

SECRET//20321210

US Classification//Non US//SCI//Codeword//FGI//Dissem Controls//Non-Intel//Declass (as appropriate)

EXECUTIVE CORRESPONDENCE ROUTING SHEET

1. Origination Office Director for Support		2. Date	
3. FROM:	Name Scott D. White	Room No. and Building OHB	Phone
4. Subject (U//FOUO) Permitting Security Protective Services Officers to Retire After 20 Years Under FERS Special			
5. Originating Office Control #		5a. Response to DAC # (Originating Office to Complete)	5b. DAC Control # (DAC Use Only) DAC 07085-2007
6. Justification / Summary (Required for Immediate and Priority Actions) <input type="checkbox"/> Routine <input checked="" type="checkbox"/> Priority <input type="checkbox"/> Immediate			
7. Coordination Please call [] for pickup.			

NOTE: All correspondence sent to D/CIA must be sent via ADD/CIA and DD/CIA

DATE IN	ROUTE TO	ACTION (Check a Box)	NONCONCUR REASON	DATE OUT
	TITLE OGC [] OHB SIGNATURE []	<input type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input checked="" type="checkbox"/> FYI		1-18-08
	TITLE C/HRO [] OHB SIGNATURE []	<input type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input checked="" type="checkbox"/> FYI		1-28-08
	TITLE CFO [] OHB SIGNATURE []	<input type="checkbox"/> SIGNATURE <input checked="" type="checkbox"/> CONCUR <input type="checkbox"/> FYI		2-7-08
FEB 2008	TITLE DAC [] OHB SIGNATURE []	<input type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input checked="" type="checkbox"/> FYI	DAC- Pls notify DS/FO X- [] - When the ADD/CIA has signed.	FEB 07 2008
FEB	TITLE CIA [] OHB SIGNATURE []	<input checked="" type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input type="checkbox"/> FYI		2/18/08
	TITLE S/OCA SIGNATURE []	<input type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input type="checkbox"/> FYI	for delivery of CN to Congress	
	TITLE OS/PPG/FO [] OHB SIGNATURE []	<input type="checkbox"/> SIGNATURE <input type="checkbox"/> CONCUR <input type="checkbox"/> FYI	For copies and distribution.	

FORM 4468

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[REDACTED]
15 January 2008

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MEMORANDUM FOR: Associate Deputy Director, CIA

FROM: Scott D. White
Director for Support

SUBJECT: (U//FOUO) Permitting Security Protective
Service Officers (SPS) to Retire After 20
Years Under FERS Special

REFERENCE: A. (U) CIA Retirement Act, 50 U.S.C. 2001
et seq.

B. (U//AIUO) [REDACTED] "CIA Retirement
and Disability System"

C. (S) Memorandum of Law, [REDACTED]
[REDACTED]

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1. (U//FOUO) Action Requested: That you authorize retirement benefits for Security Protective Service (SPS) officers under the Agency's FERS Special program at a 25 percent accrual rate, thereby permitting the Agency to establish and maintain a more viable career path for these federal police officers. This accrual rate will provide a retirement option substantially equivalent to the law enforcement and police retirement programs available to many other federal agencies. This request has been coordinated with the Office of General Counsel, Chief of Human Resources, and the Chief Financial Officer. In addition, we request that you approve a change to

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Agency policy to allow qualifying service accrual rates of 100 percent for overseas service and 70 percent for domestic protective service for all Protective Operations Division (POD) officers serving on protective details.

2. (U//FOUO) Background: SPS officers do not meet the current Title 5 definition of "law enforcement officers" because they do not have as a primary duty the investigation, apprehension, or detention of suspected criminals, although these are components of their responsibilities. They otherwise perform essentially the same duties as a "law enforcement officer." The physical security of the Central Intelligence Agency (Agency) facilities and personnel has received increased emphasis in the post-9/11 era. The primary responsibility for this security falls upon the SPS, whose officers are authorized by statute to exercise federal law enforcement authority. Individuals charged by the SPS are tried in federal court in the Eastern District of Virginia (EDVA).¹

3. (U//FOUO) The Office of General Counsel (OGC) has reviewed the Agency's legal authority to create the proposed SPS FERS Special benefit. This legal analysis is set forth in an OGC memorandum of law,

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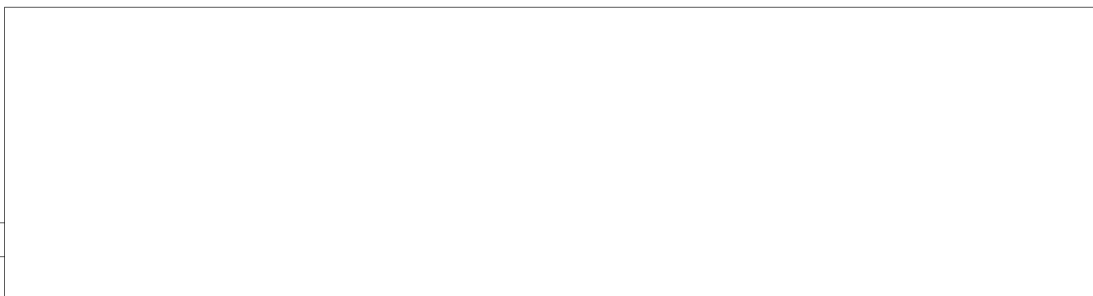
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SUBJECT: (U//FOUO) Permitting Security Protective Service
Officers (SPS) to Retire After 20 Years Under FERS
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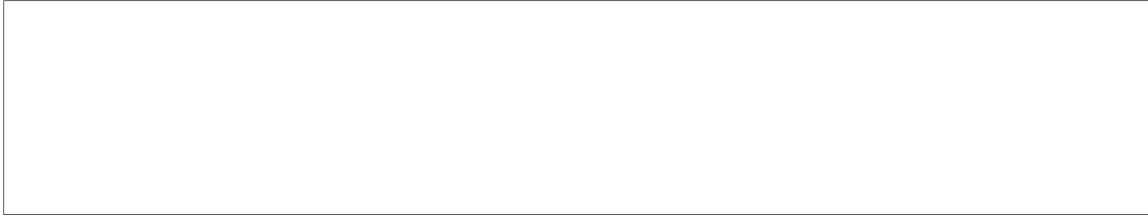
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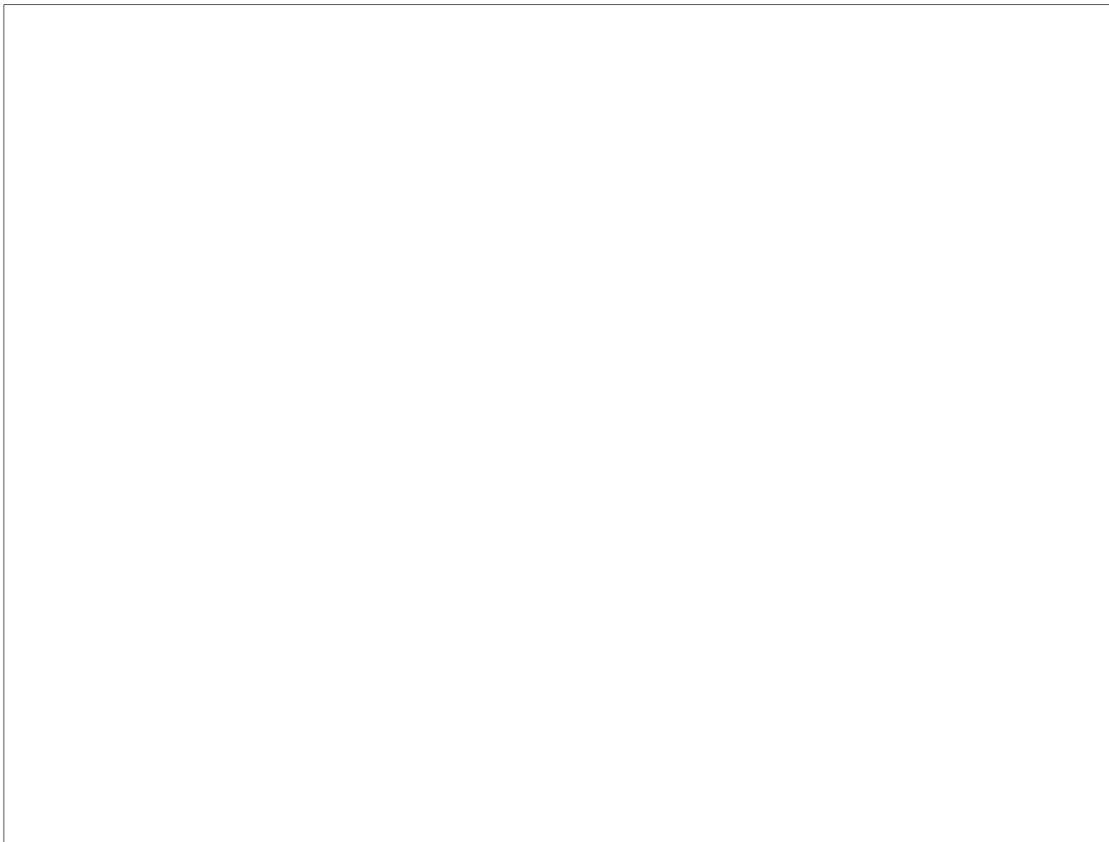


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² See attached addendum for further details regarding the hazards posed to SPS officers and their specialized training requirements.

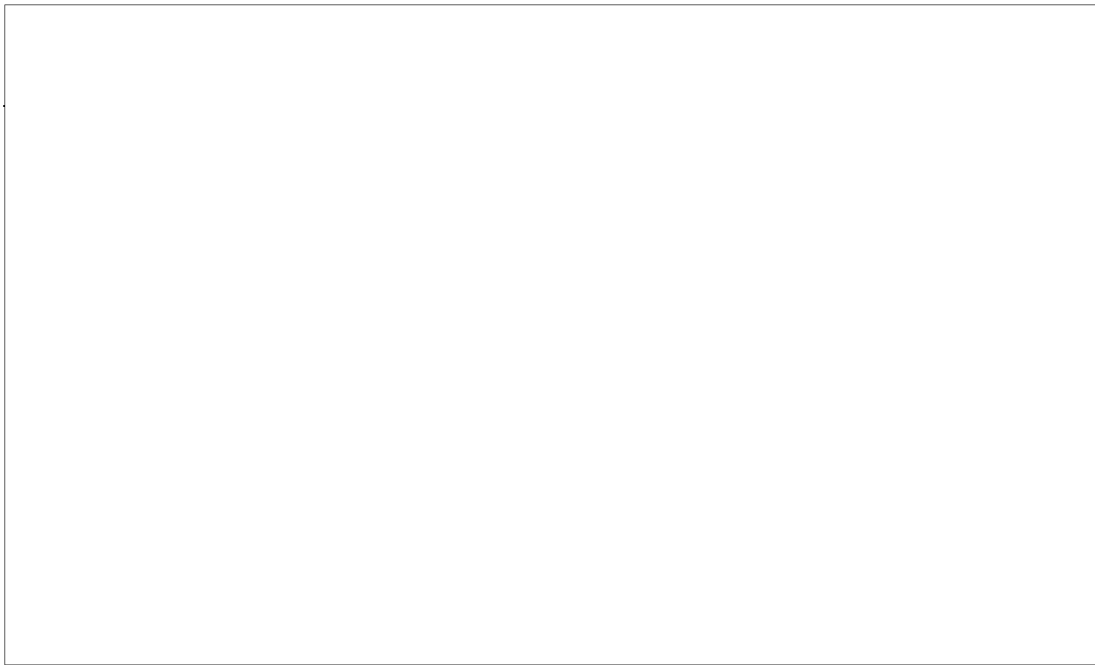
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As noted above and consistent with all local, state, and federal law enforcement agencies, SPS officers are armed while on duty and are required to respond to all emergency situations that arise in their presence or to which they are directed to respond. Similarly, SPS officers perform the full range of law enforcement functions:

- Police response and patrol
- Investigation and enforcement
- Security and protection
- Specialty services



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d. The proposal must be consistent with the statutory retirement contribution rule that only authorizes the greater retirement contributions to commence after the employee is admitted into the FERS Special plan:

This requirement pertains to the contributions the Agency and the employee make to the Civil Service Retirement and Disability Fund (FERS Fund) to fund a FERS annuity. To fund a standard FERS annuity, the CIA, by law, contributes an amount equal to 11.2 percent of the employee's basic pay to FERS Fund. In contrast, the Agency contributes 23.8 percent of a FERS Special employee's basic pay to FERS Fund. The larger employer contribution funds the increased actuarial cost of the more generous FERS Special retirement benefit. FERS Special employees also contribute more to the FERS Fund from their basic pay - 1.3 percent versus 0.8 percent.⁴ The CIARDS Act requires an employee to complete five years of qualifying service before he or she can be accepted into the FERS Special plan. See 50 U.S.C. §§ 2013 and 2152. Until an employee is accepted into the FERS Special retirement system, the Agency does not possess the legal authority to make Agency FERS Special contributions to the FERS Fund on behalf of that employee, or to withdraw employee FERS Special contributions from the employee's pay. Accordingly, if FERS Special participation is authorized for SPS officers, they (and the Agency) will continue to make the lower contributions to the FERS Fund until they fulfill the five-year qualifying service requirement and are admitted into the FERS Special plan.

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⁴(U) In contrast, Agency and employee contributions to the CIARDS Fund are not greater than Agency and employee contributions made to the FERS Fund for CSRS employees. 50 U.S.C. § 2021.

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4. (U//AIUO) Both Congress and the Office of Personnel Management (OPM) have identified concerns over federal law enforcement retirement benefits. In 2003, Congress required OPM to conduct a comprehensive comparison of pay and benefits among law enforcement officers throughout the government. In its 2004 report to Congress, OPM argued against a piecemeal solution and urged the creation of an OPM-administered government-wide system for law enforcement pay and benefits, including retirement benefits.⁵ Congress has not yet acted on this recommendation, but has authorized other agencies to adopt individual law enforcement retirement programs and, as noted herein, by virtue of the FERS Special statute Congress has already provided the Agency with the necessary general authority to adopt the recommended accrual rate for SPS officers.

⁵ OPM, "Federal Law Enforcement Pay and Benefits: Report to the Congress," July 2004.

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5. (U//FOUO) Management Objectives: In addition to meeting the FERS Special statutory criteria discussed above, the creation of this retirement benefit for the SPS would meet management objectives. We have been very successful in recruiting well-qualified candidates into the SPS. Most of our officers graduated at the top of their Federal Law Enforcement Training Center class. A corollary of this success, however, is that our officers are recruited by other law enforcement agencies. Many SPS officers who leave for other law enforcement agencies do so in part because of enhanced retirement programs. In addition to meeting the FERS Special statutory requirements, this new program would help to resolve this concern by establishing a more robust management tool for attracting and retaining high caliber personnel to meet the specialized needs of the SPS. Agency equities are best protected by a more consistent work force which possesses enhanced expertise developed over time. We realize however that some officers will desire to leave SPS and some degree of flow-through is healthy and inevitable. It is likely that by virtue of having earned some amount of FERS Special credit, a percentage of departing officers will seek other positions within the Agency that will allow them to continue to build upon FERS Special credit already earned as an SPS officer. Approval of this proposal will positively influence the Agency's broader retention objectives.

6. (U//FOUO) Congressional Notification: Upon your approval, Congress will be notified before implementation of this new retirement benefit for SPS officers. Attachment C is a draft Congressional notification.

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7. (U//FOUO) I am also recommending two conforming changes for other protective staff within the Protective Operations Division (POD).⁶ The first change would provide that protective personnel, when serving abroad, will accrue qualifying service at 100 percent, as do all other Agency personnel. Currently, for reasons that are unclear, POD officers accrue qualifying service credit abroad at only 70 percent. The second change would permit all members of the POD, when engaged in the performance of protective duties in the US, to accrue qualifying service credit at the established rate of 70 percent.⁷ The current policy permits 70 percent credit in the US only for the Director's Protective Staff, even though other members of the POD also engage in equivalent protective functions in the US for other designated senior officers, e.g., the DNI and PDDNI.

8. (U//FOUO) Recommendation: As Associate Deputy Director you have been delegated the authority [] to approve recommendations involving Agency human resource programs. [] the C/HR is authorized to approve the eligibility of all categories of Agency personnel for retirement benefits provided under the CIA Retirement Act. I am seeking your approval for C/HR to (1) establish a FERS Special retirement program for SPS officers at a qualifying service accrual rate of 25 percent that would be analogous to the 20-year law enforcement retirement programs established in Title 5 and by other federal agencies for their police officers and,

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⁷ The 70 percent rate of qualifying service reflects the fact that service on a protective detail entails both high risk and is a relatively short term assignment. Unlike the SPS it is not a career track per se.

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(2), to authorize the above referenced conforming amendments to
Agency retirement regulations to allow qualifying service
accrual rates of 100 percent for overseas service and 70 percent
for domestic protective service for all POD officers while they
are serving on protective details.

[Redacted Signature]

✓ Scott D. White

Attachments:
As Stated

APPROVED:

[Redacted Signature]

Associate Deputy Director, CIA

2/13/08
Date

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[Redacted Signature]

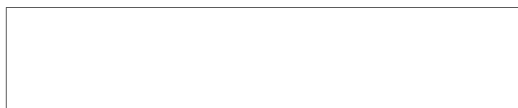
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CONCUR:



Chief, Human Resources

1-28-08
Date

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OS/Legal/[redacted] (10 December 2007)
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Edited by [redacted] 18 December 2007
Edited by [redacted] 14 January 2008

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Distribution:

Orig - Return to OS/PPG/FO for Retention

- 1 - ADD/CIA (w/atts)
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