee on Criminal Administration staff are directed toward achieving this objec-

(1). Law Enforcement Salary and Fringe Benefits Task Force Report, Governor's Planning Committee on Criminal Administration, State of Wyoming, March 1973, page 25.

tive by working with the Wyoming State Retirement Board, the Legislative Services Agency and all other interested parties involved in the creation of retirement systems.

Need for Retirement Benefits

Retirement provisions are extremely important and generally are established by law. Adequate retirement income is just as important to a police agency as to the officer himself. Without a sound retirement plan, there is a tendency to retain men who no longer perform up to standard. This is particularly a problem as a man's performance is handicapped by an on-the-job injury. If the older man is a supervisor, not only does his whole unit's performance suffer, but other younger men are blocked from full promotion.

At one time, many police departments had fringe benefits which were comparable or superior to those offered by private industry. It was assumed that benefits such as early retirement or lengthy vacation periods were a substitute for competitive salaries; however, since most occupations and professions now have comparable or superior fringe benefits, police departments can no longer rely on these benefits as a sole means of attracting personnel. In some ways the police cannot be expected to recruit competent personnel until the communities are willing to pay the price for improved police performance. Many communities have already recognized this need, but for the most part, starting maximum salaries are still insufficient in nearly every department. Until salaries and benefits are increased to a competitive level, police services will fight a losing battle and suffer sub-grade quality in its personnel.

The National Advisory Commission on Criminal Justice Standards and Goals recommends:

> Every State should, by 1982, provide an actuarily sound statewide police retirement system for all sworn personnel employed within the State. This system should be designed to facilitate lateral entry.(2)

The International City Management Association recognizes the need for career opportunities to be competitive with those offered by private industry..."Retirement provisions are one of the most important items in any benefit package and should also be included."(3)

The American Bar Association stated in their standards relating to the urban police function that improvement in law enforcement depends largely upon the attraction and retention of high quality personnel. The ABA reported that police departments must be able to offer competitive pension and fringe benefits in order to obtain such personnel.(4)

(2). National Advisory Commission on Criminal Justice Standards and Goals, Police; Washington, D. C., January, 1973, page 510.
(3). International City Management Association, Municipal Police Administration, Washington, D. C., 1969, pages 189-190.
(4). ABA Standards Relating to the Urban Police Function, New York, N. Y. (ABA 1972), page 1972.

The President's Commission on Law Enforcement and Administration of Justice recommends the improvement of fringe benefits of police departments to a level consistent with private industry:

> In addition to competitive salaries, all police departments should insure that fringe benefits, such as retirement plans, group health and life insurance and vacation and sick leave, are comparable to those offered in private industry.(5)

Need for Statewide Retirement System

After an analysis of the existing systems within police departments of the State of Wyoming, the conclusion was reached that there are very few retirement programs available to law enforcement officers other than social security, which in most instances is not adequate.

Of the existing systems, the requirements to receive benefits and the amounts payable vary extensively from system to system. The range extends from inadequacy to virtually full net income replacement. An analysis of existing retirement programs of Wyoming municipalities conducted in the summer of 1972 is included as Appendix A of this report.

The high turnover rate in the State of Wyoming is indicative of the poor salary and fringe benefits available to law enforcement

(5). President's Commission on Law Enforcement and Administration of Justice, Task Force Report, The Police, Washington, D. C., Government Printing Office, 1967, page 135.

officers in Wyoming. During the last few years, the rate of personnel loss has been very high as shown in the following chart.[6]

Year	Number of Men Leaving Police Departments	Percent of Total Law Enforcement Officers
1973	109	21%
1972	99	21%
1971	99	22%
1970	92	16%
1969	131	33%

A comprehensive personnel program should be designed to maintain superior police forces. A sound retirement system which permits the employees to look forward to retirement with full assurance of economic security for old age should be created.[7]

The National Council on Crime and Delinquency advocates improving fringe benefits by way of a state or national retirement system which would cover all local, county and state law enforcement officers. Such a system, according to the Council, would also facilitate lateral entry and generally make police careers more attractive.[8]

They also recommend the modernization of benefits and retire-

(6). Wyoming Comprehensive Law Enforcement Plans 1970-1974, Governor's Planning Committee on Criminal Administration, State of Wyoming.

(7). Municipal Police Administration, Published for the Institute of Training and Municipal Administration by the International City Management Association; Dr. George D. Eastman, Editor; Chapter 10, page 171.

(8). National Council on Crime and Delinquency, Goals and Recommendations, New York, N. Y., 1968, page 11.

ment plans available to policemen, to aid in recruitment efforts, and to make it a competitive position in the job market. They found that improvement of poor retirement programs must be an option in making police work attractive as a career. The National Council on Crime and Delinquency recommends one standard national retirement system to encompass all local, county and state law enforcement officers, enabling lateral movement and advancement from one police department to another without loss of retirement benefits.(9)

Mr. O. W. Wilson, a recognized expert in the field of criminal justice, who is presently dean of the School of Criminology and professor of Police Administration at the University of California at Berkeley, states:

> An actuarily sound pension system should assure the officer of security in old age and protect his dependents against the accident of his death or disability. A suitable pension system has the further advantage of removing from the force those who have outlived their usefulness. The age when usefulness is seriously impaired varies among men and also with the kind of work they perform.
>
> For example, patrol service requires greater physical fitness than a command post. Since removal of those whose usefulness is impaired by advancing years is an important purpose of the pension system, it should be administered wisely and courageously.

(9). Ibid., page 11.

The pension benefits of municipalities should be under a state retirement system so that a police officer may transfer from one service to another without losing his pension rights.(10)

The Committee for Economic Development recommends improving retirement systems and fringe benefits offered by police agencies in order to encourage lateral entry and upgrade the professionalism of police personnel.(11)

The Committee also noted that many pension systems limit eligibility to those officers who serve twenty or more years within a single jurisdiction. Also, officers who accept promotional transfers lose their accumulated benefits under most systems. Such conditions discourage lateral entry of technical specialists and prevent many highly qualified officers from obtaining positions of leadership in other departments.(12)

The International City Management Association also recommends a retirement system that has a mobility incentive allowing for vested rights of individuals.(13)

(10). Police Administration, O. W. Wilson, Second Edition, McGraw, Hill Book Company, New York, N. Y., page 179.
(11). Reducing Crime and Assuring Justice, Committee for Economic Development, New York, N. Y., page 32.
(12). Ibid., page 32.
(13). Municipal Police Administration, published for the Institute of Training and Municipal Administration by the International City Management Association; Dr. George D. Eastman, Editor, page 72.

The President's Commission on Law Enforcement and Administration of Justice recommends a nationwide retirement system that permits lateral entry or the transferring of retirement credits among jurisdictions.[14]

Actuarial Soundness

Police pension systems are among the oldest public retirement systems in the United States. They were developed in order to enhance the attractiveness of police service and to compensate for the hazardous nature of the profession. While there has been expansion in a number of general coverage retirement systems, there has also been some reduction in limited coverage systems. Locally administered police retirement systems comprised 30 percent of all retirement systems in 1967.

Nonetheless, a recurrent problem has been the fiscal viability of many police retirement systems. Most tend to have small membership, and several studies have identified management difficulties in such small systems.[15]

(14). President's Commission on Law Enforcement and Administration of Justice, Task Force Report, The Police, Washington, D. C., Government Printing Office, 1967, pages 111-112.

(15). John P. Coleman, Statewide Police - Pension Fund Created, Ohio Cities and Villages, February 1966, pages 5-8; University of Colorado Graduate School, Business Administration Comprehensive Study of Policemen's and Firemen's Pension Funds in the State of Colorado, Boulder, Colorado, 1967.

A recent Colorado study found that police pension funds underfunded by about $32 million in 1967.(16)

The small size of many police pension funds almost invariably guarantees that they will not be fiscally sound. In such a situation, both employees and the public suffer. Employees have no assurance of long term solvency, and their pension funds and localities financing retirement funds on a pay-as-you-go basis can only look forward to increasing the demands on the general fund with little hope of relief.(17)

Some cities feel that consolidation of police pension funds would result in increased contributions from policemen and firemen and pressures to reduce the higher benefits available in centralized police pension funds. Moreover, there is worry that consolidation of pension funds could result in too great a concentration of power in the management of such funds.(18)

The concept of actuarial soundness with respect to pension plans involves a number of areas where agreement is far from total. One definition holds that a fund is actuarially sound when the present value of the future scheduled contributions, plus any assets on hand, is at least equal to the present value of future benefits,

(16). Statewide Police - Pension Fund Created, Ohio Cities and Villages, op. cit., page 196.
(17). Ibid., page 207.
(18). State and Local Employees' Pension System, Tax Foundation, Inc.. New York, N. Y., 1969, page 11.

computing both present values on a realistic set of actuarial assumptions. This broad umbrella would include as "actuarially sound" a program such as the social security system which calls for employer and employee contributions which will escalate constantly, both in dollars and as a percentage of covered earnings, and which permits the establishment of relatively miniscule reserves.

At the other extreme are most pension plans established by private industry. The employer is required by Accounting Principles Board Opinion No. 8 to record in his expenses for the year an amount not less than the normal or current service cost for the year, plus (in most cases) a payment in respect of his prior service liability sufficient to amortize it over a forty-year period. Opinion No. 8 relates to recording of expenses and does not require actual disbursement of funds. However, if the plan is to receive the benefits of qualification under the Internal Revenue Code, the employer must actually contribute amounts sufficient, on a cumulative basis, to pay the normal cost plus interest (no amortization) on any prior service liabilities.

A number of arguments have been made to support the idea that plans covering state, county and municipal employees occupy a position between these two:

(a) The employing jurisdiction does not maintain its accounts in accordance with generally accepted accounting principles, and thus APB No. 8 is not applicable. Obviously, this does not apply where the employer does seek the unqualified opinion of an auditor on its financial statements.

(b) The plan is not qualified, and does not seek qualification, under the Internal Revenue Code. This argument has always been questionable, and is further endangered by the issuance of Revenue Ruling 72-14 and the prospect of pension reform legislation.

(c) A governmental employer, be it city, county or state, may be presumed to be permanent, in contrast to a business organization which may diminish in size, fail or go out of existence by sale or merger. This is, to a large extent, true. However, particular areas of the country have been known to stabilize or even diminish in both population and wealth. This condition may be accompanied by an accelerating growth in retired rolls as those hired in the period of expansion reach earliest retirement age and the community has no further need for their services. Thus, continuity of existence is no guarantee of continued ability to meet obligations.

(d) Each generation can - and should - pay the cost of any retirement benefit increases related to salary increases granted by that generation. Thus, there should be no advance funding (by the use of an "inflationary" salary scale) related to future general wage level increases. This has been justified, in at least one case, by the contention that the taxing power of the state may be assumed to be unlimited. This position was once held and applied rather widely, but its support appears to be eroding under the impact of escalating salaries and pension costs.

It is more appropriate to think of varying degrees of actuarial soundness than of a sharp dividing line between sound and unsound. The degree of soundness for any particular plan will, in turn, depend on the provisions of the plan, the relative conservatism of the actuarial cost method and assumptions, the soundness of the investments, the funding policy being pursued by the employer and his ability to continue that policy.

As an example, all other things being equal, a plan funded using a four percent interest assumption may be "sounder" than one where a six percent assumption is used, but the situation is reversed if the investment manager in the first plan, through lesser competence on his part or burdensome limitations placed upon him, can only earn three percent, while the second manager consistently produces a seven percent return.

Similarly, a plan where costs are computed on realistic assumptions may be "sounder" than one where greater optimism prevails, but not if the former employer consistently refuses to fund these realistic costs.

Funding

Various approaches have been taken to make the small pension funds more viable. One involves state contributions. This approach has been adopted in Colorado, Oklahoma and Pennsylvania. Other states, such as Georgia, New Jersey and New Hampshire, have state administered limited coverage retirement systems for local police with varying degrees of support. Finally, others have centralized retirement systems into one or a few state integrated systems with fiscal support. This approach appears in Alaska, Hawaii and Nevada. These last two forms of support provide police pension funds with greater fiscal security.

Such support reduces the risk of temporary insolvency of all police pension funds; provides the fund with more experienced management and often creates a larger fiscal return for the fund due to its increased assets.[19]

Many fear the reduced fiscal accountability of consolidated pension funds. Another problem affecting police pension funds is the heavy reliance on local governmental contributions while greater governmental contributions to the system seem justified in light of the hazardous nature of police work, such outlays represent a sizeable burden for many localities. Local government retirement contributions average eleven percent of local police expenditures in 19 of the 43 largest cities in 1967. Such contributions range from 3.9 percent of police outlays in Atlanta to 33.4 percent in New York City. Increased state support would remove fiscal burden from affected localities and allow them to channel more local money into other parts of the criminal justice system. The task force report on the police which was published by the National Advisory Commission on Criminal Justice Standards and Goals states that traditionally the burden of funding local police pension systems has been borne solely by the individual officer and police agency.

> Police retirement systems should be actuarily sound. The State, the agency, and the officer should each contribute one-third to a pension system funded over a period of time sufficient to pay all liabilities: current service, past service, and unfunded.[20]

(19). John P. Coleman, op. cit., page 8.
(20). National Advisory Commission on Criminal Justice Standards and Goals, Police; Washington, D. C., January, 1973, page 511.

Such plans are costly. Cost, of course, is in relation to benefits. Both employer and employee should usually contribute to the cost in relation to salaries. Commonly the employee will be charged about six percent of his gross payment. But, this percentage is rising. The employer pays the balance, either through a special tax or a percentage of payroll established by an actuary. Employer contributions frequently are double that of the employee.

Recommendations

After reviewing federal recommendations concerned with the creation of a unified retirement plan, several model plans from other states and the existing retirement plans within the State of Wyoming, a draft was prepared offering a new retirement program to peace officers in the state. After review by the attorneys for the Game and Fish Department, a Task Force created to review the legislative proposal, and other members of law enforcement agencies throughout the State of Wyoming, the following proposal is recommended.

The proposal allows for the incorporation of the best benefits of the existing retirement systems within the State of Wyoming together with incorporation of the Wyoming Highway Patrol-Game and Fish Retirement legislation of 1973, and the state sponsored first-class city police retirement program established by legislation (section 15.1-314) into one plan.

The draft proposal creates a Wyoming Peace Officers Retirement System with membership eligibility extended to all full-time law enforcement officers defined as "peace officers" in the State of Wyoming.

The program will be administered through the Wyoming Retirement System of the State of Wyoming and would provide a uniform plan to pay benefits to peace officers and their beneficiaries upon the officers' retirement, death or disability.

A peace officer as defined means any person who is serving on a full-time, fully compensated basis as a duly authorized member of a sheriff's office, municipal police force, college or university campus police force, the Wyoming Highway Patrol, game wardens or commissioned employees of the Wyoming Game and Fish Commission, penitentiary guards, special agents or security employees of the State of Wyoming, or political subdivisions thereof, charged with the enforcement of criminal statutes and ordinances.

The proposal provides for an actuarial evaluation of the system and the establishment of the program based on an actuarial reserve type system which would provide money within the fund to pay all existing liabilities of the fund.

The system will be funded from equal contributions by the employee, employer and the State of Wyoming.

The proposal would allow for vested interest within the system after completion of three years of credited service and prior to completion of three years' of credited service, receipt of all the employee's contributions, plus interest, upon the withdrawal of a member from the system.

The system provides for retirement after completion of twenty years of credited service at fifty percent of the final average salary (which includes the highest salary of any three-year period during the employee's last ten years of service), but the employee may continue his service and accumulate 2.5 percent of the final average salary for each additional year of service to a maximum of 62.5 percent of his pay.

The program provides for a mandatory retirement of members by age 55 unless a specific waiver is received from the employer.

The program provides for disability retirement benefits for on-duty and off-duty disability and payment of death benefits for duty related and non-duty related death.

Another important aspect of the proposal is the provision allowing for adjustment of the retirement allowance based on a consumer price index for the preceding calendar year. However, in no instance shall any retired member receive less than the benefits to which he would be entitled under his initial retirement.

The program, if adopted, would provide benefits to law enforcement officers throughout the State of Wyoming and hopefully contribute to the upgrading of the fringe benefits of the Wyoming peace officers.

This proposal will be presented to the full Governor's Planning Committee on Criminal Administration and will be adjusted according to their recommendations. It will then be presented to the Legislative Services Agency for review and presentation to the Joint Interim Revenue Committee of the State Legislature.

APPENDIX A

Retirement Plans or Programs - In Wyoming all state and local government employees are included under social security with one exception. Policemen and firemen are not included if they are covered by an established pension program or plan. In addition to social security, there is also a state pension plan available to the cities and counties. This is a voluntary plan which if joined will cover all employees of the governmental unit. For cities which have a population of 4,000 or more, there is an optional statutory provision to establish a police pension plan. (Wyo. Stat. § 15.1-314 (1957)

In addition to the above programs, several cities have established their own municipal or private retirement programs. The different types of retirement programs in effect in the cities surveyed can be broken down into four general categories. The following material gives the broad categories, the cities employing each type of program and describes the program where the information was available.

(1). Cities under social security only. Within this category are twenty-one cities, 64 percent of the total cities surveyed. These cities are:

Pine Bluffs	Glenrock	Douglas	Wheatland
Dubois	Lusk	Jackson	Evanston
Moorcroft	Saratoga	Kemmerer	Green River
Upton	Sundance	Newcastle	Lander
Afton	Buffalo	Thermopolis	Torrington
			Worland

The City of Lander has established a police pension fund, but the plan has not yet been put into operation.

(2). Cities with social security and state pension plan. Three cities, 9 percent of the cities surveyed, have elected to join the state pension plan. These cities are Pinedale, Lovell and Gillette. Under the state pension plan, all municipal employees are covered. The employee contributes 5 percent of his salary, up to a ceiling of $8,600 of salary, into the retirement plan. An employee is entitled to retirement benefits after four years of service and attainment of age 50. The rate the plan pays in retirement benefits is dependent upon the amount the employee has paid into the plan, the number of years of participation, the interest the amount has accumulated, and the employee's sex and age at retirement.

(3). Cities with police pension plan. There are six cities, 18 percent of the total cities surveyed, which are included in this category. These cities are Casper, Cheyenne, Laramie, Rawlins, Rock Springs and Sheridan. Under this program all full-time personnel of the police department are covered, normally after fulfilling a six month probationary period. During this probationary period, the policeman is covered under social security. Under this plan 6 percent of the employee's wages are contributed to the fund and the city diverts from 0.200 mills to 1.000 mills from the municipal mill levy to the fund. After ten years service the employee becomes eligible for retirement benefits. If after ten years an employee leaves the department, he can withdraw the amount he has paid in with interest or leave it in until reaching retirement age of 60, or 20 years of service. The rate at which the plan pays is computed by taking 2½ percent of the average salary, computed from the average salary on the five years at highest paid salary, times the number of years of service, the benefit not to exceed 62½ percent of the average salary for the five year period.

To establish this program for police personnel, a city must have a population of 4,000 or more.

(4). Cities with municipal or private programs and social security. There are three cities (9 percent) with programs within this category. They are Cody, Powell and Riverton. Since each program differs, a brief description for each will follow.

Cody: All full-time municipal employees with two years' service are entitled to participate in this program. Each employee pays $12 per month into the program, and the city pays up to an additional 50 percent of this amount each month for each employee in the program. An employee is eligible for retirement benefits after ten years' participation and attainment of age 65. The rate at which the plan pays is $48 per year times the number of years of participation. This program is conducted under an agreement with the New York Life Insurance Company.

Powell: All full-time municipal employees after one year's service are entitled to participate in the program. The employee contributes $9 per month into the program, and the city contributes an additional amount for each employee. An employee is eligible for retirement benefits after 15 years' service or participation and attainment of age 65. The plan pays at the rate of $3 per month for each year of service or participation. This program is conducted under an agreement with the Prudential Life Insurance Company.

Riverton: All full-time municipal employees with one year's service are entitled to participate in the program. The city pays the entire amount due on the program premiums. An employee is eligible to receive retirement benefits after ten years' service. Full retirement benefits are paid after 20 years' service and attainment of age 65. Upon retirement the rate at which the plan pays is approximately 2 percent of annual salary paid prior to retirement, times the number of years of service or participation. The program is conducted under an agreement with the Metropolitan Life Insurance Company.[21]

(21). Law Enforcement Salary and Fringe Benefits - Task Force Report, Governor's Planning Committee on Criminal Administration, State of Wyoming, March, 1973, pages 16-18.

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15. Public Safety Officers Retirement Law, State of California.

16. Public Safety Personnel Retirement System, State of Arizona.

17. Public Employees Retirement System, State of West Virginia.

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