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RETIREES RETURNING TO THE RESCUE: REEMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED

HEARING

BEFORE THE

SUBCOMMITTEE ON THE FEDERAL WORKFORCE AND AGENCY ORGANIZATION

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

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RETIREES RETURNING TO THE RESCUE: RE-EMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED

TUESDAY, JULY 25, 2006

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE AND AGENCY ORGANIZATION,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2247, Rayburn House Office Building, Hon. Jon C. Porter (chairman of the subcommittee) presiding.

Present: Representatives Porter, Schmidt, Davis of Illinois, Norton, and Cummings.

Staff present: Ronald Martinson, staff director; Chad Bungard, deputy staff director/chief counsel; Jessica Johnson, OPM detailee; Shannon Meade, professional staff member; Alex Cooper, legislative assistant; Tania Shand, minority professional staff member; and Teresa Coufal, minority assistant clerk.

Mr. PORTER. I would like to bring the meeting to order. We are going to continue on an initiative that I began last week that is recognizing some unsung heroes that are part of the Federal family. But unlike last week's recipient, today we are going to pay tribute to Mr. John Euler, who is connected to us via satellite from his duty station in Iraq where I understand it's about 10 p.m.

We appreciate you being with us.

Mr. Euler is a Vietnam veteran and retired U.S. marine; went on to a distinguished career at the U.S. Department of Justice from which he retired after 26 years of service. But his sense of duty could not allow him to stay retired. In January 2004, he volunteered to go to Iraq, where he served as Director of International Council. Here he faced the daunting task of building a new legal system for the country from the ground up. He overcame the loss of legal records destroyed by war, established a new court system, and helped Iraq defend itself in over 70 international cases.

He returned home upon the completion of his mission, but his strong passion for public service overcame his personal interests, and he recently volunteered again to return to Iraq where he is serving as deputy legal counsel for the U.S. Embassy.

Mr. Euler's bravery, his compassion and his dedication are an inspiration for all of us, and it is a privilege to say thank you.

Mr. Euler, I am not sure of the time lag if you can hear OK. But again, I want you to know that there is about a 5-second delay from what I say to you reaches Iraq.

But again, I want to say thank you very, very much for your dedication to the Federal Government; more importantly, your dedication to every man, woman and child in this country. So it is the least that I can do to honor you in a small way as a Member of Congress we are able to place into the Congressional Record individuals that we think exemplify the great American spirit. So I have entered into the record your history and those things that you have done to make our world and our country a safer place, and we will be getting you a copy of the statement of the Record which is dated July 25, 2006. And I do believe that with us today, Jerry is going to be accepting the plaque on your behalf.

So, John, congratulations, and again thank you for all that you have done for the United States of America. Thank you.

Mr. EULER. Mr. Chairman, I want to thank you very much for this honor. I am very honored and gratified, and particularly thank you and the subcommittee for this wonderful initiative in recognizing some of the contributions of Federal public servants.

I think that one of the significant and good stories and untold stories about Iraq are the thousands of public servants who have indeed volunteered to come over here to help try to develop this democracy and the freedom of this new nation, and I think several people have probably come in to the government just to do that kind of mission because they are inspired by the challenge and the promise. So I want to thank you again, and really I accept this tribute and this recognition on behalf of all of them. So thank you very much.

The CHAIRMAN. Thank you.

Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you, Mr. Chairman. Let me just commend you, first of all, for your creativity and sensitivity in initiating and implementing this program. I, like you, feel that far too often there are many individuals who contribute significantly to the further development of our country, and indeed to our world, who go unrecognized. So I join with you in recognizing the contributions of Mr. Euler and also praise him for being willing to come out of retirement to go into obviously a dangerous, in many ways, situation, and yet continue to give of himself in such a way that he uses his experiences and all of his ingenuity to try to help make not only Iraq, but the world a better place in which to live. I commend you, Mr. Euler.

I thank you very much, Mr. Chairman, and commend you for your creativity.

Mr. PORTER. And understanding that you are just a few miles away from home, we would like to make this presentation to a friend of yours. Jerry is here today. I would like to make the presentation to Jerry.

I'll come down there, Jerry. I don't know if you can see us from here, John, but we could probably make this a roast. Maybe there are some things that you need to know.

Mr. SHAW. I would be happy.

Mr. PORTER. Jerry wants to say a few things, so maybe there are some stories you can share with us. Is there anything you want the say about John?

Mr. SHAW. Well, besides being a great marine and a great public servant, he is also a great minister of his church. He is a leader that all of us have looked up to for years, and other than being a marine, he is probably the most intelligent, well-adjusted one we have ever met.

So, John, congratulations to you. It's an honor to be able to accept this award on your behalf. Thank you very much.

Mr. EULER. Thank you, Jerry, and thank you very much, Mr. Chairman.

Mr. PORTER. Before I begin the hearing, there are a few folks that I would like to thank that have worked very hard to put this satellite connection in place. We have Mr. Bill Bransford; Mr. Mitch Herckis of the Senior Executives Association; staff of the State Department including their video conference coordinator Sandra Bruckner. I thank you very, very much; and, of course, our own staff here at Government Reform Committee, and I appreciate all that has gone into this today.

Again, we are here today to actually talk about something that probably is very appropriate. John, you are welcome to stick it out for a couple of hours and listen if you would like, but it has to do with encouraging folks to be able to return from retirement to Federal service, so that is what today is all about. Again, I know you are a few miles away, but again, thank you very much for your time.

Mr. EULER. Thank you, Mr. Chairman. It is 10:30 at night here. So with your kind permission, I think I will let these good folks who have helped so much be on their way as well. I want to thank all of you and all of the subcommittee. This is a great honor.

Mr. PORTER. You can take the rest of the day off. No problem.

Retirees returning to the rescue: Reemploying annuitants in times of national need, and again, I would like to thank everyone for being here today on this all-important topic.

All too often Federal Government loses experience in highly qualified retirees not just to quiet, private life, but to the private sector where they get their full earned annuity, and many times, top salary. Work shortages highlight the need for management flexibilities that permit agencies to bring back the right people to fill an important need. We don't have to look further than to recover from Hurricane Katrina last year to demonstrate how important it is to deploy experienced Federal employees without delay in times of national crises. In the final report of the House Select Bipartisan Committee to Investigate the Preparation for and Responses to Hurricane Katrina, "A Failure of Initiative," the committee found that both the Department of Homeland Security and the Federal Emergency Management Agency lacked adequate training and experienced staff for the Katrina response.

We are here to today to examine whether existing flexibilities are enough to bring back valuable retirees to Federal service in a timely manner to fill voids, and whether additional flexibilities should be established that allow experienced Federal employees to phase into part-time service without negatively affecting our annuity so

we don't unnecessarily incentivize them to leave government service prematurely.

There has been much attention given lately to the anticipated retirement wave which is projected that roughly 60 percent of the Federal work force is eligible to retire in the next 10 years. The baby boomer trend seems to be that many of those Federal annuitants return to work past retirement, and I would hope that the Federal Government would be their Federal—be their employer of choice. The Federal Government has lost and will continue to lose our more seasoned employees. Perhaps more can be done to facilitate a return to Federal service by retirees in times of national need.

There are several provisions under the law that allow annuitants to be reemployed in the Federal sector; however, several barriers exist. There is evidence that the current law on reemployed annuitants is not accommodating the national need or not being implemented wisely. One problem associated with reemploying annuitants is even being felt in my home district of southern Nevada and in Las Vegas where we are fortunate to have a quality veterans hospital. Unfortunately, this VA hospital is facing a nursing shortage. To counteract this shortage, the VA hospital has contracted with staffing companies that recruit licensed nurses on behalf of the hospital.

Considering these conditions, I want to relate a story of how our current system of reemploying retired annuitants is hurting the Federal Government. A nurse in my district retired from the VA and began receiving her annuity. After a few years of retirement, this woman felt that she had more to offer, and, hearing of the nursing shortage, attempted to return to the job at the hospital. Unfortunately, because she was receiving her annuity payments, she was discouraged from returning to work because her salary would be offset by the amount of her hard-earned annuity.

Not easily thwarted, this determined woman contacted a private staffing company that had a contact with the VA hospital, and because of her immense experience and talent, was immediately hired and placed back in the veterans hospital.

Now on the surface this may seem like a logical solution. However, the woman earned $35 per hour as a Federal employee. The bill rate to the hospital from the staffing company was $55 per hour for the exact same service she performed 2 years prior, and she could continue to receive her annuity. In a time when the nursing shortage was at its most critical.

If the hospital had returned her to service and requested a waiver so she could receive both the full amount of her annuity and salary, the government could have saved $20 an hour, or it should have made an extra $20 going to the employee. In addition to the savings in salary, the government would save by hiring a retired nurse because the hospital would not have to make any additional retirement contributions and would avoid the training cost associated with hiring a new employee.

This is just one example that highlights where there is a need for enhanced flexibilities to reemploy annuitants and for a greater willingness to recognize retirees as truly valuable human capital resources.

Another example, just 2 weeks ago I had an opportunity to travel to Nogales, Arizona, to visit the border between Arizona and Mexico. I met an individual who is in the Border Patrol that is soon going to have to retire, who specializes in technology as a law enforcement agent. His hobby and background is technology. Well, as we traveled and visited the border security, the very law enforcement officers that are charged with protecting our borders are changing tires, are building fences, are repairing vehicles because we have a shortage of staff on our borders between here and Mexico. So the very same people that we would want to spend time in law enforcement are literally having to repair vehicles.

Now, on the surface that doesn't seem like a bad idea if, in fact, we had plenty of people that were available. But we don't. This individual literally is being forced to retire, would like to come back and stay in the system and do some of the clerical work that currently law enforcement agents are having to do because of a shortage. That is just another example.

Another example is the option that was available to former retired Federal agents to return to work for the Federal Government as Federal law enforcement instructors. Under the first scenario, the former Federal agent receives her regular salary minus the amount of her annuity. The result of this reemployment system is that it is difficult to attract and retain Federal law enforcement personnel most experienced in working in the Federal law enforcement system to be Federal law enforcement instructors. Contrast this with a former retired State or local law enforcement officer who takes the same Federal law enforcement instructor position and continues to receive his or her State or local retirement with no penalty.

Under the second scenario, a former retired Federal agent returns to work for the Federal Government as a Federal law enforcement instructor with a waiver of the offset requirement. This former Federal agent receives both her annuity and salary while teaching. She brings to her new employment 20-plus years in Federal law enforcement experience and training. Added to her career as a Federal law enforcement officer is the teaching, training and experience gained over the 4 years as a Federal law enforcement instructor. However, this highly trained and experienced Federal law enforcement instructor has to leave the job when her 4-year limited appointment comes to an end.

At present, the effect of this restriction is to discourage America's most qualified former Federal law enforcement officers from returning to Federal service. It is an unnecessary loss of potential antiterrorist resources at a time of war, and in these troubled times it seems logical to want our best and brightest in the field of law enforcement and intelligence to be readily available to assist in areas of critical need. Unfortunately, many of our best and brightest are already retired or quickly nearing retirement age.

Seasoned Federal employees on the brink of retirement have much to offer: Incomparable technical skills, vast institutional knowledge, wisdom, maturity, and a principled commitment to public service. In a market where we are competing with the private sector for limited talent and expertise, we must not ignore those experienced professionals that are eager to work longer in part-

time service or come out of retirement and lend their expertise to the Federal Government.

So to address the current unintended adverse effects on employees who perform part-term service at the ends of their careers, and to eliminate a disincentive for employees nearing the end of their careers who would like to phase into retirement by working part-time schedules, I will be introducing legislation as proposed in the President's fiscal year 2007 budget that would allow agencies to keep senior staff on board as part of a succession planning effort. This is a much needed fix that has been a long time coming.

As you know, there was a day when 55 was the goal, or 65 was the goal for retirement. Literally today 65 is not unlike 55 of decades ago. So I really believe that we need to encourage and find incentives for our soon-to-retire or those who have retired as a way to get back into the Federal system. We need their talent. We need their abilities.

So having said all of that, again, I want to thank you all for being here.

[The prepared statement of Hon. Jon C. Porter follows:]

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INDEPENDENT

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"

Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

July 25, 2006

I would like to thank everyone for being here today to discuss this important issue. All too often the federal government loses experienced and highly qualified retirees not just to a quiet private life – but to the private sector, where they get their full earned annuity and a top salary. Workforce shortages and national emergencies highlight the need for management flexibilities that permit agencies to bring back the right people to fill an important need. We don't have to look further than the recovery from Hurricane Katrina last year to demonstrate how important it is to deploy experienced federal employees without delay in times of National crisis. In the Final Report of the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, *A Failure of Initiative,* the Committee found that both "the Department of Homeland Security and the Federal Emergency Management Agency lacked adequate trained and experienced staff for the Katrina response."

We are here today to examine whether existing flexibilities are enough to bring back valuable retirees to federal service in a timely manner to fill voids, and whether additional flexibilities should be established that allow experienced federal employees to phase into part time service without negatively affecting their annuity so that we don't unnecessarily incentivize them to leave government service prematurely.

There has been much attention given lately to the anticipated "retirement wave" in which it's projected that roughly 60% of the federal workforce is eligible to retire in the next 10 years. The baby-boomer trend seems to be that many of these federal annuitants return to work at some point past retirement. I would hope the federal government would continue to be their employer of choice. The federal government has lost and will continue losing some of our greatest

resources—our more seasoned employees. Perhaps more can be done to facilitate a return to federal service by retirees in times of National need.

There are several provisions under the law that allow annuitants to be re-employed in the federal sector. However, several barriers exist. There is evidence the current laws on re-employed annuitants are not accommodating the National need or are not being implemented wisely. One problem associated with re-employing retired annuitants is even being felt in my home district of Southern Nevada. In Las Vegas, we are fortunate to have a quality Veterans Hospital. Unfortunately, this VA hospital is facing a nursing shortage. To counteract this shortage, the VA hospital has contracted with staffing companies that recruit licensed nurses on behalf of the hospital. Considering these conditions, I want to relate a story of how our current system of re-employing retired annuitants is hurting the Federal Government.

A nurse in my district retired from the VA and began receiving her annuity. After a few years of retirement, this woman felt that she had more to offer, and hearing of the nursing shortage, attempted to return to her job at the Hospital. Unfortunately, because she was receiving her annuity payments, she was discouraged from returning to work because her salary would be offset by the amount of her hard-earned annuity.

Not easily thwarted, this determined woman contacted a private staffing company that had a contract with the VA Hospital and because of her immense experience and talent, was immediately hired and placed back in the Veterans Hospital. On the surface, this may seem like a logical solution. However, this woman earned $35.00 per hour as a Federal Employee. The bill rate to the Hospital from the staffing company was $55.00 per hour for the exact same service she performed two years prior – and she continued to receive her annuity.

At the time when the nursing shortage was at its most critical, if the Hospital had returned her to service and requested a waiver so she could receive the full amount of both her annuity and salary, the government could have saved $20.00 an hour. In addition to the savings in salary, the government would save by hiring a retired nurse because the Hospital would not have to make additional retirement contributions and would avoid the training cost associated with hiring a new employee. This is just one example that highlights where there is a need for enhanced flexibilities to re-employ annuitants and for a greater willingness to recognize retirees as truly valuable human capital resources.

As another example, let me share the options available to former retired Federal Agents who return to work for the Federal Government as Federal Law Enforcement Instructors. Under the first scenario, the former Federal Agent receives her regular salary minus the amount of her annuity. The result of this re-employment system is that it is difficult to attract and retain former Federal law enforcement personnel most experienced in working in the Federal law enforcement system to be Federal Law Enforcement Instructors. Contrast this with a former retired state or local law enforcement officer who takes the same Federal Law Enforcement Instructor position and continues to receive his/her state or local retirement, with no penalty.

Under the second scenario, a former retired Federal Agent returns to work for the Federal Government as a Federal Law Enforcement Instructor with a waiver of the offset requirement.

This former Federal Agent receives both her annuity and her regular salary while teaching. She brings to her new employment twenty plus years of Federal law enforcement experience and training. Added to her career as a Federal Law Enforcement Officer is the teaching, training, and experience gained over the four years as a Federal Law Enforcement Instructor. However, this highly trained and experienced Federal Law Enforcement Instructor has to leave the job when her 4 year limited appointment comes to an end.

At present, the effect of this restriction is to discourage America's most qualified former Federal Law Enforcement Officers from returning to Federal service. This is an unnecessary loss of potential anti-terrorist resources in a time of war. In these troubled times, it seems logical to want our best and brightest in the fields of law enforcement and intelligence to be readily available to assist in areas of critical need. Unfortunately, many of our best and brightest are already retired or are quickly nearing retirement.

Seasoned federal employees on the brink of retirement have much to offer: incomparable technical skills, vast institutional knowledge, wisdom, maturity, and a principled commitment to public service. In a market where we are competing with the private sector for limited talent and expertise, we must not ignore those experienced professionals that are eager to work longer in part-time service or come out of retirement and lend their expertise to the federal government.

To address the current unintended adverse effect on employees who perform part-time service at the end of their careers and to eliminate a disincentive for employees nearing the end of their careers who would like to phase into retirement by working part-time schedules, I will be introducing legislation, as proposed in the President's Fiscal Year 2007 Budget, that would allow agencies to keep senior staff on board as part of a succession planning effort. This is a much needed fix that has been a long time coming.

I look forward to the discussion from all of the witnesses this afternoon.

Mr. PORTER. I would like to recognize our ranking minority member, Mr. Davis.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Chairman, and as one who is approaching the age, I want to thank you for calling this hearing.

Under the current law, a retired Federal employee who is reemployed by the Federal Government may not simultaneously receive a Federal retirement annuity and a Federal salary. The Civil Service Retirement System and Federal Employees Retirement System of title 5 stipulate that the Civil Service Retirement and Disability Fund annuity amount a reemployed Federal employee receives shall be deducted from his or her pay.

There are exceptions to this regulation. In cases of emergencies that pose an immediate and direct threat to life and property or result from unusual circumstances, the Office of Personnel Management has the authority to grant waivers to the dual compensation ban on a case-by-case basis or to delegate waiver authority to agencies.

Federal agencies should be able to hire Federal retirees without penalizing retirees; however, we must understand the impact of the reemployment of annuitants on new hires and whether or not agencies are effectively using human capital strategies to ensure that they have a work force in place to accomplish the goals and missions of the agency.

I hope that the witnesses today will be able to provide us with insight on these matters related to reemployment of retirees, and thank them for taking the time to testify before this subcommittee about this issue.

I thank you, Mr. Chairman, and yield back the balance of my time.

Mr. PORTER. Thank you, Mr. Davis.

[The prepared statement of Hon. Danny K. Davis follows:]

STATEMENT OF CONGRESSMAN DANNY K. DAVIS AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE AND AGENCY ORGANIZATION ON RE-EMPLOYING ANNUITANTS

Tuesday, July 26, 2006

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I hope that the witnesses today will be able to provide us with insight on these matters related the re-employment of retirees, and I thank them for taking the time to testify before the Subcommittee about this issue.

Mr. PORTER. Congresswoman.

Ms. NORTON. Well, Mr. Chairman, I appreciate this hearing. We are presented with an unusual situation, it seems to me. Federal employment is not what it was when we were young and foolish. And, therefore, many of the best and brightest—I am speaking for myself, Mr. Chairman. I understand that you are both still young and still foolish, and I won't tell you which of those I still am. But seriously, Mr. Chairman, the competition for the very highly qualified Federal work force that we have on board now not—is awesome, so awesome. There is every incentive to leave early with early retirement, not to mention the many employees who came in at the prime of their careers and are leaving already for usual retirement. Then let us take the new group of young people for whom Federal employee is one of many options, and very, very often not the most attractive when you consider all the career options and other benefits that come with Federal—with private employment of very highly skilled, often rarely skilled people.

So as we look now at what amounts to a mixed message, yes, we will hire you under some circumstances, but at the same time we are going to penalize you through your annuity. We have to somehow come to grips with what is our message. Do we want to be able to hire these Americans who once worked for the Federal Government? When you consider the skill levels and occupations of many of them, I think the answer would be clear. We certainly have to look at the total picture. But as we look at the baby-boom generation and how huge it is, and how many of them were a part of the best and the brightest Federal work force we have ever seen, and see them offload often not to go home, but to go to work somewhere else, we have to be very, very clear when we need them and how we attract them.

That, I think, is as much a problem as anything, particularly in occupations where I would be most concerned. And those are occupations where it is easiest for the trained Federal employees, people in whom we have heavily invested, to leave an occupation where we would want under some circumstances at the same time to have an annuitant reemployed because of the scarcity of labor.

So I think what we have now before us, for most agencies at least, is a product of the old Civil Service, and among these things we have been trying to do in this, you know, double dipping and making sure that we make room for new people. What new people? New people that we still are not attracting in nearly the same levels and in nearly the same occupations as we once did. And we have to look with fresh eyes at the annuity question especially when we consider some of the occupations involved.

Look at the DOD experience, and I think of a governmentwide policy on particularly what to do when we need people and how to attract them and how to make it possible for them to make a decision that is consistent with their own future and consistent with the needs of the Federal Government.

So I thank you, Mr. Chairman, once again.

Mr. PORTER. Thank you very much. And I understand since you are 29, there is a long time before you have to worry about that.

Ms. NORTON. I'll take that.

Mr. PORTER. Thank you very much.

The first thing I would like to do is some procedural matters, and ask unanimous consent that all Members have 5 legislative days to submit written statements and questions for the hearing record. Any answers to the written questions provided by the witnesses will also be included in the record. Without objection, it is so ordered.

I ask unanimous consent all exhibits, documents, other materials referred to by the committee members and the witnesses may be included in the hearing record; all Members be permitted to revise and extend their remarks. Without objection, so ordered.

And as I think most of you know, it is the practice of this committee to administer the oath. I know you wanted to do it earlier, but I thought you could rest for a little bit. So would you please stand.

[Witnesses sworn.]

Mr. PORTER. The record will reflect that all have answered in the affirmative.

Now we have the first panel. They will begin today. As you know, you have approximately 5 minutes, and, of course, you can add fuller statements to the record as you wish.

And again, I know some of you are experienced at the committee process. Some of our Members will probably come and go because of different hearings. So understand that all information is made available to all of those Members.

On our first panel today we have Nancy Kichak, Patricia Bradshaw, Barbara Panther and Dr. Ronald Sanders.

Ms. Kichak is Associate Director for Strategic Human Resources Policy Division at the U.S. Office of Personnel Management. Mrs. Bradshaw is the Deputy Under Secretary of Defense for Civilian Policy and Personnel with the Department of Defense. Ms. Panther is Associate Deputy Assistant Secretary for Human Resources and Management with Department of Veterans Affairs, and Dr. Sanders is Chief Human Capital Officer for the Office of Director of National Intelligence.

So again, welcome. We appreciate you being here.

Ms. Kichak.

STATEMENTS OF NANCY KICHAK, ASSOCIATE DIRECTOR FOR STRATEGIC HUMAN RESOURCES POLICY DIVISION, OFFICE OF PERSONNEL MANAGEMENT; PATRICIA BRADSHAW, DEPUTY UNDER SECRETARY OF DEFENSE, CIVILIAN PERSONNEL POLICY, DEPARTMENT OF DEFENSE; BARBARA PANTHER, ASSOCIATE DEPUTY ASSISTANT SECRETARY FOR HUMAN RESOURCES AND MANAGEMENT, DEPARTMENT OF VETERANS AFFAIRS, ACCOMPANIED BY DONNA SCHROEDER, DIRECTOR, COMPENSATION AND CLASSIFICATION SERVICE, DEPARTMENT OF VETERANS AFFAIRS; AND RONALD SANDERS, CHIEF HUMAN CAPITAL OFFICER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

STATEMENT OF NANCY KICHAK

Ms. KICHAK. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to represent the Office of Personnel Management and Director Linda Springer for this discussion of

how retirees might be used to assist the Federal Government in times of national need.

Reemployed annuitants can and do make major contributions to ensuring that the vital work of the Federal Government can be carried out effectively. As you mentioned in your opening statement, the demographics of the work force show that approximately 60 percent of the government's 1.6 million white-collar employees and 90 percent of the 6,000 Federal executives will be eligible for retirement over the next 10 years. OPM is working closely with Federal agencies to assure that if its valued employees choose to retire, the work of agencies can continue uninterrupted.

We have worked with agencies to develop sound human capital strategies including work force planning, succession planning and leadership development. The steady focus on the strategic management of human capital is helping agencies identify and close skill gaps, meet mission needs and plan for the future.

Despite the best planning efforts, there are times when the services of the men and women who have retired from the Federal work force are needed to increase work force effectiveness. Currently agencies other than the Department of Defense may rehire an annuitant at any time with the salary offset. Under limited circumstances, non-DOD agencies may request a waiver to the salary offset. The statute provides that OPM may grant a waiver to agencies faced with emergencies, exceptional difficulties in recruiting or retaining qualified individuals, or emergencies from other unusual circumstances.

In 1998, OPM reminded agencies of this authority to waive the salary offset to hire critical computer specialists for the Y2K conversion efforts, and OPM quickly approved 16 delegations to meet this need. More recently, agencies have successfully used this authority to deal with the September 11th attacks, Katrina, and the tsunami. And we recently approved a delegation to allow Border Patrol agents to come back for training, as you mentioned.

There are also people, reemployed annuitants now with the Department of Agriculture working to prepare for the avian flu outbreak if it occurs. OPM dual compensation regulations tie emergencies and unusual circumstances together, the result being that delegations can only be granted in emergencies.

On Friday, July 21st, we published a proposed change to the rule to allow for OPM to grant such waivers in situations resulting from emergencies or situations resulting from unusual circumstances that do not involve an emergency. The comments we receive from those proposed regulations will be very helpful in shaping the final regulations on salary offset waivers. As we modernize the regulations, we will be mindful that because waivers result in compensation from both the retirement fund and salary, they must be used judiciously.

Last month OPM introduced the new Career Patterns approach for hiring. In recognition of the changes in career patterns in the work place, OPM is studying a broad range of options that will encourage employees to extend their careers with part-time employment. These options will include a proposal to reemploy annuitants without salary offset on a part-time basis.

In addition, we have included provisions in the Federal Employees Retirement Improvement Act that would remove the penalty to the calculations of the high three salary upon which annuities are based that result from part-time service at the end of the career.

OPM values contributions that annuitants make in support of the work of the Federal Government. We welcome the opportunity to continue the dialog with this committee to review options to improve the use of retirees to meet the Nation's needs. I am happy to answer any questions you may have.

Mr. PORTER. Thank you very much.

[The prepared statement of Ms. Kichak follows:]

STATEMENT OF
NANCY H. KICHAK
ASSOCIATE DIRECTOR
U.S. OFFICE OF PERSONNEL MANAGEMENT

Before the

SUBCOMMITTEE ON THE FEDERAL WORKFORCE AND AGENCY ORGANIZATION
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

On

RETIREES RETURNING TO THE RESCUE: RE-EMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED

July 25, 2006

Good morning Mr. Chairman and members of the Subcommittee. I appreciate the opportunity to represent the U.S. Office of Personnel Management (OPM) and Director Linda Springer here today to discuss how retirees might be used to assist the Federal government.

OPM's Mission and Reemploying Annuitants

The Office of Personnel Management's (OPM) mission is to ensure the Federal Government has an effective civilian workforce. Reemployed annuitants can and do make major contributions to ensuring that the vital work of the Federal government can be carried out effectively.

Pending Retirement Wave

As you know, the demographics of the workforce show that approximately 60 percent of the government's 1.6 million white-collar employees and 90 percent of about 6,000 Federal executives will be eligible for retirement over the next ten years. OPM is

working closely with Federal agencies to assure that as valued employees choose to retire the work of the agencies can continue uninterrupted. We have worked with agencies to develop sound human capital strategies including workforce planning, succession planning, and leadership development. The steady focus on the strategic management of human capital is helping agencies identify and close skills gaps, meet mission needs, and plan for the future. Half of the 26 Executive Branch agencies scored under the President's Management Agenda have achieved "green" status on their human capital management efforts and almost all are green in progress.

There are times when the services of the men and women who have retired from the Federal workforce are needed to increase workforce effectiveness. Currently, agencies, other than the Department of Defense (DOD), may re-hire an annuitant at any time with the salary-offset. Under separate provision of Title 5, DOD is precluded from offsetting the salary of any re-employed annuitants. For other agencies, OPM may approve a waiver to the salary offset in certain limited circumstances. It should be noted that some non-DOD agencies have been granted their own separate authority to waive the salary offset and are not subject to OPM approval or regulation.

Current Salary Offset Provisions

The statue provides, generally, that agencies faced with emergencies, exceptional difficulties in recruiting or retaining qualified individuals or other unusual circumstances may request a salary offset waiver from OPM. The statute allows OPM to grant salary offset waivers on a case-by-case basis to agencies experiencing exceptional difficulties in recruiting or retaining qualified individuals, or to delegate this authority to agencies faced with emergencies or other unusual circumstances.

Prior to 1990, the law reflected a public policy that uniformly prohibited concurrent receipt of annuity and full pay for employment. The Federal Employees Pay Comparability Act of 1990 (FEPCA) first established a mechanism to waive salary offsets if an agency experiences a special staffing difficulty. Under those provisions, which are still applicable, an individual reemployed under a waiver receives the full annuity and full salary during the period of re-employment. However, such an individual does not earn any additional retirement benefits based on that service other than Social Security.

While the FEPCA authority was originally used sparingly, use has increased over the past few years. In 1998, OPM reminded agencies of this authority to waive the salary offset to hire critical computer specialists for the Year 2000 conversion efforts. Sixteen agencies submitted requests, which OPM quickly approved. More recently, agencies have successfully used this authority to deal with the terrorist attacks of September 11, 2001, the devastation caused by Hurricane Katrina, and other national and global emergencies. For example, the Small Business Administration successfully used salary offset waivers to recruit thirty people with expertise in granting loans in the wake of Hurricane Katrina. The Department of State used this authority to reemploy annuitants needed in support of relief efforts in the aftermath of the South Asian Tsunami and the Department of Agriculture is using the waiver to reemploy annuitants nationwide to help plan for a potential outbreak of Avian influenza.

Modernizing Dual Compensation Regulations

OPM believes current statutory provisions pertaining to salary offset waivers provide agencies the ability to meet federal workforce shortages in times of national

need. We determined, however, that our implementing regulations – not the statute itself – had to be modernized in order to better serve agency needs. The statute allows OPM to delegate authority due to emergencies or other unusual circumstances. However, OPM's implementing regulations, have always tied emergencies and unusual circumstances together, the result being that delegations can only be granted in emergencies. On Friday July 21, 2006, we published a proposed change to the rule to allow for OPM to grant, or delegate to agencies the authority to grant, such waivers in situations resulting from emergencies *or* situations resulting from unusual circumstances that do not involve an emergency. The comments we receive from those proposed regulations will be very helpful in shaping the final regulations on salary offset waivers.

While we are modernizing the regulations, we are also cognizant of the fact that waivers may incentivize retirement. Because waivers result in compensation from both the retirement fund and salary, they must be used judiciously.

Leading Creatively

Last month OPM introduced the new Career Patterns approach for hiring. In recognition of the changes in career patterns in the workplace, OPM is studying a broad range of options that will encourage employees to extend their careers with part time employment. These options will include proposals to re-employing annuitants without salary offset on a part time basis. In addition, we have included provisions in the Federal Employees Retirement Improvement Act that would remove the penalty to the calculation of the high three salary upon which annuities are based that result from part time service at the end of the career.

The existing provisions governing the computation of annuities involving part-time service have an unintended adverse effect on employees who perform part-time service at the end of their careers. The President has proposed this legislative change by including it in his fiscal year 2007 budget.

Looking Ahead

OPM recognizes the value of reemploying annuitants to meet federal workforce shortages in times of national need or emergencies, and we are proud of our sound administration of the salary offset waiver authority.

We welcome the opportunity to continue this dialogue with the committee to review options, both legislative and administrative, to improve the use of retirees to meet the nation's needs. I'm happy to answer any questions you may have. Thank you.

Mr. PORTER. Ms. Bradshaw is next. Approximately 5 minutes.

STATEMENT OF PATRICIA BRADSHAW

Ms. BRADSHAW. Good afternoon, Mr. Chairman and members of the subcommittee. I am very pleased to be here today on behalf of the Department of Defense to discuss the reemployment of annuitants within DOD.

On behalf of the Department, I am very grateful and appreciative of the flexibility that Congress has granted DOD with regard to managing its civilian resources. The National Defense Authorization Act for fiscal year 2004 actually provided us with the authority to reemploy Federal retirees without requiring that their salaries be reduced as a result of their annuity payments. Our goal in asking for this authority was to give us rapid access to critical skills for both emergencies and ongoing critical needs.

Balancing the infusion of new talent at all levels with access to critical knowledge and expertise that will be lost as the aging work force retires, the authority was intended as an additional tool for the Secretary of Defense to use judiciously to support the defense mission.

I would like to provide just a little background.

After one leaves Federal service, reemployment within the Federal sector can be much less attractive than private sector employment, as has been noted. A Federal retiree working for the private sector receives a full salary commensurate with the level of work he or she is expected to perform, and there is no impact on one's Federal annuity payment. Contrast that with reemployment with the Federal Government where prior to enactment of our authority, an employee's salary was typically reduced, sometimes significantly, by the amount of that annuity.

Prior to the enactment of the NDAA, fiscal year 2004 saw all Civil Service retirees were subject to a salary offset unless a specific waiver had been granted by the Office of Personnel Management. And until September 11, 2001, virtually all of the Department's reemployed annuitants were subject to that offset.

After 9/11, OPM took a very proactive approach to identifying flexibility that would be useful in combating the new threat. Among the flexibilities that OPM granted was a waiver of the salary offset restriction for retirees whose skills were critical to address 9/11 issues.

This policy proved to be very helpful. In the 2 years after 9/11, we hired approximately 400 annuitants, and all but 8 percent of those were subject to the offset. In the 2 years after the 9/11 authority, we hired more than 800 annuitants; 34 percent of those annuitants were not subject to a reduction.

However, the OPM 9/11 waiver could only be used to fill positions and functions directly related to the aftermath of 9/11. We believed it was still necessary for the Department to seek OPM approval for waiver of salary offset to hire annuitants to fill any other urgent defense personnel need.

In the NDAA fiscal year 2004, Congress also recognized that need for DOD to have its own authority. The authority and flexibility granted by Public Law 109–108 provides the Department of Defense with the unique ability to quickly attract a pool of experi-

enced candidates to meet critical and emerging needs. This authority is a key tool in ensuring the Department's ability to recapture skills that were developed through government employment and government expense.

Additionally, with almost 30 percent of the DOD Federal work force eligible for retirement by 2011, it provides a method for managing the resulting loss of skills and corporate history without disruption to the mission.

The Department is continuing with its transformation to meet the threat of the future, and we recognize that succession planning is critical to ensure leadership continuity for all key positions. But we see this tool as a crucial method to support our efforts.

The Department was very grateful to receive the authority and mindful of the need to use it appropriately. We established Department policy that allows its use only in certain circumstances, such as for hard-to-fill or critical positions, positions requiring unique or unusual qualifications when necessary, to provide continuity during transitions and for mentoring.

From November 2003, when we received the authority, until May 31, 2006, we have hired more than 1,500 annuitants using the authority. As expected, this number represents a very small portion, actually less than 1 percent, of our total hires during the same time period. Approximately 50 percent of these annuitants were placed in critical or hard-to-fill positions. Approximately 25 percent were placed in positions requiring unique skills or qualifications. And the remainder were used for mentoring and providing continuity for leadership during organizational transition.

We believe this authority is working well for us. It enables the Department to attract the services of highly qualified annuitants who might otherwise have been deterred by the salary offset. We believe that perhaps the greatest benefit of authority will be seen in connection with the base realignment and closure, the upcoming BRACS, that we will be executing when the services of reemployed annuitants will ensure continuity of operations and result in organizational stability at our closing sites.

Although the Department has used this tool effectively, we believe that one change to the law would make it even more effective. As currently written, any annuitant hired by the Department is entitled to receive both full salary and annuity. Since the payment of both salary and annuity becomes mandatory once an annuitant is employed, the Department has been managing use of the authority via policy that limits the reemployment of annuitants to specific situations which I have outlined.

We believe it would be more appropriate to manage the authority by limiting the application of the salary offset rather than limiting the actual employment of any annuitant who would like to come back to the Department of Defense. This change would enable the Department to use the waiver of the salary offset as a discretionary recruitment tool without generally limiting when retirees are given the opportunity to work for the government.

Providing discretionary authority to the Secretary would also allow us to address unintended consequences of our current law. For some of our annuitants, receiving full salary in addition to their annuities is actually disadvantageous. Under current law,

any reemployed annuitant who receives full salary is excluded from the retirement provisions of title 5 and therefore cannot continue to contribute to the retirement system, cannot earn additional service credit no matter how long they are employed.

While this may not affect employees who have voluntarily retired, employees forced into early retirement as a result of an voluntary separation such as reduction in force frequently receive significantly reduced annuities. This category includes employees that are separated by reduction in force. In these cases, it may be more beneficial for the employee to actually be covered by the retirement provisions of title 5 than to receive a full salary and annuity.

Let me give you a quick example, a hypothetical situation. It's not hypothetical. It happened. A 48-year-old CSRS annuitant takes early retirement because his position is abolished. His annuity is reduced by 14 percent because he is subject to an age reduction by the law. He applies for our Priority Placement Program within the Department of Defense and is matched with a position and is rehired. However, upon reemployment, his annuity continued as required, and he was not able to make additional contributions to the retirement system. He was also ineligible to make TSP contributions. Had he been reemployed in another agency other than DOD, his annuity would have terminated, he would have been covered by the retirement system and been able to make TSP contributions unless the agency had sought a waiver on his behalf from OPM. Upon his second retirement, he would have received his full annuity with no reduction, and he could have significantly more earnings in the TSP fund.

For FERS employees, the situation can be even more problematic. As you recall, there are three components of the FERS retirement plan: the FERS annuity benefit, which is significantly less than the CSRS annuity benefit; Social Security benefits; and the Thrift Savings Plan, TSP. In some instances such as RIF, employees are forced to retire early. When this happens, first benefits are reduced, and the employee may not yet be eligible to receive TSP or Social Security benefits. If reemployed under the current DOD law, these employees are unable to increase their benefits on either FERS or TSP.

Another hypothetical example. The position of a 57-year-old FERS employee with 12 years of service is eliminated because of BRAC. Because of the retirement eligibility structure under FERS, the employee was only eligible for about 75 percent of her full annuity and accepted that annuity with the reduction in order to maintain her health benefits. The employee was later reemployed within a DOD component and worked for an additional 5 years. However, due to our law, she was not eligible to earn additional retirement credit or have additional government contributions made to the TSP. Prior to our law, she would have been eligible for a redetermined annuity after reemployment. And at the age of 62, her new annuity would no longer be subject to age reduction, plus she could have significantly more TSP funds for her second retirement.

If the laws were revised to provide the Department discretionary authority, our intent would be to allow employees the flexibility to determine whether a salary offset is in their best interest when they are being offered a position meeting our salary offset waiver

criteria. We would continue to apply the criteria we use today in determining whether a salary offset waiver is in the best interest of the Department. Annuitants who did not meet that criteria would be free to accept positions under the terms available in the rest of the Federal Government; that is, with the salary offset comparable to their annuity payment. As the Department positions itself to deal with the current BRAC, the revision of the current authority would meet both the needs of the Department and our employees.

Thank you for the opportunity to discuss this important tool available to the Department. I'll be happy to answer any questions that you have.

Mr. PORTER. Thank you very much.

[The prepared statement of Ms. Bradshaw follows:]

Statement

of

Patricia S. Bradshaw

Deputy Under Secretary of Defense
(Civilian Personnel Policy)

Before the

House Government Reform
Federal Workforce and Agency Organization Subcommittee

"Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need"

July 25, 2006

Introduction

Mr. Chairman and Members of the Subcommittee:

I am very pleased to be here today on behalf of the Department of Defense to discuss the reemployment of annuitants and the current and future use of the authority by the Department of Defense.

I am very grateful and appreciative of the flexibilities that Congress has granted the Department of Defense with regard to managing its civilian resources. The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2004 provided us with the authority to reemploy Federal retirees without requiring that their salaries be reduced as a result of their annuity payments. Our goal in asking for this authority was to give us rapid access to critical skills for both emergencies and ongoing needs. Balancing the infusion of new talent (at all levels) with access to critical knowledge and expertise that will be lost as the aging workforce retires, the waiver authority was intended as an additional tool for the Secretary of Defense to use judiciously to support the Defense mission.

Background

Reemployment within the Federal sector can be much less attractive than private sector employment for some Federal annuitants. A Federal retiree working for the private sector receives a full salary commensurate with the level of work he or she is expected to perform and there is no impact on annuity payments.

Contrast that with reemployment with the Federal government where prior to enactment of our authority, an employee's salary was typically reduced, sometimes significantly, by the amount of their annuity.

Prior to the enactment of NDAA FY04 all civil service retirees were subject to a salary offset unless a specific waiver had been granted by the Office of Personnel Management (OPM). Until September 11, 2001, virtually all of the Department's reemployed annuitants were subject to the offset. After 9/11, OPM took a very proactive approach to identifying flexibilities that would be useful in combating the new threat. Among the flexibilities OPM granted was a waiver of the salary offset restriction for retirees whose skills were critical to address 9/11 issues. This policy proved to be very helpful. In the two years before 9/11 we hired approximately 400 annuitants and all but 8 percent of those were subject to the offset. In the two years after the 9/11 authority was granted we hired more than 800 annuitants. Thirty-four percent of those annuitants were not subject to a reduction. However, the OPM 9/11 waiver could only be used to fill positions in functions directly related to the aftermath of 9/11. It was still necessary for the Department to seek OPM approval for waiver of salary offset to hire annuitants to fill any other urgent Defense personnel needs.

DoD Reemployed Annuitant Authority Under NDAA FY04

The authority and flexibility granted by Public Law 109-108 (title 5, United States Code, Section 9902(j)) provides the Department of Defense with the unique ability to quickly attract a pool of experienced candidates to meet critical and emergency needs. This authority is a key tool in ensuring the Department's ability to recapture skills developed through government employment and at government expense when needed to support critical initiatives. Additionally, with almost 30 percent of the DoD workforce eligible for retirement by 2011, it provides a method for managing the resulting loss of skills and corporate history without disruption to the mission. The Department is continuing with its transformation to meet the threat of the future and we recognize that succession planning is critical to ensure leadership continuity for all key positions. This tool is a crucial method to support our efforts.

The Department was very grateful to receive the authority and is mindful of the need to use it appropriately. We established Department policy that allows its use only in certain circumstances such as for hard-to fill or critical positions, positions requiring unique or unusual qualifications, when necessary to provide continuity during transitions, or for mentoring. Since November 2003, we have hired more than 1500 annuitants using the authority. This number represents a very small portion (less than one percent) of our total hires during the same time period. Fifty percent of these annuitants were placed in critical or hard to fill positions. Another 25 percent were annuitants with unique skills or qualifications.

The authority is working well. It enables the Department to attract the services of highly qualified annuitants who might otherwise have been deterred by the salary offset. We believe that perhaps the greatest benefit of the authority will be seen in connection with Base Realignment and Closure (BRAC), when the services of re-employed annuitants will ensure continuity of operations and result in organizational stability at closing sites.

Although the Department has used this tool effectively, we believe that one change to the law would make it even more effective. As currently written, any annuitant hired by the Department is **entitled** to receive both full salary and annuity. Since the payment of both salary and annuity becomes mandatory once an annuitant is reemployed, the Department has been managing use of the authority via policy that limits the reemployment of annuitants to specific situations. We believe it is more appropriate to manage the authority by limiting the application of the salary offset rather than limiting the actual employment of annuitants. This change would enable the Department to use waiver of the salary offset as a discretionary recruitment tool without generally limiting when retirees are given the opportunity to work for the government.

Providing discretionary authority to the Secretary would also allow us to address unintended consequences of our current authority. For some of our

annuitants receiving full salary in addition to their annuities is actually disadvantageous.

Under current law, any reemployed annuitant who receives full salary is excluded from chapters 83 and 84 of title 5 and therefore cannot continue to contribute to the retirement system and cannot earn additional service credit, no matter how long they are reemployed. While this may not affect employees who have voluntarily retired, employees forced into early retirement as a result of an involuntary separation frequently receive significantly reduced annuities. This category includes employees separated by reductions in force. In these cases, it may be beneficial for the employee to be subject to the provisions of Chapters 83 or 84 (i.e., the annuity terminates or the salary is offset by the amount of the annuity) than to receive a full salary and annuity.

Let me give you a quick example.

A 48 year-old CSRS annuitant took early retirement because his position was abolished. His annuity was reduced 14 percent because he was subject to an age reduction. He applied for Priority Placement Program consideration and was matched for a position in DoD. However, upon reemployment, his annuity continued as required and he was not able to make additional contributions to the retirement system. He was also

> ineligible to make TSP contributions. Had he been reemployed in an agency other than DoD, his annuity would have terminated, he would have been covered by a retirement system, and been able to make TSP contributions. Upon his second retirement, he would receive his full annuity, with no reductions, and he could have significantly more TSP funds.

For Federal Employee Retirement System (FERS) employees the situation can be even more problematic. There are 3 components of the FERS retirement plan: FERS annuity benefits, which are significantly less than CSRS annuity benefits; Social Security benefits; and the Thrift Savings Plan (TSP). In some circumstances such as RIF, employees are forced to retire early. When this happens, FERS benefits are reduced and the employee may not yet be eligible to receive TSP or Social Security benefits. If reemployed under the current authority, these employees are unable to increase their benefits under either FERS or TSP.

Here is another example.

> The position of a 57 year old FERS employee with 12 years of service was eliminated because of BRAC. Because of the retirement eligibility

structure under FERS, the employee was only eligible for a significantly reduced (about a 25 percent reduction) annuity (MRA+10) and accepted it in order to maintain her health insurance benefits. The employee was later reemployed with a DoD Component and worked for an additional 5 years. However, due to 9902(j) she was not eligible to earn additional retirement credit or have additional government contributions made to her TSP. Prior to 9902(j), she would have been eligible for a re-determined annuity after reemployment. At the age of 62 her new annuity would no longer be subject to an age reduction, plus she could have significantly more TSP funds for her second retirement.

If the law were revised to provide the Department discretionary authority, our intent would be to allow employees the flexibility to determine whether a salary offset is in their best interest when they are being offered a position meeting our salary offset waiver criteria. We would continue to apply the criteria we use today in determining whether a salary offset waiver is in the best interest of the Department. Annuitants who did not meet that criteria would be free to accept positions under the terms available in the rest of the Federal government, i.e., with a salary offset comparable to their annuity payments. As the Department positions itself to deal with the current BRAC, a revision of the current authority would meet both the needs of the Department and our employees.

Thank you for the opportunity to discuss this important tool available to the Department. I will now be happy to take any questions that you may have.

Mr. PORTER. Next Barbara Panther, Associate Deputy Assistant Secretary for Human Resources Management, Department of VA.

STATEMENT OF BARBARA PANTHER

Ms. PANTHER. Thank you, Mr. Chairman. Good afternoon. First I would like to introduce Ms. Donna Schroeder, who is accompanying me today. She is the Director of our Compensation and Classification Service and is our program expert on how annuities are affected by the offset.

Thank you for the invitation to appear before you this afternoon, and I request that the written testimony be entered into the record.

Before I describe VA's experience with reemployment of annuitants, I would like to note the emphasis that this Department places upon work force planning. Since 2003, VA has operated according to a Strategic Human Capital Plan that aligns with our departmental Strategic Plan as well as the President's Management Agenda. VA has created and implemented a departmentwide system that ensures that work force planning activities are conducted throughout all levels of the organization.

VA success in attracting, developing and retaining top talent has resulted in numerous benefits to veterans. Outside sources are giving kudos for services and products that demonstrate the quality of VA's work force. For example, VA recently was awarded the prestigious 2006 Innovations in American Government award for its electronic patient records data base. This award, sponsored by Harvard University's Ash Institute for Democratic Governance and Innovation at the Kennedy School of Government, honors excellence and creativity in the public sector. On July 17, 2006, VA's superior health care was highlighted in a Business Week article entitled "The Best Medical Care in the U.S." These accolades recognize the work of employees who have a special dedication and commitment to serving veterans. More likely than not, it is this sense of dedication to the unique and honorable VA mission that would encourage retirees to reconsider reemployment with VA.

There are a number of instances when VA has sought to reemploy annuitants in order to better serve veterans. In the Veterans Benefits Administration, retired veterans service representatives are required to provide training, to mentor, and to transfer institutional knowledge which was gained over the course of decades of service. In 2005, VA needed additional healthcare professionals to provide care to veterans who were displaced from New Orleans and Mississippi when Hurricanes Katrina and Rita hit the Gulf Coast.

There are two primary reasons for reemploying annuitants in VA. First: to facilitate and complement succession planning. VA retirees with institutional and professional knowledge are reemployed to transfer that knowledge to the next generation of employees, to train and monitor them, allowing regular staff to focus on their workload.

The second primary purpose for rehiring annuitants is for true critical immediate needs ranging from shift coverage, to IAEA, to assisting in VA's fourth mission of support to the Nation during emergencies.

From 2000 to the present, VA has hired 434 retired annuitants, with 92 in the nursing field, including registered nurses, licensed

practical nurses and nursing assistants. We currently have 201 annuitants employed at VA facilities with the dual waived for 44, including 14 nurses.

VA has received OPM's approval to waive the salary offset for certain occupations on several occasions. In 2001, OPM delegated to VA the authority to waive the reduction for up to 250 veteran service representatives in the Veterans Benefit Administration. In 2002, VA received delegated authority to waive the offset for RNs. In 2003, VA was given the authority to waive the offset in certain other medical occupations within that Veterans Health Administration. In addition, VA has requested two waivers from OPM for particular individuals with unique qualifications.

The need for waivers of the salary offset varies with the development and resolution of emergency situations, the market for specific professions, and individual retirees' personal situations. In general, the waiver of the offset facilitates the employment of retirees, especially those with highly sought skills. However waivers are not always needed and do not always result in retirees returning to work for VA.

Of the 201 current annuitants at VA, only 44 have been approved for a waiver of the offset. The remaining 157 annuitants have their salaries offset by the amount of their annuities.

Mr. Chairman, thank you again for the opportunity to be here today, and I am prepared to respond to any questions the Members may have.

Mr. PORTER. Thank you very much.

[The prepared statement of Ms. Panther follows:]

Statement of Ms. Barbara Panther
Associate Deputy Assistant Secretary for Human Resources Management
before the Subcommittee on Federal Workforce and Agency Organization
Committee on Government Reform, U.S. House of Representatives

Retirees Returning to the Rescue: Re-employing Annuitants
in Time of National Need

July 25, 2006

Mr. Chairman; Members of the Committee: Good afternoon. I would like to introduce Ms. Donna Schroeder, Director, Compensation and Classification Service, who is accompanying me today. Thank you for the invitation to appear before you this afternoon to offer testimony on behalf of the Department of Veterans Affairs (VA) concerning the employment of retirees and waivers of dual compensation.

Before I describe the VA experience with re-employment of annuitants, I would like to note the emphasis this Department places on workforce planning. Since 2003, VA has operated according to a Strategic Human Capital Plan which aligns with our Departmental Strategic Plan as well as the President's Management Agenda. VA has created and implemented a Department-wide system that ensures that workforce planning activities are conducted throughout all levels of the organization.

VA's success in attracting, developing, and retaining top talent has resulted in numerous benefits to veterans. Outside sources are giving kudos for services and products that demonstrate the quality of VA's workforce. For example, VA recently was awarded the prestigious 2006 Innovations in American Government Award for its electronic patient-records database. This award sponsored by Harvard University's Ash Institute for Democratic Governance and Innovation at the Kennedy School of Government honors excellence and creativity in the public sector. On July 17, 2006, VA's superior health care was highlighted in a Business Week article entitled, "The Best Medical Care in the U.S.". These accolades recognize the work of employees who have a special dedication and commitment to serving veterans. More likely than not, it is this sense of dedication to the unique and honorable VA mission that would encourage retirees to consider reemployment with VA.

There are a number of historical instances when VA has sought to reemploy annuitants in order to better serve veterans. In the Veterans Benefits Administration, retired veterans service representatives are rehired to provide

training, to mentor, and to transfer institutional knowledge, gained over the course of decades of service. In 2005, VA needed additional health care professionals to provide care to veterans who were displaced from New Orleans and Mississippi when hurricanes Katrina and Rita hit the Gulf Coast. They also were needed to support VA's fourth mission of providing support to the nation during emergencies. Some retirees, in particular because of their training and longevity with VA, have unique skills or knowledge that is needed for task forces.

Presently, VA has 201 annuitants on the rolls who are employed in a wide variety of occupations. They serve as nurses, physical therapists, health technicians, veterans service representatives, vocational rehabilitation counselors, and also as administrative and support personnel. VA uses both title 5 regulations (5 CFR 316) and title 38 statutory authority (38 USC 7405) to reemploy annuitants without competition to time-limited appointments based on their unique qualifications and the special needs of the Agency. These individuals serve at the will of the appointing official.

For both title 5 and title 38 annuitants, the wages earned by an annuitant are offset by the annuity amount unless a waiver is granted by the U.S. Office of Personnel Management (OPM). This offset is one of the chief factors that keep many highly qualified individuals from returning to federal civilian employment.

In order to obtain a waiver of the offset, VA must first demonstrate that we have performed all reasonable staffing options before submitting the waiver request. These options include:

- Hiring all qualified applicants who are available to work;
- Hiring all qualified annuitants who are available to work with their salary offset;
- Offering temporary reassignment, voluntary overtime or compensatory leave to qualified employees; and
- Hiring or using support staff to accomplish tasks not requiring skills specific to an occupation.

If none of these options have been successful, we may request a waiver for the offset for any of three reasons.

The first option relates to the need to retain a particular individual who is still employed or a retired annuitant who has not received an offset waiver. The waiver request must describe the critical nature of the project, unique qualifications of the appointee/employee, need for retention, and the lack of other reasonable staffing options.

From 2002 to present, 11 waiver requests identifying specific individuals have been received in VA Central Office. After examining the submission and criteria, eight requests were sent forward to OPM and all eight were approved. To date; of those 8, only one retired annuitant remains employed with VA. The other 7, having completed the agreed upon period of reemployment, have returned to retirement.

A second option for waiver approval can be granted by OPM when there is an emergent hiring need. Our waiver request must describe the nature of the emergency, and the need for individual services from either a uniquely qualified individual or for a number of positions because of the urgency of the need.

Following the terrorist attacks on September 11, 2001, OPM delegated the authority to waive the salary offset required of reemployed annuitants. This delegation remains in effect until the President terminates the "Declaration of National Emergency by Reason of Certain Terrorist Attacks". VA has approved one waiver using this authority for a contract specialist.

A third option is a waiver request based on severe recruiting difficulty. Exceptions are to be based on exceptional difficulty in recruiting a qualified candidate for a particular position. Requests submitted on this basis must include a description of the length, breadth, and results of the agency recruiting efforts for the

position and any other factors demonstrating that a legitimate recruiting need cannot be met without the requested waiver.

VA has received OPM's approval to waive the salary offset for certain occupations on several occasions. In 2003, VA was given the authority to waive the offset in certain medical occupations within the Veterans Health Administration. This authority, Delegation of Authority for Waivers of Dual Compensation Restrictions for Certain Medical Occupations, was based on the need to reduce a backlog of veterans seeking access to the VA health care system or to provide direct patient care when no other reasonable staffing options existed. The submission and approval identified the covered medical occupations and grades.

As a result of this waiver, 8 retired annuitants received an approval for the offset to be waived. Two (2) of the 8 remain employed. The authority will expire in January 2007.

In February 2001, OPM delegated authority to waive annuity reduction for up to 250 veterans service representatives in the Veterans Benefits Administration. This authority was subsequently extended and is due to expire in September 2007. As a result of this approval, VA successfully recruited 86 retired veterans service representatives. Twenty-seven (27) of the 86 are still employed with VA today.

Finally, in 2002, VA received delegated authority to waive the offset for annuitant registered nurses (RNs) when necessary to accomplish one or more mission critical tasks on an emergency basis and only if, and for as long as, no other reasonable staffing options exists to fill the nurse vacancy. This authority will expire in November 2006. As a result of this approval, VA has successfully recruited 26 annuitant nurses with 14 still employed.

The need for waivers of the salary offset varies with the development and resolution of emergency situations, the market for individual professionals, and individual retirees' personal situations. In general, waiver of the offset facilitates the

reemployment of retirees, especially those with highly sought skills. However, waivers are not always needed and do not always result in retirees returning to work for VA.

Currently, 201 annuitants are employed in various occupations but only 43 have been approved for the waiver of the offset. The remaining 157 annuitants have their salaries offset by the amount of their annuities.

An additional tool that could help VA and other federal agencies locate and hire annuitants would be a register or data base of retiring employees who would be interested in returning to employment. Creating this active pipeline of experienced federal retirees could provide a ready source of talent to complement the existing workforce and enable VA to ensure continuity of service to our Nation's veterans. Such a listing would have been helpful during VA's response to Hurricane Katrina. In the aftermath of Hurricane Katrina, some employees who were willing to volunteer were not able to do so because of workload restrictions at their permanent duty stations. A data base of eligible retirees with the requisite skills who were available to work would have provided a pool of temporary employees to fill behind regular staff volunteering for duty in Louisiana and Mississippi.

Mr. Chairman, thank you again for the opportunity to testify today. I am prepared to respond to any questions Members may have.

Mr. PORTER. Next, Dr. Ronald Sanders, Chief Human Capital Officer, Office of National Intelligence.

STATEMENT OF RONALD SANDERS

Mr. SANDERS. I do appreciate the opportunity to appear before you today to address this important and urgent topic: reemploying Federal retirees in times of national need by allowing them in certain circumstances to return to the public service without any penalty. The Intelligence Community [IC], has some experience in this regard as well as some special authorities, and both may help inform the subcommittee as it considers ways to better leverage the skills and talents of former Feds, a critical but, I believe, underutilized national resource.

The ability to reemploy retirees to meet mission exigencies has proved increasingly critical to the IC in large part because of our demographics. The OPM Director Linda Springer talks about the retirement tsunami, and the metaphor is apt. Our work force is literally shaped like a wave front. On the one hand the majority of our work force has more than 20 years of service. By 2010, more than half of our employees will be eligible to retire, with even greater percentages among our senior technical experts, managers, professionals and executives. On the other hand, 30 percent or more of our work force has less than 5 years of Federal service, the result of our post-9/11 hiring surge, and that percentage is growing.

Our growth is intended in part to cover the capability we lost during the downsizing of the 1990's in part to deal with the brutal operating tempo that our current mission demands. In between those two steep population peaks is a substantial trough at our middle grades, precisely where we would look for our next generation of senior analysts, case officers, technical experts and leaders.

Rebuilding our bench strength is made even more difficult by the nature of our work. Operational and analytical tradecraft is far more art than science. It literally takes years of experience and training to develop a single seasoned intelligence analyst or case officer, and even longer to prepare someone to lead them effectively. Yet the seasoned professionals who can teach our next generations those operational and analytical arts are ready to retire.

The ability to bring back some of those artisans without penalty is critical to our human capital recovery plan, and parts of the IC have already seen the benefit of this flexibility, albeit in limited fashion. For example, those IC agencies under the Department of Defense have had dual compensation waiver authority since 2004 and have used it to great effect. The NSA has been especially strategic in employment of retirees. The CIA has exercised similar authority, but only with respect to those former Agency employees who retired under a special retirement system. For all other annuitants, including its own, the CIA is set to rely on authority delegated by OPM. And while Congress gave the FBI the flexibility to do something similar as part of the Intelligence Reform Act, it may only reemploy its former employees. These various authorities limitations are problematic when one is trying to integrate and strengthen the Intelligence Community as a whole.

The Congress recognized this when it also included section 1053 of the Intelligence Reform Act. That section provides the Director

of National Intelligence authority to establish a National Intelligence Reserve Corps, NIRC, for the temporary reemployment on a voluntary basis of former civilian employees of elements of the IC during periods of emergency as determined by the Director of National Intelligence.

The statute further ensures that the salary of a former employee appointed to the Reserve Corps who is receiving an annuity under the Civil Service and Disability fund will not be offset. In other words, the Intelligence Reform Act granted dual compensation waivers to those retirees reemployed under the auspices of the Reserve Corps. And in that regard, it is discretionary under DOD, we can also reemploy a retiree outside of the confines of the Corps and avoid some of the complications that Pat Bradshaw mentioned.

Thus under the statutory authority I have described, the FBI can reemploy a CIA retiree and vice versa, leveraging the individual expertise of our former employees for the good of the entire Intelligence Community and the Nation as a whole.

When you're trying to integrate the talents of current and former intelligence professionals in 16 separate intelligence agencies and 6 different Cabinet departments, an IC-wide Reserve Corps has the potential to become one of our most powerful human capital tools. Accordingly, I am pleased to announce that just yesterday Ambassador Negroponte took official action to establish that Reserve Corps, issuing a policy memorandum governing use of this authority across the Intelligence Community. In so doing, the Director has also determined that a period of emergency exists for the Intelligence Community, as required by the law, and has delegated authority to make appointments to the Reserve Corps to the heads of our IC agencies under certain limited conditions and subject to certain mission-based criteria.

For example, the authority requires the head of one of our agencies to make a specific written determination that the appointment of a reemployed annuitant to the Reserve Corps will meet a requirement critical to the agency's mission during the period of the emergency. It also requires the agency head to notify my office in writing of every such determination.

In order to build a robust communitywide talent pool to support the Reserve Corps, the DNI has also required each IC agency to provide employees who separate with an opportunity to place their names on a roster of volunteers. However, former employees who are not on that roster may also be reemployed if they are otherwise eligible and the agency's head determines, again in writing, that they meet a mission-critical need. The policy does not allow a retired employee to be brought back to his or her former position except under extremely narrow circumstances, nor does it permit a former employee to come back at a higher General Schedule grade or step. The policy also excludes employees who were separated for cause, who resign upon notice of proposed separation for cause, or who are terminated upon revocation of their security clearance. And it provides that an individual appointment may be terminated at any time and for any reason by the head of the agency or the DNI.

In establishing the National Intelligence Reserve Corps, we seek to reemploy exceptional people to meet exceptional circumstances,

to leverage their priceless experience and intellectual capacity without having to ask them to suffer a financial penalty to the salary we pay for additional service or the annuity that they earned for past. In so doing, we believe our former employees can continue to make valuable contributions to the U.S. Intelligence Community's agile, all-source work force of military, civilian and contractor personnel as we prosecute the global war on terror.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions you may have. Thank you.

Mr. PORTER. Thank you very much for your testimony.

[The prepared statement of Mr. Sanders follows:]

STATEMENT OF DR. RONALD P. SANDERS
INTELLIGENCE COMMUNITY CHIEF HUMAN CAPITAL OFFICER
OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

Before the

SUBCOMMITTEE ON THE FEDERAL WORKFORCE
AND AGENCY ORGANIZATION
COMMITTEE ON GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

On

"RETIREES RETURNING TO THE RESCUE:
RE-EMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED"

July 25, 2006

Mr. Chairman and Members of the Subcommittee, I am Dr. Ronald P. Sanders, the Chief Human Capital Officer for the US Intelligence Community and Assistant Deputy Director of National Intelligence in the Office of the Director of National Intelligence. I appreciate the opportunity to appear before you today to address this important and urgent topic: re-employing Federal retirees in times of national need by allowing them, in certain circumstances, to return to the civil service without any penalty. The Intelligence Community (IC) has some experience in this regard, as well as some special authority, and both may help inform the Subcommittee as it considers ways to better leverage the skills and talents of former Feds…a critical but underutilized national resource.

The ability to re-employ retirees to meet mission exigencies has proved increasingly critical to the IC, in large part because of our demographics. Office of Personnel Management Director Springer talks about the retirement "tsunami," and the metaphor is apt: our workforce is

literally shaped like a wave front: On the one hand, the majority of our workforce has more than 20+ years of service – by 2010, more than half of our employees will be eligible to retire, with even greater percentages among our senior technical experts, managers, professionals, and executives. On the other hand, 30% or more of our workforce has less than five years of Federal service, the result of our post-9/11 hiring surge, and that percentage is growing.

Our growth is intended in part to recover the capabilities we lost during the downsizing of the 1990's, and in part to deal with the brutal operating tempo that our current mission demands. In between those two steep population "peaks" is a substantial trough, at our middle grades – precisely where we would look for our next generation of senior analysts, case officers, technical experts, and leaders. Rebuilding our bench strength is made even more difficult by the nature of our work. Operational and analytic tradecraft is far more art than science; it literally takes years of experience and training to develop a single seasoned intelligence analyst or case officer…and even longer to prepare someone to lead effectively. Yet the seasoned professionals who can teach our next generations of intelligence professionals those operational and analytical arts are ready to retire.

The ability to bring back some of those "artisans" without penalty is critical to our human capital recovery plan, and parts of the IC have already seen the value of this flexibility, albeit in limited fashion. For example, those IC agencies under the Department of Defense have had dual compensation waiver authority since 2004 and have used it to great effect (the National Security Agency has been especially strategic in the re-employment of retirees). The Central Intelligence Agency (CIA) has exercised similar authority, but only with respect to those former Agency

employees who retired under the special CIARDS retirement system; for all other annuitants (including its own), the CIA has had to rely on an authority delegated from OPM. And while Congress gave the Federal Bureau of Investigation (FBI) the flexibility to do the very same thing as part of the Intelligence Reform and Terrorism Prevention Act of 2004, it may only re-employ its own former employees. These various authorities and limitations are problematic when one is trying to integrate and strengthen the Intelligence Community as a whole.

The Congress recognized this when it also included Section 1053 in the Intelligence Reform Act. That Section provides the Director of National Intelligence (DNI) authority to establish a National Intelligence Reserve Corps (NIRC) "...for the temporary reemployment on a voluntary basis of former civilian employees of elements of the intelligence community during periods of emergency, as determined by the Director." The statute further ensures that the salary of a former employee appointed to the Corps who is receiving an annuity under the Civil Service Retirement and Disability Fund will not be offset...in other words, the Intelligence Reform Act grants "dual compensation waivers" to those retirees re-employed under the auspices of the Reserve Corps. Thus, under this statutory authority, the FBI can re-employ a CIA retiree (and vice versa), leveraging the individual expertise of our former employees for the good of the entire Community...and the Nation.

When you are trying to integrate the talents of current and former intelligence professionals in 16 separate intelligence agencies and 6 different cabinet departments, an IC-wide retiree Reserve Corps has the potential to become one of our most powerful human capital tools. Accordingly, I am pleased to announce that the DNI has just taken official action to

establish it, recently issuing a policy memorandum governing use of this authority across the Intelligence Community. In so doing, the Director has also determined that a "period of emergency" exists for the IC, as required by the law, and has delegated authority to make appointments to the NIRC to heads of IC agencies, under certain limited conditions and subject to certain mission-based criteria. For example, the authority requires the head of one of our agencies to make a specific written determination that the appointment of a re-employed annuitant to the NIRC will meet a requirement critical to the agency's mission during the period of emergency; it also requires the agency head to notify my office in writing of such a determination.

In order to build a robust Community-wide talent pool to support the Reserve Corps, the DNI will also require each IC agency to provide employees who separate with an opportunity to place their names on a roster of NIRC volunteers; however, former employees who are not on that roster may also be re-employed, if they are otherwise eligible and the agency head determines (again, in writing) that they meet a mission-critical need. The policy does not allow a retired employee to be brought back to his or her former position, except under extremely narrow circumstances, nor does it permit a former employee to come back at a higher General Schedule grade or step. The policy also excludes employees who were separated for cause, who resign upon notice of proposed separation for cause, or who are terminated upon revocation of their security clearance, and it provides that an individual's appointment may be terminated at any time and for any reason by the head of the employing agency and/or the DNI.

In establishing the National Intelligence Reserve Corps, we seek to re-employ exceptional people to meet exceptional circumstances, to leverage their priceless experience and intellectual capacity without having to ask them to suffer a financial penalty – to the salary that we pay them for additional service, or the annuity that they've earned for past. In so doing, we believe our former employees can continue to make valuable contributions to the US Intelligence Community's agile, "all source" workforce of military, civilian, and contractor personnel, as we prosecute the global war on terror.

Mr. Chairman, that concludes my testimony. I would be happy to answer any questions you or the Subcommittee may have.

Mr. PORTER. A staggering statistic that I failed to mention in my opening comments that really helped drive my interests in this issue is that we are going to be short 800,000 civilian nurses in the next 10 years; 800,000, which, if I bring it closer to home in Nevada, which started my investigation and my research, we are short 1,000 healthcare professionals today in the nursing field. We hire about 2,500 new teachers a year.

Some of you may have heard me talking about our challenges of growth, but some of our issues specific to growth are not related just to Nevada, and that is, as I looked at the nursing shortage, also spent some time in the Middle East meeting with healthcare professionals that were in the different branches of service, and some volunteering their time around the world, and what we could do to keep nurses in the Federal service, you know, prior to going into the civilian corps.

So I guess it's been a rude awakening. I think tsunami is well said. Not only do we have a shortage in the Federal Government of qualified new employees, we are having a problem keeping them within the system. And as we look at the competition today for the private sector, if we are—we need 800,000 civilian nurses in the next 10 years. Imagine the pressure that is going to be putting on our Federal employees to jump ship and to go into the civilian work force.

So today as we have heard from each of you in your specific areas, some of your challenges and some of your support and some ideas—Patricia, I know you mentioned that you really lack flexibility when it comes to the program is one size fits all, and it sounds like you would prefer that if and when this is available, as it is in some cases, that you have some flexibility, correct? Would that help you in recruiting and/or keeping folks to stay in the system?

Ms. BRADSHAW. Yes, Mr. Chairman. We believe that if we had the flexibility that I described, we would have access to other employees that would prefer to come back and be able to add to their annuity stream for the future. It is one of those costs of opportunity here. We just don't know how many people know about the DOD policy, and so therefore they don't even bother to inquire about opportunity or make themselves available because they go to a Federal agency where they can be hired back; especially if you have been continued, you can go back as a regular employee and start contributing back into the retirement system and into your TSP account. So that is the kind of flexibility that we would like to have.

Mr. PORTER. And this is really for all of you. Do you find that a lot of these folks don't understand or do not know of some of the options that are currently available? Do you find that to be part of the problem? Because it sounds like there are areas where they fit into the right box. Are you finding that they need to understand? Is that one of the challenges?

Mr. SANDERS. I think the rules have been so deeply embedded that, generally speaking, you are going to have a salary offset unless there is an exception to the rule granted by OPM or granted by law, and I think that may inherently discourage employees.

One of the things that the FBI has done about its own Reserve Corps is it literally posts vacancy announcements on its Web site

looking specifically for retired law enforcement officers, and they've had great success in that regard.

Mr. PORTER. Well, if I were to ask each of you to give me one solution—Patricia, you already have, because you have given us one, so you have to come up with a second one—what would you suggest that we do to fix this?

Ms. Kichak.

Ms. KICHAK. We think the great need that we want to address is to allow people to transition in—to stay in the workplace longer by transitioning to part-time work instead of retiring. So we are looking for a way to use this authority to encourage people to stay with us on a part-time basis.

Mr. PORTER. OK. That is good.

Do you need a moment Patricia? We will come back if you like.

Ms. BRADSHAW. I would second that. We would support that. I think it is absolutely critical to find a way to help people transition. I think when you reach that—an interesting number, we discovered, is that 20 percent of people who become eligible within DOD actually retire. They actually tend to stay about 3 years on average beyond their eligibility date. And I think that is about the point that people really start to burn out. And so if we know that as a number, if we had a tool that would say, OK, we know that you are about to move on at some point, how can we make that transition easy for you, and allow us to use those individuals for mentoring, organizational, transition on a part-time basis, I think that would be most helpful to us.

Mr. PORTER. Ms. Panther.

Ms. PANTHER. I, too, would have to agree with Nancy's proposals, particularly the proposal that she described with regard to annuitants who come back on a part-time work schedule automatically getting a waiver of the offset. That would be particularly helpful because we do have many retirees who aren't interested in work full time; they are really only interested in coming back on a part-time basis. And that particular proposal from OPM would be very helpful.

Mr. PORTER. Doctor.

Mr. SANDERS. Ditto, ditto, on the part time and the discretion to offer this or not. And I am also going to be presumptuous as a member of the OPM alumni association to encourage OPM to establish criteria for the delegation of this authority; I think if agencies are going to make this a permanent part of their strategic human capital planning, they need to be able to count on it. OPM should say, these will be the conditions under which we will grant the delegation and then they ought to be able to get that delegation for an extended period so they can use it over time. That is in addition to the one-time emergency use, but for the unusual circumstances, the longer term, I think more predictability in that delegation of authority would be useful.

Mr. PORTER. And I alluded to it earlier, but this is not just a problem for Federal employees. It is a problem nationwide in many specialized areas, as I mentioned, in healthcare. And I would like, as I am preparing legislation, a lot of it, it really is what OPM is suggesting and the language we are working on. If we could find a model, although the civilian work force is different than Federal,

but if we could find a model that could be used in the private sector also because they are experiencing the very same challenge as far as this wealth of talent that is retiring. And I am not an actuary. I know a little bit about annuities, but I am certainly not an expert, but it seems to me we could even establish a separate annuity process for those retirees who want to come back in the system. Because I know the first system is established with certain actuarial scales and certain dollars. I would like to look at setting up a simplified retirement program that retirees could use, separate, of course, in the private and public but maybe the model could be used in both. So thank you very much.

Mr. Davis.

Mr. DAVIS OF ILLINOIS. Well, thank you very much, Mr. Chairman.

I must confess that this is somewhat of a perplexing problem, and I find it perplexing because it deals with some of what I consider to be the great contradictions in our society. I mean, here we are on one hand talking about, how do we let individuals who have worked, developed, gained experience, continue to work without punishing them, and then on the other hand, we talk about the unemployment rate that exists, and we talk about other individuals who can't find a job. I mean, this seems to be one of the real paradoxes. I live in a community, for example, where unemployment in many instances is 25, 30 percent. And there are thousands of people in our society, who for all practical purposes, will never work and will never have a meaningful job at all. And on the other hand, we have not found a way to make sure that those individuals have access to the workplace and make sure that they have the kind of training, the kind of education and develop the skills to make them an integral part of work force and workplace development.

And on the other hand, I remember a few years ago, when we were talking about the whole question and the whole issue of leisure time activity, because there were people who thought that individuals were going to have too much leisure time and were going to retire, everybody when they were 55, and they wouldn't have anything to do with themselves after that. So we needed to create all of these additional opportunities.

Let me ask if any of the agencies have given—is there a way to mix the conversation that we are having right now with the development of approaches to generating the personnel that we would need so we wouldn't have to have this kind of discussion?

Ms. BRADSHAW. I will take a crack. Sir, I would offer that your observation is a very legitimate one in that we see that there are multiple ways in which we need to be preparing for the future. Succession planning is key. We see that using reemployed annuitants is but one source for a critical emerging need because the pipeline has not provided for us perhaps the talent that is immediately—that we need immediately.

On the other hand, that is part of our responsibility to ensure that we only use this authority appropriately so that we do not inhibit the development opportunity, that we ensure that we are tapping into the work force that is not employed that is available and bringing them into the work force, training them so that we are building the pipeline. So we have absolutely had conversations

with DOD around that delicate balance between ensuring that you are using all the multiple tools available to you, targeting new hires, ensuring that you have developmental programs in place, building that pipeline so that, as you watch for the tsunami to hit, you have people in the pipeline. But oh, by the way, we have so many emerging needs within DOD, that is not always possible and because we are still competing with the private sector for these opportunities, we may need those people immediately, and we are willing to pay the offset and the salary for those individuals. So we see that you are absolutely right. There are multiple ways to address our emerging needs, and that is certainly part of the discussion that we have within DOD.

Mr. DAVIS OF ILLINOIS. And I certainly appreciate that because I think the comprehensiveness of planning—I mean, I can think of school districts, for example, that developed incentives for their more experienced teachers to retire so they would have more money left, and then they could hire people at lower rates of pay. I can also think of some businesses and industries that have done essentially the same thing; that is, try and usher out those individuals at the high end of the pay scale so that there is more room. Of course, you sacrifice quality. You sacrifice experience. You jeopardize other kinds of things at the same time. And it seems to me that we really have some serious, serious challenges.

And then there are those individuals who seemingly are afraid that, if we have the wrong kind of immigration policies, that we are going to have just a flood of individuals in our country, and there is not going to be enough work opportunities for them. Granted that individuals often come in at the lower end of things, but then, you know, they manage to go to college and learn some things and get some skills and develop and get an opportunity to move up. And so it seems to me that we need to always be thinking comprehensively about these issues when we are trying to plan for continuous development.

And, Mr. Chairman, if I could just ask one additional question. For example, with DOD, if we are going to hire the same individuals in some instances, I am saying individuals, have we made some determinations of, relative to cost effectiveness, what would be most cost efficient, is the most cost-efficient way to handle this and try and get the same level of productivity while keeping costs down—I hate to use the term minimum—but keeping the cost at the point where we would most likely want it to be?

Ms. BRADSHAW. Yes, sir. Part of our policy and the reason we have put policy in place, even though the law is very broad in the authority it granted the Secretary, our policy is very specific about the circumstances in which you may use this authority to reemploy someone, and part of the reason we did that was to ensure that we are not bringing back people into positions where we could fill it with someone that is already in-house that has been growing and just promote that person or move that person into the job or that we couldn't perhaps recruit someone from the outside at a lower salary. So we are very conscious of being judicious in our use of this authority for one of those reasons.

Mr. DAVIS OF ILLINOIS. Well, thank you very much.

And Mr. Chairman, let me thank you. Because I am afraid it seems to me that we are creating a society where we are going to have a bunch of people up here, and we are going to have a bunch of other people down here, and a lot of other people floating in between. And I think that we have to find ways to try and ensure and make sure that does not happen and that we don't end up in a situation where, in my community, we often talk about whether we are helping the needy or the greedy. And I think we have to keep people out of that needy category and keep others from becoming too greedy. I mean, I have friends who have retired from places and all, and then they just decide to go back to work, and of course, when they go back to work, they prevent other younger, less experienced people, I think, from having the opportunity to do so.

So I thank you very much, Mr. Chairman.

Mr. PORTER. And along that line, what we are finding is that in entry level in the work force, we have a lot of young folks that have chosen not to study math and science, for whatever reason, whether it be their choice or a lack of parental involvement or encouragement. So we are trying to find incentives to get people into the work force in specialized areas, whether it be math, science instructors, nurses. So I know, in Congress, we are trying to find ways to encourage folks to go into these different areas. There is another reason we want to keep——

Mr. DAVIS OF ILLINOIS. I am not running out on you. I just have to go manage a bill.

Mr. PORTER. Go take care of it. We can talk about you. That is OK. We need to find a way to encourage them into the work force, and in the meantime, we have this talent in the private and public sector, especially in those areas that are leaving. So it is another reason why today is so important.

Having said all that, thank you very much for your testimony. We appreciate your being here and look forward to working with you in the future. Thank you.

And we do have a second panel.

Charles and Duncan, will you join us, please?

I am not sure if you guys stood for the swearing in. I am not sure. Why don't we do the formal portion here? Please raise your right hands.

[Witnesses sworn.]

Mr. PORTER. Let the record reflect that the respondents have agreed in the affirmative.

Thank you, gentlemen, for being here.

In our second panel, we have Mr. Duncan Templeton, national legislative vice president, Federal Law Enforcement Officers Association; and Mr. Charles Fallis, president of the National Active and Retired Federal Employees Association.

Welcome, gentlemen. I have a list of about 300 questions for you, so get prepared. No, not really.

Charles, please.

STATEMENTS OF CHARLES FALLIS, PRESIDENT, NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES ASSOCIATION; AND DUNCAN TEMPLETON, NATIONAL LEGISLATIVE VICE PRESIDENT, FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

STATEMENT OF CHARLES FALLIS

Mr. FALLIS. Mr. Chairman, members of the subcommittee, I am Charles L. Fallis, President of NARFE, and I am very pleased to be here today to testify on behalf of the members of our association, and I want to thank you for inviting us to testify. NARFE has long held that Federal retirees returning to government service should receive the full salary of their new job without any offset against the retirement annuities they earned through prior Federal service.

Under current law, the wages of reemployed annuitants are generally offset by the amount of their annuity. However, OPM and certain Federal agencies can offer waivers, which allows select returning retirees with critical or crucial skills to keep both sources of earned income. The needs of the war on terror and homeland security underscore their importance. While no one complains about receiving a waiver, the inability to add retirement credit from their reemployment often creates dissatisfaction. Without a waiver, many retirees will not consider reemployment since the offset of their Federal pay would make their reemployed salary unacceptable.

As a practical matter, many of them would be working for free. Sometimes we hear that waivers are not applied equitably. Indeed, the real challenge of recruitment and retention is whether incentives are used fairly. As you know, many Federal workers with crucial skills avoid the waiver process by working for a government contractor where their Federal annuities present no barrier to being paid full salary. Additionally, working for a contractor means one can earn more quarters in Social Security, and that is Social Security covered employment, thus mitigating the reduction of their Social Security benefits by the unfair and arbitrary Windfall Elimination Provision. In addition to reemployment, we are pleased, Mr. Chairman, that you are examining the application of the 1986 COBRA budget law which unfairly reduces the annuities of thousands of Federal employees who worked part time in the final years of their careers. This reduction occurs when actual part-time wages instead of full-time equivalent salaries are used to calculate the employee's highest 3 years of salary. President Bush's 2007 budget recognized this inequity and proposes using full-time equivalent salary to compute the annuities of future retirees who work part time. We agree part-time work near retirement encourages skilled, talented and experienced workers to remain employed.

Unfortunately, the President's proposal does not remedy the inequity for current retirees whose annuities were lowered. For that reason, NARFE supports Representative Jim Moran's bill, H.R. 480, which would modify the President's proposal to include and correct the annuities of current affected retirees and survivors. H.R. 480 would alleviate any potential administrative complication in several ways. First, it would put the burden on annuitants to identify themselves as eligible for the correction rather than direct-

ing OPM to go out and find them. Upon enactment, annuitants would have 18 months to apply to OPM for a prospective, and that is a prospective calculation of their annuities. H.R. 480 would require that the newly calculated annuity amount become effective after the annuitant applied for a recomputation.

Equity is also warranted for certain Veterans Administration nurses, and you mentioned that earlier, Mr. Chairman, nurses whose annuities were unfairly reduced by their part-time service. Before 1986, the Veterans Administration promised full-time retirement credit for part-time work to satisfy nurse staffing shortages. They have made that promise. Unfortunately, the VA did not keep that promise. Perhaps they couldn't, but they didn't keep that promise. Some nurses have never received their promised full-time retirement credit. This inequity was corrected prospectively in 2002 by the 107th Congress, but the new law did not extend full-time credit to VA nurses who retired between April 6, 1986, and January 23, 2002. Now, in this connection, NARFE supports Representative Tammy Baldwin's legislation, H.R. 4298, which would fix this inequity.

Mr. Chairman, NARFE urges that in any part-time retirement computation, in any bill that the subcommittee addresses, we urge that you please include, No. 1, equity for all retired VA nurses and, two, fairness for all current retirees whose annuities were wrongly reduced because of their part-time service.

Finally, Mr. Chairman, we commend you for your interest in enabling Federal annuitants to continue making critical contributions. Thank you for inviting us to testify, and if you have questions, I would be glad to address them.

[The prepared statement of Mr. Fallis follows:]

STATEMENT BY
CHARLES L. FALLIS
PRESIDENT
NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES

TO THE SUBCOMMITTEE ON THE FEDERAL WORKFORCE AND AGENCY ORGANIZATION
COMMITTEE ON
GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

HEARING ON
"RETIREES RETURNING TO THE RESCUE: RE-EMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED"

JULY 25, 2006

Mr. Chairman and members of the subcommittee, I am Charles L. Fallis, President of NARFE, the National Active and Retired Federal Employees Association. I appreciate the opportunity to express our views on the re-employment of federal annuitants and on proposals to clarify a law that presently reduces the retirement annuities of certain federal retirees and employees with part-time service.

NARFE has long held that federal retirees who are interested in returning to government service ought to be able to receive the full salary of their new job without any offset as the result of the retirement annuity they earned through prior federal service.

NARFE's annuitant members count among our rank agency managers and line supervisors, security specialists, computer programmers, air traffic controllers and law enforcement personnel. Annuitants boast rare talents and vast experience. At a time when the nation faces critical challenges and our federal government faces an unprecedented brain drain, we should not ignore this pool of ready, willing, able and proud men and women who have dedicated their careers to service to our nation. For those capable, and those willing to give more in answer to this call, laws, regulations and the manner in which they are applied must not be an impediment to accessing our talents.

Under current law, the wages of those re-employed annuitants are generally offset by the amount of the annuity. However, the Office of Personnel Management (OPM) and certain federal agencies have the authority to allow some returning retirees to keep both sources of earned

income "in positions for which there is exceptional difficulty in recruiting and retaining a qualified employee" and in jobs critical to the accomplishment of the agency's mission.

The requirements of the "war on terror," homeland security and other responsibilities have created such staffing difficulties, particularly in light of the unique expertise and experience required for these jobs. Indeed, while our popular culture frequently creates the misperception that government workers are uncaring clock-punchers, the reality of our current skill shortages demonstrates the critical roles played by civilian employees of the government, thousands of whom are working alongside their uniformed colleagues in locations like Iraq and Afghanistan.

Re-employed annuitants who have been granted waivers against the dual compensation prohibition are usually pleased with OPM's or their agency's decision. However, such individuals sometimes express their dissatisfaction to us upon learning that they will not receive any additional retirement credit as a result of their re-employment.

Moreover, retirees who do not receive a waiver tell us that they would not consider re-employment since the offset of their federal pay, by the amount of the annuity, would make their re-employed salary too low. Absent a waiver, some would be working for free, as a practical manner, if their annuity was the same or higher than jobs that pay a lower salary. This has been sometimes true for retired federal law enforcement officers who are interested in airport screener positions with the Transportation Security Administration.

We also sometimes hear that the test for a waiver has not been applied equitably – at least in the specific circumstances they cite. Indeed, the real challenge of recruiting and retaining the best and brightest to federal service is whether the range of available incentives are applied fairly and are not abused.

As you know, many crucial federal workers avoid the red tape of the waiver process altogether by going to work for a government contractor where their federal annuity presents no barrier to being paid full salary at the new job. Beyond the attraction of dual compensation, working for a contractor allows federal retirees to earn more quarters in Social Security-covered employment, in an effort to mitigate the reduction of their Social Security benefits by the unfair and arbitrary Windfall Elimination Provision (WEP). Should the federal government continue to deny itself access to this pool of experienced professionals at these critical times?

Part-Time Inequity

In addition to addressing the issue of re-employing federal annuitants, we are pleased, Mr. Chairman, that you are examining the application of a law that discourages many federal employees from working part-time in the later years of their careers.

Federal annuities are calculated by multiplying the average three highest continuous years of salary, times years of service, by an accrual rate. As a result of the interpretation of a federal budget law [Section 15204 of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) (P.L. 99-272)], the annuities of many federal employees who worked part time in the

final years of their careers are substantially lower than they should be. This reduction occurs when actual part-time wages received – instead of the full-time equivalency of those earnings -- are used in the calculation to determine the employee's average highest three years of salary. The inequity does not affect employees who began working for the federal government after April 7, 1986 or who have no part-time service after that date.

I offer an example: Susan, employed by the Department of Defense as an Afghan Persian and Pashtu language expert, worked part time during the last three years of her career before retiring in 1990 after 30 years of service. Like most workers, Susan reached her highest salary level (about $40,000 a year for a full-time worker as a GS-13 in 1988, 1989 and 1990) toward the end of her federal service. However, because her full-time equivalent salary was not used, Susan's annuity would be significantly lower than another GS-13 colleague with fewer years of federal service who did not work part time in the final years on the job.

We believe that thousands of federal employees who chose to make the transition to retirement by working part time were needlessly penalized. Indeed, in some cases, annuities are 20 percent less than what they otherwise would be with proper calculation.

President Bush's fiscal year (FY) 2007 budget recognized this inequity and proposed using full-time equivalent salary to calculate the annuities of future retirees who work part time towards the end of their service. We agree with the administration's recognition that allowing employees to work part time is a proven and successful management tool, particularly for workers near retirement who remain on the job and continue to contribute their skills, talents and experience.

Unfortunately, the administration's proposal falls short. It would leave in place the inequity for current retirees whose annuities have been lowered as a result of the interpretation of the 1986 budget law.

For that reason, NARFE supports Rep. Jim Moran's bill -- H.R. 480 – which applies the President's proposal to correct the annuities of current affected retirees and survivors. Fairness dictates this change.

H.R. 480 would alleviate any potential administrative complication in several ways. First, it would put the burden on annuitants to identify themselves as eligible for the correction rather than directing OPM to seek them out. Upon enactment, annuitants would have 18 months to apply to OPM for a prospective recalculation of their annuity under the clarified law. H.R. 480 would require that the newly calculated amount become effective only for annuity payments made **after** the annuitant applied to OPM for application of the corrected law.

NARFE agrees that removing the obstacle that prevents some current federal workers from working part time is particularly important to retaining skilled staff. Still, we feel current workers might be discouraged from federal service if they knew that retirees, who were also penalized, were not, at the very least, partially compensated for the misapplication of this law. Who wants a job with an employer that treats their workers and retirees unfairly?

VA Part-Time Nurses

Likewise, certain Department of Veterans Affairs (VA) nurses who worked part time have had their annuities unfairly reduced. Before 1986, the VA promised full-time retirement credit for part-time work to their nurses and certain other health care workers who worked unpopular tours of duty, such as nights and weekends. This incentive was intended to help with the nursing shortage and with the VA's recruitment and retention of nurses when more of them were required to satisfy Cold War staffing needs. However, the promise was never implemented. As a result, VA nurses lost the full retirement credit they had been promised for their earlier part-time work.

After years of being denied a promised benefit, legislation was enacted in the 107th Congress that recognized and corrected the inequity imposed on VA health care workers by the 1986 COBRA. The Department of Veterans' Affairs Health Care Programs Enhancement Act of 2001 (PL 107-135), enacted January 23, 2002, changed the way retirement benefits are computed for the nurses and other health care workers who retired on or after the date of enactment, by allowing them the full-time credit for their pre-1986 part-time work. Still, those VA nurses who retired between April 6, 1986 and January 23, 2002 continue to be denied the full retirement credit and resulting annuity dollars for their VA work before 1986.

NARFE urges you, Mr. Chairman, to ensure that any legislation the subcommittee considers to address the part-time retirement computation issue include equity for all VA nurses and, as I

explained previously, fairness for current retirees whose annuity was reduced because of their part-time service.

In conclusion, we commend you for your interest in enabling federal annuitants to continue to make critical contributions to our safety and well-being during this time of national need. Thank you for the invitation to share our views here today, and thank you for your able leadership of the subcommittee.

Mr. PORTER. Thank you very much.
Mr. Templeton.

STATEMENT OF DUNCAN TEMPLETON

Mr. TEMPLETON. Chairman Porter, I want to thank you for the opportunity to appear before you today to testify about the need for Federal law enforcement to utilize an invaluable resource commonly referred to as retired annuitants.

My name is Duncan Templeton, and I am currently the National Legislative Vice President of the Federal Law Enforcement Officers Association [FLEOA]. I am here today on the part of ART Gordon, FLEOA's National President.

FLEOA is the largest nonpartisan professional association exclusively representing Federal law enforcement officers. I am here today representing over 25,000 Federal agents from over 50 different agencies. Some of our members are rehired annuitants who are currently employed by the Transportation Security Administration and the Federal Air Marshal Service. All FLEOA national officers, like myself, are full-time Federal law enforcement officers who conduct FLEOA business on their own time. I am a criminal investigator with the U.S. Department of Justice, but I am here today on annual leave representing members of FLEOA.

Ever since the tragic events of September 11, 2001, it is obvious that rehired annuitants have and continue to play a critical role within Federal law enforcement. Both the Transportation Security Administration, TSA, and the Federal Air Marshal Service, FAMS, utilize many experienced Federal law enforcement personnel, retired annuitants, to initially set up and operate these two new and important Federal agencies. Many retired annuitants currently occupy critical management positions within both TSA and FAMS. These positions include Federal security directors and assistant Federal security directors for the law enforcement within TSA as well as most middle level, upper level and executive level management positions within the FAMS. Since both TSA and the FAMS have only existed for 4 years, the loss of these key management personnel retired annuitants within these agencies and the lack of experienced personnel to fill this void will have a devastating effect upon public safety.

OPM encourages agencies to utilize retired annuitants, and Congress recently passed legislation to enable the Defense Department to take advantage of this unique personnel practice. Since most other departments were already utilizing this valuable resource, this personnel practice actually saves the agencies money. Since they don't have to pay any fringe benefits to retired annuitants, it saves about 40 percent or $40,000 per employee and bridges the knowledge and skills gap between the newer employees and the highly experienced employees.

FLEOA recently urged Secretary Chertoff to act now and authorize a 2-year extension for all retired annuitants within TSA and FAMS to avert major problems resulting from the potential loss of over 100 retired annuitants within these two agencies. This is just one example of how effective it was and continues to be to utilize retired annuitants within the Federal law enforcement agencies. Some Department of Justice agencies have sporadically utilized re-

tired annuitants to fill the void within critical areas of their agencies as well. Most Federal law enforcement officers retire at age 50 with over 20 years of dedicated law enforcement service and are not allowed to return to the Federal work force unless they have received dual compensation waivers for a specific period of time, usually no more than 3 years.

These Federal agents have received thousands of hours of training during their careers and honed their investigative skills over many years while conducting complex investigations. These talented individuals then take their skills and expertise with them and move on to the private sector in higher-paying positions within Homeland Security, crisis management, forensic investigations, private security or with a State or local law enforcement agency. This is necessary because they are prohibited from starting a second career within the Federal Government.

However, it should be noted that there is one exception to this rule of dual compensation and rehired annuitants. Over the past 20 years, hundreds of U.S. Secret Service agents have retired from Federal law enforcement service and retired under the Washington Metropolitan Police retirement system and, therefore, are allowed to start a second Federal law enforcement career with another Federal agency. They are not required to get dual compensation waivers. There are hundreds of retired Secret Service agents currently employed by TSA, FAMS, Department of Defense, Department of Justice and many of the Inspector General offices. FLEOA would like to see these same benefits, the same benefits reaped by Secret Service agents, extended to all Federal law enforcement retirees.

Currently, the law regarding waivers appears to be implemented differently by agency and by position for different periods of time. There does not seem to be any uniformity. Indeed, within the entire Federal law enforcement community, the need for rehired annuitants is great, and the need for more widely utilized—and the need to be more widely utilized if we plan to continue to beef up Homeland Security agencies and to develop a higher level of intelligence gathering that relates to potential terrorist attacks or groups wishing to harm our great Nation.

The skills of experienced criminal investigators and intelligence analysts take many years to develop and cannot simply be taught in a classroom environment. These assets cannot continue to be ignored. Dual compensation waivers for retired annuitants should become the norm within Federal law enforcement until each agency is satisfied that we have adequately highly skilled and trained personnel to adequately perform their mission.

This becomes even more critically important when you get into the management ranks of the Federal law enforcement agencies. Inexperienced leaders within Federal law enforcement can result in disastrous consequences for the safety and security of our Nation. Competent law enforcement leaders are bred over a period of many years. They move up through the ranks of their respective agencies. With newly created agencies like TSA and FAMS, this is not possible. So the use of retired annuitants is a necessity. The waivers should be based on the demonstrated skills of the individuals, law enforcement retiree and the needs of the agency. Timeliness

should not be set for the waivers. However, uniform policies need to be established.

FLEOA has proposed a Federal law enforcement reserve force to be utilized in times of extreme agency emergency to supplement Federal law enforcement resources. This proposal has previously been submitted by FLEOA to Congress and the administration but has never been implemented. This is feasible, since the Law Enforcement Officers Safety Act of 2004 authorizes retired Federal law enforcement officers to carry firearms anywhere in the country as long as they qualify with the firearm annually.

FLEOA President Gordon has asked that I attach a copy of his letter to DHS Secretary Chertoff dated February 12, 2006, regarding the issue of rehired annuitants within the Department of Homeland Security. To date, no action has been taken by DHS on this request. In addition, FLEOA President Gordon has asked that I provide this committee with a copy of FLEOA's proposal for a U.S. Homeland Security reserve force. Thank you for allowing me to testify today, and I would be happy to take any questions as well.

[The prepared statement of Mr. Templeton follows:]

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326, Lewisberry, PA 17339

(717) 938-2300 • FAX (717) 932-2262 • www.fleoa.org

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TESTIMONY OF

Duncan D. Templeton
Legislative Vice President

On Behalf of
ART GORDON
NATIONAL PRESIDENT

OF THE
FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON GOVERNMENT REFORM

SUBCOMMITTEE ON
THE FEDERAL WORKFORCE AND AGENCY ORGANIZATION

CONCERNING

Retirees Returning to the Rescue:
Re-employing Annuitants in Time of National Need

On July 25, 2006

FLEOA TESTIMONY

Chairman Porter, Ranking Member Davis and other members of the Subcommittee, I want to thank you for the opportunity to appear before you today, to testify about the need for Federal Law Enforcement to utilize a invaluable resource commonly referred to as a "Rehired Annuitant".

My name is Duncan Templeton and I am currently the National Legislative Vice President of the Federal Law Enforcement Officers Association (otherwise known as FLEOA). I am here today on behalf of Art Gordon, FLEOA's National President. FLEOA is the largest non-partisan professional association, exclusively representing Federal law enforcement officers.

I am here today representing over 25,000 Federal agents from over 50 different agencies. Some of our members are Rehired Annuitants who are currently employed by the Transportation Security Administration and the Federal Air Marshal Service.

All FLEOA National Officers like me are full-time Federal law enforcement officers who conduct FLEOA business on their own time. I am a criminal investigator with the US Department of Justice, but I am here today on annual leave, representing the members of FLEOA.

Ever since the tragic events of September 11, 2001, it is obvious that Rehired Annuitants have and continue to play a critical role within Federal law enforcement.

Both the Transportation Security Administration (TSA) and the Federal Air Marshal Service (FAMS) utilized many experienced Federal law enforcement personnel (rehired annuitants) to initially set up and operate these two new and important Federal agencies.

Many "rehired annuitants" currently occupy critical management positions within both TSA and the FAMS. These positions include Federal Security Directors and Assistant Federal Security Directors for Law Enforcement within TSA, as well as most mid-level, upper level and executive-level management positions within the FAMS.

Since both TSA and the FAMS have only existed for four years, the loss of these key management personnel (rehired annuitants) within these agencies and the lack of experienced personnel to fill this void, will have a devastating effect on public safety.

OPM encourages agencies to utilize "rehired annuitants" and Congress recently passed legislation to enable the Defense Department to take advantage of this unique personnel practice, since most other departments were already utilizing this valuable resource. This personnel practice actually saves the agencies money, since they don't have to pay any fringe benefits to rehired annuitants (saves about 40% or $40,000) per employee and bridges the knowledge and skills gap between newer employees and highly experienced employees.

FLEOA recently urged Secretary Chertoff to act now and authorize a two-year extension for all "rehired annuitants" within TSA and the FAMS to avert major problems resulting from the potential loss of over one hundred Rehired Annuitants within these two agencies.

This is just one example of how effective it was and continues to be to utilize Rehired Annuitants within Federal law enforcement agencies.

Some Department of Justice agencies have sporadically utilized Rehired Annuitants to fill the void within critical areas of their agencies also.

Most Federal law enforcement officers retire at age 50 with over 20 years of dedicated Federal law enforcement service and are not allowed to return to the Federal workforce unless they receive a dual-compensation waiver for a specified period of time, usually no more than three years. These federal agents have received thousands of hours of training during their careers and honed their investigative skills over many years while conducting complex investigations.

These talented individuals then take their skills and expertise with them, and move on to the private sector in high paying positions within homeland security, crisis management, forensic investigations, private security or with state or local law enforcement agencies. This is necessary because they are prohibited from starting a second career with the Federal government.

However, it should be noted that there is one exception to this rule of dual compensation and rehired annuitants. Over the past twenty years hundreds of US Secret Service Agents have retired from Federal law enforcement service and retired under the Washington Metropolitan Police retirement system and therefore they are allowed to start a second federal law enforcement career with another federal agency. They are not required to get a dual-compensation waiver. There are hundreds of retired Secret Service agents currently employed by TSA, the FAMS, DOD, DOJ and many of the Inspector General offices.

FLEOA would like to see the same benefits reaped by retired Secret Service agents extended to all Federal law enforcement retirees.

Currently the law regarding waivers appears to be implemented differently by agency and by position for different periods of time. There does not appear to be any uniformity.

The need within the entire Federal law enforcement community for Rehired Annuitants is great and needs to be more widely utilized if we plan to continue to beef up Homeland Security agencies and develop a higher level of intelligence gathering that relates to potential terrorist acts or groups wishing to harm our great nation.

The skills of experienced criminal investigators and intelligence analysts take many years to fully develop and can not simply be taught in a classroom environment. These assets can not continue to be ignored.

Dual-compensation waivers for Rehired Annuitants should become the norm within federal law enforcement, until each agency is satisfied that they have adequate highly skilled and trained personnel to adequately perform their mission. This becomes even more critically important when you get into the management ranks of the Federal law enforcement agencies. Inexperienced leaders within Federal law enforcement can result in disastrous consequences for the safety and security of our nation.

Competent law enforcement leaders are bred over a period of many years as they move of through the ranks of their respective agencies. With newly created agencies like TSA and the FAMS, this is not possible so the use of Rehired Annuitants is a necessity.

The waivers should be based on the demonstrated skills of the individual law enforcement retiree and the needs of the agency. Time limits should not be set for the waivers, however uniform policies need to be established. FLEOA has also proposed a Federal Law Enforcement Reserve Force to be utilized in times of extreme emergency to supplemental Federal law enforcement resources. This proposal has previously been submitted by FLEOA to Congress and the Administration but has never been implemented. This is feasible, since the Law Enforcement Officers Safety Act of 2004 authorizes retired Federal law enforcement officers to carry firearms anywhere in the country as long as they qualify with the firearm annually.

FLEOA President Gordon has asked that I attach a copy of his letter to DHS Secretary Chertoff, dated February 12, 2006, regarding the issue of Rehired Annuitants within the Department of Homeland Security. To date, no action has been taken by DHS on this request.

In addition, FLEOA President Gordon has also asked that I provide this committee with a copy of FLEOA's proposal for a US Homeland Security Reserve Force.

Thank you for allowing me to testify today on this important issue.

Attachments: FLEOA Letter to DHS Secretary Chertoff dated 02/12/ 2006
FLEOA Proposal for DHS Law Enforcement Reserve Force

Mr. PORTER. Thank you very much.

First, Mr. Templeton, just reiterate my agreement that the current pay benefits situation really is a hodgepodge, and that is part of what is driving my concern and comprehensive review in developing policy. So I appreciate your comments again, and I look forward to some more ideas from your groups as we move forward because it absolutely is a hodgepodge, and I understand that something must be done. So as we move forward looking at retirees, getting them back in the system or remaining, know that the primary goal of mine is to see if we can correct some of that problem. It is very confusing. And we are doing everything we can to correct that.

From a question perspective, I guess if you could both just share with me some of the trends that you are seeing. What is happening with the retirees, Charles? And what is happening as far as wanting to get back to work or choosing not to? Are you seeing an increase in those that want to come back into the work force? And if so, do they want to come back full time or part time, or what are you sensing happening?

Mr. FALLIS. We have had concerns expressed to us about people who want to go back to work, but there are barriers in coming back to work for the Federal Government, that is the issue we are talking about now. There are also barriers that face those who want to go back and work in the private sector. And that falls into the WEP situation, Windfall Elimination Provision. We have people who will only work if they are paid under the table. They do not want to contribute into a fund, which in this case, it is Social Security from which they have no hope of receiving any benefit, or if they do receive a benefit, it will be a reduced benefit. And so that is the concern we see. I am sure that we have members who would be happy to go back to work if the conditions were right.

I must say, though, that as far as I am concerned, it is not a burning issue. I can't say that, you know, I get calls every day on this. Our people, for the most part, are happy to be retired. I might be the exception. I retired 21 years ago, and I was retired for 14 years before I came back to work.

Mr. PORTER. You should know better.

Mr. FALLIS. I should know better, right. But I happened also to be one of those folks who was eligible to retire before January 1, 1986. And so I am exempt from the ravages of WEP.

Mr. PORTER. And Duncan, what do you sense? What are you hearing?

Mr. TEMPLETON. Well, the Federal law enforcement system is unique in that you can retire with 20 years of service at age 50. Also in that, you have to retire by age 57 regardless, unless you get a waiver. You could get a 1-year waiver to stay 1 extra year. I think people, you know, are desiring to—I know people who are retired and are desiring to come back and work in a law enforcement function. It is a passion for them, not just a financial issue. And I can speak for myself specifically. At this point, I have 19 years of service. In a year, I will be totally vested with 20 years. I can continue to contribute at 1 percent to my retirement after that, but I currently contribute at 1.7. If they were to increase that, it would make it more attractive for me to stay, but I am eligible to retire myself in 3 years. I certainly won't be ready to stop at that

point, but I think that our retired Federal law enforcement officers have a lot to offer and should be given a chance to come back and contribute for all of us.

Mr. PORTER. Where are you finding a lot of the law enforcement officers going after their retirement?

Mr. TEMPLETON. I think predominantly to the private sector, to banking investigative positions, internal banking investigative positions, private investigation positions, that kind of thing, from my experience. To go to a—you know, realistically, to go to a local law enforcement position where you would be an officer for a person of retirement age is not that realistic, but there is a wealth of knowledge there and an incredible brain drain from all the people who are retiring and not being replaced by as experienced employees.

Mr. PORTER. Charles, I would like to talk for a moment about the nurses and those that retired between April 1986 and January 2002. So that group was left out of a correction, or what happened?

Mr. FALLIS. There was—it was fixed, as I indicated, prospectively. There was no retrospective coverage. So they left that 16 years between 1986 and 2002. Those nurses still have received nothing even though they were promised that they would receive full credit for their part-time work because they had a critical shortage problem. They persuaded them to stay on with this promise, and they took that in good faith. They really did. And they are terribly, terribly disappointed today in the Federal Government that they have fallen short of that promise.

Mr. PORTER. So, Charles, these were folks that could have retired and chose, because of the need, to stay on in a part-time basis or full time or both?

Mr. FALLIS. Yes. Some, both, yes.

Mr. PORTER. And they weren't able to contribute at all into the retirement system or just partially?

Mr. FALLIS. Well, I think they might have been able to contribute into the retirement system, but it was on—when they figured their retirement, they didn't include what—let's say, you know, the full salary for the position. These people were working part time. They worked part time, but they were not given full-time credit for the time that they worked, and that was what they were promised. They said, if you will come back and work 4, 6, 7, anything short of 8 hours a day, we will see that you get full credit on your retirement, full-time credit for the time and the hours and the days and the months and the years that you put in. And then it was not delivered.

Mr. PORTER. Have there been numbers run on what effect, what the impact is financially? Is there like—I don't know if the term is scoring in this case, but has there been information available on the cost to correct these problems?

Mr. FALLIS. These nurses have been valiant in pressing for justice here, but they are small in number. Normally, the Congress responds to situations that involve millions of people. We have small numbers now, and they have not been able to generate the kind of support for the legislation that they would like to see passed to make them whole.

Mr. PORTER. And that is Tammy Baldwin's H.R. 4298?

Mr. FALLIS. That is it, yes.

Mr. PORTER. And it corrects the problem?

Mr. FALLIS. It does.

Mr. PORTER. So after 2002 then, they made a correction for anyone that is in that capacity? Or what happened after——

Mr. FALLIS. Prospectively, the nurses from 2002 are taken care of. Those before 1982 back to—I mean, before 2002, back to 1986 are the victims.

Mr. PORTER. And the H.R. 480, you mention Mr. Moran's, that has to do with not having a waiver or—if you could explain to me what we are trying to fix with that, with Mr. Moran's? What does it do?

Mr. FALLIS. Well, Mr. Moran's bill is bill No. 480. It is a bill that we support, and it would modify the President's proposal that came out in his 2007 budget. His proposal, you know, recognized that we had an inequity here as opposed to using full-time equivalent salary to compute the annuities of future retirees who would work part time. But it fell short of the mark, and the inequity that was left there is covered by Representative Jim Moran's bill, H.R. 480, it would modify the President's proposal to include and correct the annuities of current affected retirees. It is the retirees who would be left out in terms of the President's proposal. Here, again, we are talking about fixing it prospectively, but not fixing it retrospectively because there are victims here who are—I won't call them victims. There are people here who have been penalized unfairly.

Mr. PORTER. Like my mom who is a notch baby. I hear——

Mr. FALLIS. These are all notch people. That's exactly it.

Mr. PORTER. Well said. I want to thank you very much for your testimony. I appreciate you both being here and to the other members of the panel. And with that, we will adjourn the meeting. Thank you very much.

[Whereupon, at 3:52 p.m., the committee was adjourned.]

[The prepared statement of Hon. Elijah E. Cummings and additional information submitted for the hearing record follow:]

U.S. House of Representatives
109th Congress

Opening Statement

Representative Elijah E. Cummings, D-Maryland

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"

Subcommittee on Federal Workforce and Agency Organization
Committee on Government Reform

July 25, 2006

Mr. Chairman,

Thank you for holding this important hearing to examine the re-employment of retired federal workers in times of national need.

With recent efforts to limit spending by limiting government employment, our federal workforce has aged at an alarming rate.

According to a Congressional Budget Office (CBO) Report, "Changes in Federal Employment: An Update," more than three-quarters of the federal workforce in 2001 was over age 40. In contrast, only about half of all employed workers in the United States were over that age at that time.

The Office of Personnel Management (OPM) estimated that almost one-third of federal civilian employees would be eligible to retire from federal service by 2005.

This has had a severe impact on our federal workforce: With very few entry- and mid-level employees in the pipelines, agencies are facing the challenge of replacing experienced, skilled staff as more workers become eligible for retirement.

The impact becomes particularly apparent in times of national crisis, when we simply do not have the people to do the jobs that need to get done.

We all saw the impact of this in the failures of the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS) during the Hurricane Katrina disaster. Mismanagement and poor leadership certainly had a role to play, but the agency also suffered from understaffing.

To address the issues raised by the aging workforce, the Government Accountability Office (GAO) recommended more effective recruitment and retention; more succession planning; and more investment in the training and development of existing staff.

Even with these more long-term efforts, though, it appears that the agencies are in need of a more short-term solution to the quickly diminishing federal workforce.

That is why Congress and the administration have established policies to allow federal retirees to return to service, for a limited period of time, and collect both salary and annuity payments.

We have an obligation to taxpayers to run our federal agencies as effectively and efficiently as possible. For this reason, these policies were purposefully designed to be used sparingly, only in instances where they are necessary for the work of the federal government to get done.

We are here today to examine how those efforts have worked so far, specifically in the case of the Department of Defense (DOD), and how they might be expanded in the future.

I look forward to the testimonies of today's witnesses and yield back the balance of my time.

QUESTIONS

The following witnesses are scheduled to testify:

Panel One

Nancy Kichak, Associate Director for Strategic Human Resources Policy Division Office of Personnel Management

Patricia Bradshaw, Deputy Undersecretary of Defense, Civilian Personnel Policy, Department of Defense

Barbara Panther (tentative), Associate Deputy Assistant Secretary for Human Resources and Management, Department of Veterans Affairs

Ronald Sanders, Chief Human Capitol Officer, Office of the Director of National Intelligence

- Ms. Kichak, to address the issues raised by the aging workforce, the Government Accountability Office (GAO) recommended more effective recruitment and retention; more succession planning; and more investment in the training and development of existing staff. Have the agencies been doing this?

- Ms. Bradshaw and Ms. Panther, according to a Congressional Budget Office (CBO) Report, "Changes in Federal Employment: An Update," more than three-quarters of the federal workforce in 2001 was over age 40. Can you talk about the impact the aging workforce has had on your agencies?

- Ms. Bradshaw, Congress passed legislation to allow the Department of Defense (DOD) to provide employees who re-enter the workforce with dual annuity and salary compensation. How long do you estimate the department will need to operate under this policy before it is able to recruit and train new employees?

- Ms. Panther, the recent security breach at the Department of Veterans Affairs (VA) was a result of an employee taking work home. How common is this practice for VA employees, and is it related to the recent surge in retirement?

Panel Two

Charles Fallis, President, National Active and Retired Federal Employees Association

- Mr. Fallis, these new policies are allowing retired federal workers to re-enter the workforce, because we need them and their expertise. What sort of impact has this had on current employees—on their ability be trained in these areas and to move up the ranks?

WRITTEN TESTIMONY OF
ANGELA J. RABATIN, B.S., M.A., J.D., LL.M.
WORKFORCE SPECIALIST
SUBMITTED TO
HOUSE GOVERNMENT REFORM COMMITTEE
FEDERAL WORKFORCE AND AGENCY ORGANZIATION SUBCOMITTEE
HEARING ON
"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need."
JULY 25, 2006

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to submit comments on the important matter the Subcommittee is now considering—re-employment of annuitants. I am Angela J. Rabatin, a professor of finance and management, and specialist on workforce issues. For nearly the past decade, in anticipation of the pending demographic shift in America, I have actively researched and collected data on the relationship between the new retirement, societal practices, workforce policies, and employment legislation affecting employers and employees. In particular, the focus has been the relationship between succession planning, personal productivity, and employment innovation. My credentials include applicable graduate degrees in Personnel Management/Labor and Industrial Relations (M.A.), and in law (J.D. and LL.M.), and B.S. in Psychology.

The greatest government in the free world is about to suffer an historic institutional memory loss as the most senior members of its workforce begin to retire in unprecedented numbers. American businesses are similarly affected. Experienced talent is already at a premium. There are solutions to these problems via workforce innovations.

A talent-shortage in the federal government is due, in part, to current federal law which requires that a re-employed retiree/annuitant be paid less than a full salary. While limited exceptions exist for certain emergency situations or for certain positions that are very difficult to fill, generally speaking, federal retirees who return to government service are subject to a salary offset relative to their retirement annuity. This is a disincentive to return to government service.

Recruitment of retirees is a growing practice at home and abroad. U.S. employers are not alone in striving to meet workforce shortages--this phenomenon is shared with other industrialized nations with the same demographic curve (and even with some emerging economies such as China). Yes, an intellectual capital shortage, and competition for intellectual capital, has gone global.

Why the battle for the best and the brightest? In America, and in various parts of

the world, a disproportionately large generation born after World War II is on the cusp of retirement--and taking with them a lifetime of experience and knowledge.

One U.S. private sector employer told me he is already playing musical chairs with employees. He lures away a qualified employee away from a competitor (with a higher salary,etc.) only to have the same process repeated against him. Voicing a distaste for the practice—he welcomes alternative solutions--but they are slow in coming.

It is my belief that the federal government can take this opportunity to be in the lead, setting examples, and effectively addressing this workforce crisis. *Strategic use of retirees is one solution.*

The purpose of re-employing retired qualified personnel is to promote the best interests of employers--and thus those whom they serve--by maintaining a continuity of high caliber services and honed brainpower. However, it must be done strategically as the concomitant issues in re-employment are complex and the stakes are high—for both the employer and the individual employee.

A Government Perspective

The federal government is extremely significant, not only in economic terms, but because its services touch everyone in the United States in one or more ways. From the Nation's security to private industries' competitiveness, *key outcomes are dependent upon federal employee knowledge and expertise.*

Such critical skill is acquired only through training and on-going development. The benefit is delivered only through retention. Retention goes hand-in-hand with succession planning—for while HR experts agree that recruitment, training, and turnover are very expensive, using workers who are not up to the job is even more costly.

By analogy, imagine you are an investor in a publicly traded company, "ABC Inc.", whose very successful Chief Financial Officer just retired. Attributable to his or her ability, your investment in the company appreciated 20% in the past 52 weeks alone. As an investor, you count on the company finding a suitable replacement; it will not be easy.

Interestingly, the retiree has now offered to come back for two more years. This would be beneficial on several fronts. Not only does it bring the CFO's experience and ability back into play, but the very presence would assist with succession planning. To your astonishment, ABC Inc. refuses saying company policy prohibits collecting the company pension he's earned and the salary for which he would be working. Wall Street doesn't like the decision, the price of your stock falls substantially. You think the decision lacks business saavy.

In the federal government, it's believed about half of senior managers will qualify to retire within the next five years. But not only senior management--.an estimated 60,000 federal employees will be retirement-eligible each year beginning in 2008 through 2011. Some estimate about half of the *total* federal workforce will be retirement-eligible in the next decade!

The risk of losing critical knowledge and expertise, planning for transference of essential proficiency to younger workers, and a declining birth rate/smaller population of replacement workers with necessary skills is the three-pronged challenge . These components must be effectively managed in both the public and private sectors—quite literally---at the risk of deterioration of American competitiveness, productivity, and quality of life.

The federal government now has the opportunity—and possibly the obligation—to set the standard for new strategies to meet the challenges presented by the double-edge sword of impending retirements and a paucity of qualified replacement talent. While the government faces its distinctive issue of whether to waive the salary-offset, there are additional and more widely applicable issues to be addressed in order to promote American competitiveness. Among them, as my research demonstrates, are work arrangements, company/workplace culture, and learning opportunities.

In fashioning solutions for itself, the federal government functionally serves as an example to literally the world. The innovations must be balanced—they should look to what we are extracting and from whom. They must meet the needs of the employee and the employer. It's an old story unfit for today's needs: Policies that are so one-sided in either direction are counterproductive.

INDIVIDUAL PERSPECTIVE

America is a work-centric nation. To have work is about more than earning a paycheck, employment often equates with dignity and respect--perhaps more so than in any other nation. Paychecks are a gauge of usefulness and productivity in our society—often without regard to the size of the check. Once highly compensated employees will not infrequently choose minimum wage jobs in retirement over complete absence from the labor force. And studies reveal that age is not an impediment to productivity—older workers are motivated to get things done.

Yes, Americans are known as the workhorses of the industrialized world. It is not mere perception; we work more hours than citizens of any other industrialized country (though fewer hours than those in developing nations). And while employees in Japan are known to keep long hours, Americans work about two weeks more per year than the even the ever-industrious Japanese. We are lost without work—at nearly every stage of our life.

This does not mean, however, that older Americans are interested in 'retiring retirement'. They are interested in innovation. They seek a change from how the previous three or four decades were spent, with more balance in the future, and not a complete separation from the workforce. And they do not seek to hinder younger workers.

For the large percentage of retirees wishing to work in retirement (or what I call the post-*primary employment years (PPEY)),* the common denominator appears to be a desire for meaningful work. In addition, they share another characteristic—this huge demographic with clout (nearly a third of the population) has been on the cutting-edge of some of the most amazing advancements in American history. They are progressive and the most well education generation in history.

CONCLUSION

Both the government and annuitants can benefit from workforce innovations and the re-employment of annuitants. With critical mission in mind-- the purpose of re-employing retired qualified personnel is to promote the best interests of the government and its constituencies by maintaining a continuity of high caliber services. Based on extensive research, the government should remove the disincentive for retirees to return to federal service and strategically approach re-hiring of annuitants *through innovative approaches.*

The following are some suggested guidelines:

1 Re-hire to maintain caliber of service
2 Re-hire is not a right, one is only eligible for rehire
3 Make the hire competitive
4 Provide meaningful work assignments
5 The length of break before rehire should not be excessive (six months is probably too long)
6 Offer incentives to return to the government (over seeking private employment). These must include non-monetary rewards.
7 Make clear the rules and laws allowing annuitants to be employed in the private sector, or with contractors, or to return to the government directly
8 Reward, do not penalize a return to the government
9 It is essential to include on-going education and training as there is a continuing desire to learn
10 Provide for succession planning. Do not use rehires at the expense of cultivating new talent but rather use rehires to help cultivate new talent.
11 Pay attention to the culture in which re-hired annuitants work, and to intergenerational issues, in the interest of productivity and achieving critical mission. Younger and older workers can benefit one another but it musts be considered and organizationally structured.

The practice and know-how of re-employing retired personnel is on the increase internationally and domestically by forward looking public and private sector

employers. The government of the United States has an opportunity to set the standard in this important innovation.

Thank you, again, for the opportunity to submit comments on this important matter.

FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

P.O. Box 326, Lewisberry, PA 17339
(717) 938-2300 • FAX (717) 932-2262 • www.fleoa.org

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February 12, 2006

Honorable Michael Chertoff
Secretary of Homeland Security
Washington, DC

Dear Secretary Chertoff:

It is my understanding that the Transportation Security Administration (TSA) has forwarded a request to you to authorize a two-year extension for all "rehired annuitants" within TSA and the Federal Air Marshal Service (FAMS). FLEOA fully supports this request.

As you are aware, both TSA and the FAMS utilized many experienced Federal law enforcement personnel (rehired annuitants) to initially set up and operate these two new and important Federal agencies.

Many "rehired annuitants" occupy critical management positions within both TSA and the FAMS. These positions include Federal Security Directors and Assistant Federal Security Directors for Law Enforcement within TSA, as well as most mid-level, upper level and executive-level management positions within the FAMS.

Since both TSA and the FAMS have only existed for four years, the loss of these key management personnel (rehired annuitants) within these agencies and the lack of experienced personnel to fill this void, will have a devastating effect on public safety.

OPM encourages agencies to utilize "rehired annuitants" and Congress recently passed legislation to enable the Defense Department to take advantage of this unique personnel practice, since most other departments were already utilizing this valuable resource. This personnel practice actually saves the agencies money, since they don't have to pay any fringe benefits to rehired annuitants (saves about 40% or $40,000) per employee and bridges the knowledge and skills gap between newer employees and highly experienced employees.

I urge you to act now and authorize a two-year extension for all "rehired annuitants" within TSA and the FAMS.

Sincerely,

Art Gordon, National President

Federal Law Enforcement Officers Association (FLEOA)
PROPOSAL FOR: U.S. HOMELAND SECURITY RESERVE FORCE

Original draft submitted to Congress in April, 2001
REVISED NOVEMBER 1, 2004

This proposal calls for the creation of a federal homeland security reserve force that would utilize the services of honorably retired law enforcement officers and certain retired military personnel to help protect the United States during a national emergency or serious natural disaster. The primary purpose of a homeland security reserve force would be to dramatically increase physical security at federal installations and sensitive locations during a heightened state of alert and provide assistance in a post attack environment and during all serious disasters.

The rationale behind the creation of a national public safety reserve force is simple. Although a number of state and local law enforcement agencies maintain an auxiliary or reserve component, the federal government does not. As proposed, this reserve force is more of a security force than a police force since the primary function of this organization is to protect sensitive locations of national interest and not police America. Regardless of whether such a unit is called the Department of Homeland Security Reserve Force or the U.S. Defense Force, federal homeland security reserve personnel could be used to perform less sensitive but necessary duties so an additional number of active duty law enforcement officers can be reassigned to handle more pressing problems.

A DHS Reserve Force is a force multiplier that could help federal, state and local law enforcement agencies as well as the National Guard protect America in difficult times. According to this proposal, DHS Reserve Officers and Reserve Agents would be used to fill the gaps in our national security that exist because there are a limited number of law enforcement officers on active duty in the United States. There is also every reason to believe that a homeland security reserve force could potentially double or triple the level of protection at sensitive locations or in affected areas during a national emergency or serious disaster. The fact that DHS reserve personnel would only be activated during a serious emergency or a prolonged state of alert would significantly reduce the cost of maintaining a national homeland security reserve force. It should also be noted that a DHS Reserve Force is not meant to make the United States bulletproof in all regards. However, such a force will add another layer of protection to our national defense that does not exist at this time.

Creating a homeland security reserve force that is comprised of honorably retired law enforcement officers can accomplish three things. This organization can provide an infusion of highly trained and experienced retired law enforcement personnel who can help increase public safety and security services at critical locations during a heightened state of alert, in a post attack environment and during a serious natural disaster. This reserve force can also make the general public and our allies feel more secure in their relationship with the federal government. Lastly, the formation of a federal public safety reserve force would send a crystal clear message to the enemies of the United States that our nation was doing everything possible to protect life and property during a national emergency.

According to several high ranking federal officials it is not a question of if we will be attacked again, but when. As devastating as the attacks were on 9/11, consider what would happen if the United States sustained a hundred thousand casualties in a future strike or if one Stinger missile was fired at a commercial airliner flying in U.S. airspace? Regardless of the size or type of any future attacks the public safety services in our country would be overburdened beyond belief. Even in "unaffected" areas the threat of attack would place enormous demands on the law enforcement community and other emergency services. It seems only logical that in the worst case scenario a well organized federal public safety reserve force could provide valuable assistance during a prolonged state of alert or in a post attack environment.

In a number of applications deterrent forces have been effective in preventing acts of violence. It is just as important to protect the White House and the Capital Building as it is to secure our transportation links, reservoirs, military bases and other sensitive locations. It is also important to remember that having "local knowledge" can dramatically improve public safety and security services during an emergency. Placing retired law enforcement officers back into the community as Homeland Security Reserve Agents or U.S. Defense Force Officers should also prove to be more effective in certain situations than bringing in members of the armed forces.

Clearly, it makes the most sense to establish a reserve force under the Department of Homeland Security and assign reserve personnel to various agencies according to a national threat assessment. Although on the surface it makes sense to have retired law enforcement officers report to their former agency during a crisis, this may not always work when you consider the mobile nature of our society and the fact that not every retired law enforcement officer resides in the city or state where they were previously employed. Even some retired federal law enforcement officers live in locations where their former agency has no office. It is also important to remember that some retired personnel may not want to serve with their former agency. To avoid potential recruitment problems reserve personnel should be given a choice where and how they will serve. Every effort should also be made to use reserve personnel according to their training and experience.

According to this proposal, DHS Reserve personnel could be used to help the Office of Immigration and Customs Enforcement, The Bureau of Customs and Border Protection (Border Patrol) and the U.S. Coast Guard search for weapons of mass destruction, interdict terrorists at land and sea borders and provide an extra margin of security in our seaports, ports of entry and international airports. Reserve personnel could also be used to help protect federal buildings, national parks, national monuments, federal dams and reservoirs, bridges, tunnels and transit systems. We must also be prepared to increase security along the Mexican and Canadian Borders to prevent entry by any criminal element that would try to take advantage of an overburdened system. While putting military personnel on the Mexican border is a hotly debated issue no one should object to using honorably retired law enforcement officers as Homeland Security Reserve Agents/U.S. Defense Force Officers to help secure our southern and northern borders.

The Department of Defense should also be allowed to utilize the services of homeland security reserve officers and agents to help protect military bases in the United States. By using

retired law enforcement officers to help protect military bases the DOD could increase its force protection capability without having to rely solely on military personnel to police military bases. This would enable the Department of Defense to assign additional military force protection personnel to more frontline service in time of war. In addition, qualified DHS Reserve personnel with an investigative background could also provide assistance to Air Force OSI, Army CID, Coast Guard CID and the Naval Criminal Investigative Service. This would allow the various Armed Forces CID units to deploy a larger number of military special agents overseas.

Any location that has been attacked by terrorists is a crime scene that requires careful examination by highly trained investigators and forensic specialists. Retired criminal investigators and forensic specialists could help locate and process evidence that can be used to identify the perpetrators of an attack. The attacks on 9/11 also showed us that the job of searching for victims and evidence is very labor intensive. Retired law enforcement officers have the training and the experience to provide valuable assistance in a post attack rescue and recovery operation. A national public safety reserve force could provide additional help to sift through massive amounts of debris and provide security in devastated areas.

U.S. Defense Force Officers/Homeland Security Reserve Agents could also be used to staff vehicle and pedestrian checkpoints, patrol restricted areas and increase security on protection details. Retired federal agents and retired police detectives could provide investigative support when it is necessary to deploy a large number of experienced criminal investigators to conduct labor intensive searches and surveillances. Reserve personnel could also be assigned to command post duty to provide security and handle communications and tip lines. Retired public safety personnel who were previously cross trained as Emergency Medical Technicians could provide a valuable service during any national emergency. Retired law enforcement officers could also be used to patrol in remote locations to help protect power plants, nuclear reactors, fuel depots, dams and water reservoirs.

We must also do more to protect our private airports. It makes no sense to dramatically increase physical security at commercial airports and pay less attention to private airports, especially since terrorists have received flight training in private aircraft. As such, every effort must be made to increase ground security at private airports and prevent the theft and use of small planes as flying bombs. Retired law enforcement officers, especially retired federal agents, could also be used as Reserve Federal Air Marshals. By using qualified retired personnel as Reserve Air Marshals the Transportation Security Administration could provide relief to overworked Sky Marshals and dramatically increase the number of flights that are protected by highly trained armed personnel.

A DHS Reserve Force could also help increase the number of first responders by assigning U.S. Defense Force Officers/DHS Reserve Agents directly to federal, state and local police departments in cities where the terrorist threat level is high. The New York City Police Department, N.Y. Port Authority Police, New York State Police, Metropolitan Police and Transit Police in Washington DC as well as the U.S. Park Police, Capitol Police and Federal Protective Service could be the first agencies to receive this assistance. In this program Homeland Security Reserve Agents/U.S. Defense Force Officers could be used to provide facility security and perform other support duties to free active duty police officers and other law enforcement

personnel for more frontline service. This mission alone could result in the nationwide reassignment of a significant number of police officers to the field and dramatically increase the number of first responders in any given community.

A simplified or short form background investigation form could be devised to clear qualified reserve personnel for immediate assignment. Homeland Security Reserve Officers and Agents must be honorably retired law enforcement officers, have no criminal history and possess a valid concealed carry weapons license. This simple yet thorough background check could be conducted in a matter of minutes. A more detailed background investigation could be conducted for reserve personnel who are assigned to duties that require a federal security clearance.

Federal agencies that are authorized to utilize the services of homeland security reserve personnel could establish recruiting centers throughout the United States. Recruitment centers could be established at federal buildings, military bases and U.S. Coast Guard stations. One way to handle recruitment is to allow retired law enforcement officers to select the agency they would like to assist from a list generated by The Department of Homeland Security. For example, those who are interested in assisting the Coast Guard or protecting a military base in their community would report to the closest Coast Guard or military base where a military special agent would conduct a brief interview to confirm that the applicant is honorably retired, has no criminal history and is licensed to carry firearms. Retired personnel who wish to assist the Border Patrol could report to the closest Border Patrol station etc. Once the recruitment process is completed the applicant would be sworn in and assigned to a post of duty where they are needed the most. Another option is to have all applicants screened by a designated DHS agency and placed by request in either an active or inactive reserve status. DHS Reserve personnel on the active list would agree to be deployed at any time. Reserve personnel on the inactive roster would be required to attend periodic training but would only be activated in the gravest of situations. DHS Reserve personnel should also be given the option of making a full time or a part time commitment during a mobilization.

Whether U.S. Defense Force personnel are deputized as U.S. Customs Officers or Special Deputy U.S. Marshals, all reserve personnel should be qualified to perform basic physical security duties and protect life and property at locations of national interest during any terrorist threat, national emergency, state of war, or natural disaster. The passage of The Law Enforcement Officers Safety Act of 2004 authorizes honorably retired federal, state and local law enforcement officers to carry concealed firearms throughout the United States. Homeland Security Reserve Officers and Agents should be issued clothing and identification similar to traditional law enforcement attire and credentials. Reserve personnel could wear something as simple as police style Battle Dress Uniforms (BDUs). Even traditional police "raid jackets" could be worn by reserve personnel since the civilian population is very familiar with this distinctive form of law enforcement clothing.

Funding is always a concern. However, waiting until America is attacked again is not the answer. Although many retired law enforcement officers would be willing to work for little or no compensation during a dire emergency, the federal government should be prepared to provide DHS Reserve personnel with some form of compensation for their national service. Initially, compensation could be something as simple as a tax free daily per diem allotment to cover

travel, food and lodging expenses. Once funding is approved reserve personnel could be compensated in different ways depending on their assignment and level of commitment.

The retired law enforcement community represents an untapped resource that the U.S. Government could use to dramatically increase federal public safety and security services during a national emergency or serious disaster. The fact that there will always be a large number of retired law enforcement officers residing in the U.S. guarantees that there will always be a large pool of reserve personnel to drawn from.

Some additional facts and observations to consider:

On September 11, 2001 four commercial airliners on domestic flight plans were hijacked and used in "Kamikaze" style attacks on civilian and military targets in the United States. As a result of these attacks the World Trade Center was destroyed, a portion of the Pentagon was damaged and a significant number of people lost their lives or were seriously injured.

Ever since the end of the Cold War the Department of Defense has become increasingly dependent on the use of National Guard forces to protect America at home and abroad. Operation Desert Storm and Desert Shield are prime examples of how a streamlined U.S. military relied on reserve and National Guard units to augment its regular forces during a large scale foreign deployment. During The War on Terrorism a significant percentage of National Guard troops and reservists have been deployed to protect the United States and serve overseas. If the United States was faced with multiple threats at the same time who would be left minding the store? The first reaction that most of us have is to say let the police handle it. Our second response is to call out the National Guard. This proposal asks the question: If a significant number of National Guard units are deployed overseas who will help the police protect America when certain events place unusual demands on the civilian law enforcement community? It should also be noted that even if Guard forces are available in strength to assist domestic law enforcement agencies, the National Guard is a military unit and not a police force.

Traditionally, National Guard troops have provided valuable assistance in the past. One reason for this was because the National Guard was available in strength. In some respects we have become dependent on this resource. Unfortunately, law enforcement agencies cannot be expected to provide the full spectrum of public safety services and handle the additional missions of responding to attacks and disasters while protecting the internal security of the United States on a sustained basis without some assistance.

Because the National Guard is more of an army than a police force it makes sense to assign U.S. Defense Force Officers/ Homeland Security Reserve Agents to work with National Guard units when they are deployed to provide a homeland security mission. An integrated force would help improve community relations and acclimate Guard personnel to the demands of vending public safety services during an domestic emergency. DHS Reserve personnel could also be used to provide relief to overworked National Guard troops, especially when the National Guard has been deployed for a long period of time.

Many people believe that the future is ripe for a variety of domestic and international conflicts to interrupt the peace. Others predict an increase in natural disasters. All that is needed to change the way in which our society operates is a terrorist threat or attack that is so devastating that it would be insane to go about our business as if the unaffected areas would be free from possible attack as well. Domestic law enforcement agencies can only do so much given the massive size of the country and the number of high risk locations that could be targeted by an enemy of the United States. Even if there was no specific plan by a terrorist group to target other locations that could certainly change overnight. As a result, the federal government is compelled to secure as many vital locations as possible. In the worse case scenario, a situation could develop where the United States could be burdened with a tremendous internal security problem that could change the way we live and diminish our capacity to wage large scale offensive military operations.

Natural disasters are another problem that can place a tremendous burden on public safety resources. The fire season was so severe in the year 2000 that retired personnel had to be recalled to service. In the year 2001 a battalion of U.S. Marines and U.S. Army personnel were used to fight fires in western states. In numerous instances federal officers, FEMA and military personnel have provided assistance during natural disasters. This assistance was provided because the assets and resources were available. What would happen in a situation where the bulk of our National Guard forces and the active duty military were committed elsewhere?

If and when the United States is confronted by an increase in terrorist threats, another terrorist attack, or some other serious national emergency existing public safety resources will be spread thin. Such turmoil would create inviting targets for domestic and international terrorists who would be prone to move against the least defended locations first. In less troublesome times state and local police are able to provide direct support to the federal government to increase security at sensitive locations during special events or during an occasional state of emergency. However, in the worst case scenario law enforcement resources may not be able to adequately protect the United States and provide a full spectrum of public safety services on a sustained basis without help.

Vending credible public safety services are critical to maintaining social order and protecting the framework of our American society. Certain locations that are crucial to maintaining the health and welfare and economic stability of the United States must be protected at all costs. Unfortunately, there are a limited number of federal law enforcement officers available to increase physical security at facilities and locations that are under the control of the federal government. Using moonlighting state and local law enforcement officers to provide additional security for the federal government is an excellent concept but it has its drawbacks.

It is also important to consider that the average federal agent, cop on the beat and deputy sheriff can only work a limited number of 12 to 16 hour tours of duty before they become exhausted and ineffective. Government officials need to remember that it is just as important to provide relief and assistance to law enforcement officers during a national emergency as it is to provide relief and support to our frontline combat troops operating on foreign soil. It is also very difficult for law enforcement agencies to maintain normal services while trying to cope with a serious emergency or periodic elevations in the threat level. Another problem involves the

condition of our privatized forces. The level of professionalism of our nation's private security forces runs from one extreme to another. Another factor to consider is how little respect most Americans have for private security forces.

It is difficult to imagine what will be required to protect the United States in times of serious national emergency. To bring things down to smaller scale consider what it will take to increase security in Arizona in a situation where the National Guard is needed elsewhere or the emergency is so serious that the Guard requires help. Arizona has several airports, a number of high profile military reservations, several armories, a nuclear reactor, Hoover Dam and a large land border with Mexico. Arizona also hosts several defense contractors that would be prime targets in times of national emergency, given the type of weapons systems that these corporations manufacture. Now consider what it will take to adequately secure important sites in New York City.

On September 11, 2001 the entire 40,000 member New York City Police Department, including other law enforcement agencies went on full alert. Off duty personnel were called in and the New York State National Guard was activated. Public safety personnel from neighboring jurisdictions and the federal government responded to provide assistance, as did local residents. U.S. fighter planes flew over the United States while the rescue and recovery of victims became an immediate priority. Public safety officials in New York City worked 12 hours or more each day for several weeks under tremendous physical and emotional stress with little or no relief or time off. Even with all that was done to lighten the load that was carried by public safety officials immediately after the attacks on 9/11; one can only imagine the level of support that could have been provided if the federal government was able to deploy a significant number of DHS Reserve Officers and Agents to affected areas. In addition to providing assistance to law enforcement personnel at ground zero, national public safety reserve officers and agents could have been used to dramatically increase physical security at commercial airports and other sensitive locations following the terrorist attacks on 9/11.

Should the United States be forced to re-institute a military draft there will be fewer candidates to enter the law enforcement profession. Even without a draft the law enforcement profession is having difficulties recruiting suitable candidates in some jurisdictions. Another problem involves the loss of sworn personnel in law enforcement agencies due to retirements. The New York City Police Department alone expects to retire several thousand police officers in the next few years. Federal agencies are also expected to retire a significant number of veteran federal officers and special agents in the near future. Under this proposal the federal government would recycle patriotic law enforcement officers who intend to retire but wish to continue to serve and utilize them in a reserve capacity.

Provisions already exist to allow retired federal law enforcement officers to serve in a reserve capacity without sustaining a loss or reduction of pension benefits. Retired law enforcement personnel would not require health coverage or benefits other than standard OWCP disability protection. Even medically retired and physically disabled law enforcement officers should be allowed to serve in a light duty capacity and could be used to relieve more physically fit personnel from having to perform less strenuous but necessary security and support duties.

If our future includes an increase in natural disasters, an increase in terrorist threats or attacks, or other threats to our national security we must prepare now. One way to dramatically increase public safety during emergencies and add another layer of protection to our national defense is to create a national homeland security reserve force.

As a result of the attacks on 9/11 and all that has transpired since then the United States may face many challenges in the future that will require a commitment by all Americans to help out in some way. A national homeland security reserve force can help protect the United States and give our citizens and visitors a renewed sense of security in difficult times. Ever since September 11, 2001 we are all painfully aware that history has a tendency to repeat itself. With this in mind we must act now to improve homeland security in America.

Art Gordon
National President
Federal Law Enforcement Officers Association (FLEOA)

Contact number: 443-463-5912

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BERNARD SANDERS, VERMONT,
INDEPENDENT

July 26, 2006

Doctor Ronald Sanders
Chief Human Capitol Officer
Office of the Director of National Intelligence
DNI/MCHCO
Room # 6G00
Building OHB
Washington, DC 20511

Dear Dr. Sanders,

I would like to thank you once again for appearing before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

As discussed during the hearing, I have attached to this letter a list of questions that I would like to be added to the hearing record. This letter and attachment are a follow up to an electronic or faxed version that was mailed on July 26, 2006.

I request that these questions be answered and submitted electronically to the following email address no later than 5:00 pm on August 14, 2006: chad.christofferson@mail.house.gov. If this deadline cannot be met, I ask that my Subcommittee staff be informed as soon as possible.

Once again, I thank you for your assistance on this important subject. If you have any questions please do not hesitate to contact me.

Sincerely,

Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"
Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Dr. Ronald Sanders, Office of the Director of National Intelligence

- How many re-employed annuitants are currently employed at the Office of the Director of National Intelligence?

- What is the main cause of the skilled workforce shortage in the Office of the Director of National Intelligence?
    - Does re-employing retired annuitants without an offset to their salary solve the workplace shortage in the short-run?
    - What are your plans for continued use of re-employed annuitants in the long run?

- How does the Office of the Director of National Intelligence determine that a position needs to be filled by a retiree?

- Are there restrictions on the positions that re-employed annuitants may fill? What are these restrictions and what are the exceptions?

- How does the Department of Defense determine the annuitants that are candidates for re-employment?
    - Is re-employment just based on past performance or is there also an examination or other process for selection?
    - In the case of an examination or selection process, who is in charge of it and what does it consist of?

UNCLASSIFIED

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

September 1, 2006

The Honorable Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization
Committee on Government Reform
House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Following your Subcommittee hearing on "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need" on July 25, 2006, Dr. Ronald Sanders received five Questions for the Record. The responses to those questions are attached.

If you have any questions on this matter, please contact Peter Petrihos in the Office of Legislative Affairs, on (202) 201-1156.

Sincerely,

Kathleen Turner

Kathleen Turner
Director of Legislative Affairs

Enclosure: As stated.

Hearing Date: July 25, 2006
Committee: House Government Reform Subcommittee on Federal Workforce and Agency Organization
Member: The Honorable Jon C. Porter, Chairman
Witness: Dr. Ronald P. Sanders

Question 1: (U) How many re-employed annuitants are currently employed at the Office of the Director of National Intelligence?

Answer: (U) This is a fairly modest program. While the exact number is classified, there are less than a dozen re-employed annuitants.

Question 2: (U) What is the main cause of the skilled workforce shortage in the Office of the Director of National Intelligence?

- **Does re-employing retired annuitants without an offset to their salary solve the workplace shortage in the short-run?**
- **What are your plans for continued use of re-employed annuitants in the long run?**

Answer: (U) While the Office of the DNI (ODNI) is not experiencing a significant skilled workforce shortage in its own offices, the principle problem faced by the Intelligence Community (IC) in terms of a skilled workforce shortage is largely prospective. By 2010, more than half of IC employees will be eligible to retire. On the other hand, 30% or more of our workforce has less than five years of Federal service. Between these two steep population "peaks" is a substantial trough, at our middle grades – precisely where we look for our next generation of senior analysts, case officers, technical experts, and leaders. The seasoned professionals who can teach our next generations of intelligence professionals operational and analytical arts are ready to retire.

(U) The Intelligence Community has a two-pronged approach to addressing current and prospective workforce shortages. On January 27, 2006, the Deputy Director of National Intelligence for Management issued a memorandum which provides for reemploying annuitants in positions at grade 12 and above in limited job series. On July 24, 2006, the Deputy Director of National Intelligence for Management signed a policy memorandum implementing a National Intelligence Reserve Corps (NIRC), which the Congress enacted last year. The NIRC provides for the temporary reemployment on a voluntary basis of former employees of elements of the Intelligence Community during periods of emergency, as determined by the Director of National Intelligence. The January 2006 policy ensures judicious administration of ongoing staffing requirements while the NIRC puts in place a roster of ready talent for future needs.

Question 3: (U) How does the Office of the Director of National Intelligence determine that a position needs to be filled by a retiree?

Answer: (U) See response to question 5.

Question 4: (U) Are there restrictions on the positions that re-employed annuitants may fill? What are these restrictions and what are the exceptions?

Answer: (U) Under the NIRC program, the authority requires the head of one of the intelligence agencies to make a specific written determination that the appointment of a re-employed annuitant to the NIRC will meet a requirement critical to the agency's mission during the period of emergency. It also requires the agency head to notify the Intelligence Community's Chief Human Capital Officer in writing of such a determination.

(U) With respect to non-NIRC requests, waivers may only be granted to those in grade 12 and above and only in nine occupational series specified in the January 27, 2006 memorandum from the Deputy Director of National Intelligence for Management (copy attached). There are no exceptions to these requirements. However, the current policy is subject to review and adjustment as mission requirements dictate.

Question 5: (U) How does the Office of the Director of National Intelligence determine the annuitants that are candidates for re-employment?

- **Is re-employment just based on past performance or is there also an examination or other process for selection?**
- **In the case of an examination or selection process, who is in charge of it and what does it consist of?**

Answer: (U) Under the NIRC program, the authority requires the head of one of our intelligence agencies to make a specific written determination that the appointment of a re-employed annuitant to the NIRC will meet a requirement critical to the agency's mission during the period of emergency. It also requires the agency head to notify the Intelligence Community's Chief Human Capital Officer in writing of such a determination.

(U) For non-NIRC requests, consistent with the memorandum of January 27, 2006, each request is prepared by the hiring office and forwarded to the Office of the Director of National Intelligence/Directorate for Management/Administration/Human Resources for review. The request must include the following:

- The annuitant's full name, civil service retirement number, the position's title, series, pay plan, grade, not-to-exceed date, and location.
- A brief statement from the requesting office describing how the position's duties directly support the Office of the Director of National Intelligence's mission during the state of national emergency declared as a result of the terrorist attacks of September 11, 2001.
- Justification addressing the special qualifications of the candidate, the lack of other staffing options, and the importance of filling the position on a temporary or a time-limited basis.
- The applicant's statement, "I decline the position offered unless the dual compensation limits are waived."

(U) Once the above office has reviewed the package, it is forwarded, under the signature of the Assistant Deputy Director of National Intelligence, Administration (ADDN), to the ADDNI Intelligence Community Chief Human Capital Officer for approval or disapproval.

UNCLASSIFIED

OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
DEPUTY DIRECTOR OF NATIONAL INTELLIGENCE FOR MANAGEMENT
WASHINGTON, DC 20511

M-06-6001

MEMORANDUM FOR: Deputy Director of National Intelligence for Analysis
Deputy Director of National Intelligence for Collection
Deputy Director of National Intelligence for Customer Outcomes
Associate Director of National Intelligence and Chief of Staff
Associate Director of National Intelligence for S&T
Associate Director of National Intelligence and CIO
Director, National Counterterrorism Center
Director, National Counterproliferation Center
Program Manager Information Sharing Environment
National Counterintelligence Executive

SUBJECT: Instructions for Dual Compensation Waivers

In recognition of the continuing state of national emergency declared as a result of the terrorist attacks of September 11, 2001, the Office of Personnel Management (OPM) has delegated to the Director of National Intelligence (DNI) the authority to waive the dual compensation reduction (salary offset) to hire civil service annuitants under the Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) for the Office of the Director of National Intelligence (ODNI) positions.

This authority is to be used on a case-by-case basis to fill temporary positions during the declared state of emergency and applies to only the ODNI and its components (e.g., Centers, the National Intelligence Council, the National Counterintelligence Executive, Program Manager Information Sharing Environment, etc.).

The DNI has further delegated this approval authority to the Intelligence Community (IC) Chief Human Capital Officer (CHCO). The delegated authority is effective as of October 19, 2005 and expires upon the termination of the state of national emergency or September 30, 2008, whichever is earlier. All waiver requests are to be coordinated by the Assistant Deputy Director of National Intelligence for Administration (ADDNI/A) prior to forwarding to the IC CHCO for approval/disapproval. (See Attachment 1 for detailed guidance.)

While dual compensation waivers can be viewed as a significant recruitment/staffing tool, they may only be offered to those candidates who have declined a formal written offer of employment, accompanied by a statement that he/she refuses the position unless a dual compensation reduction waiver can be provided.

Generally, dual compensation dual waivers only apply to temporary or time-limited appointments. However, this authority may be used to approve waivers of up to five years for time-limited appointments to key positions where a shorter appointment would disrupt operational or leadership continuity or have a negative impact on the intelligence mission. Candidates must understand and accept these conditions of employment.

Requests for a dual compensation waiver, with appropriate justification, will be forwarded under your signature through the ADDNI/A, where it will be reviewed for appropriate information (position title, series, pay plan, benefit package, etc.) before being provided to the IC CHCO for approval/disapproval. Dual compensation waiver requests are limited to positions at GS-12 grade level (or equivalent) and above in the occupational series as detailed in Attachment 2.

The ADDNI/A will compile and retain a record of all applicable forms, letters, etc., for Executive and Legislative branch reporting requirements.

Questions or comments should be submitted directly to Ms. Rachel McPhail, Chief, ODNI/Directorate for Management/Administration/Human Resources at (703) 482-1702 (U) or 933-9735 (S); by unclassified e-mail at rachemm@odci.gov; or via IC e-mail at mcphail@cia.ic.gov or Ms. Linda Rounds, who can be reached at (703) 482-0281 (U) or 933-0016 (S); by unclassified e-mail at lindakr@ucia.gov; or via IC e-mail at roundsl@cia.ic.gov.

Patrick F. Kennedy

27 January 2006
Date

Attachments:
Tab 1 - Guidance for Processing Dual Compensation Waivers
Tab 2 - Occupational Series Definitions

Director of National Intelligence

Guidance for Processing Dual Compensation Waivers

Dual compensation waiver justifications must clearly describe how the position's duties support, directly and solely, the response to the intelligence and national/homeland security imperatives articulated by the Intelligence Reform and Terrorism Prevention Act of 2004 and the National Intelligence Strategy. In addition, justifications should outline the unique or exceptional qualifications of the individual selected for the position, the difficulty in staffing the position, and the extent of your search for alternative candidates to meet this requirement.

Each request for a waiver for dual compensation will be prepared by the hiring office and forwarded to the Office of the Director of National Intelligence/Directorate (ODNI) for Management/Administration/Human Resources (DDNI/M/ADMN/HR) for review to ensure appropriate information is included. The request shall contain the following:

- The annuitant's full name, civil service retirement number, the position's title, series, pay plan, grade, not-to-exceed date, and location.
- A brief statement from the requesting office describing how the position's duties directly support the Office of the Director of National Intelligence's mission during the state of national emergency declared as a result of the terrorist attacks of September 11, 2001.
- Justification addressing the special qualifications of the candidate, the lack of other staffing options, and the importance of filling the position on a temporary or time-limited basis.
- The applicant's statement, "I decline the position offered unless the dual compensation limits are waived."

Once the package has been reviewed by DDNI/M/ADMN/HR, it will be forwarded, under the signature of the Assistant Deputy Director of National Intelligence (ADDNI), Administration, to the ADDNI Intelligence Community Chief Human Capital Officer for approval/disapproval.

Occupational Series Definitions

GS-0080 Security Administration – Work involves performing analytical, planning, advisory, operation, or evaluative work for the development and implementation of policies, procedures, standards, training, and methods for identifying and protecting information, personnel, property, facilities, operations, or material from unauthorized disclosure, misuse, theft, assault, vandalism, espionage, sabotage, or loss. Duties involve: (1) developing, evaluating, maintaining, and/or operating systems, policies, devises, procedures, and methods used for safeguarding information, property personnel, operations, and materials; and/or (2) developing and implementing policies and procedures for analyzing and evaluating the character, background, and history of employees, candidates for employment, and other persons having or proposed to be granted access to classified or other sensitive information, materials, or work sites.

GS-0130 Foreign Affairs – Work involves advising, administering, supervising, or performing research or other professional and scientific work in the departmental formulation and direction of the foreign affairs of the government or in the study and disposition of information bearing on international relations.

GS-0132 Intelligence – Work involves advising on, administering, supervising or performing work in the collection, analysis, evaluation, interpretation, and dissemination of information on political, economic, social, cultural, physical, geographic, scientific, or military conditions, trends, and forces in foreign and domestic areas that directly or indirectly affect the national security.

GS-0301 Miscellaneous Administration and Program – Work involves performing, supervising, or managing administrative or program work for which no other series is appropriate. The work requires analytical ability, judgment, discretion, and knowledge of a substantial body of administrative or program principles, concepts, policies, and objectives.

GS-0343 Management and Program Analysis – Work involves serving as analysts and advisors to management on the evaluation of the effectiveness of government programs and/or the operations or the productivity and efficiency of the management of Federal agencies. Requires substantive knowledge of agency programs and activities; agency missions, policies, and objectives; management principles and processes; and analytical and evaluative methods and techniques.

GS-0391 Telecommunications – Work involves: (1) technical and analytical work in the planning, development, acquisition, testing, integration, installation, utilization, or modification of telecommunications systems, facilities, services, and procedures; (2) managerial and staff work in the planning, implementation, or program management of telecommunications programs, systems, and services; or (3) line supervision over communication operations, including management functions such as planning, recommending changes, determining organizational structure, staffing, training, and budgetary requirements.

GS-0560 Budget Analysis – Work involves performing, advising on, or supervising work in any of the phases of budget administration requiring knowledge and skill in applying budget-related laws, regulations, policies, precedents, methods, and techniques.

GS-1101 General Business and Industry – Work involves administering, supervising, or performing work in contracting, property management, purchasing, property disposal, or financial management.

GS-2210 Information Technology Management – Work involves managing, supervising, leading, administering, developing, delivering, and supporting information technology (IT) systems and services. This series covers only those positions for which the paramount requirement is knowledge of IT principles, concepts, and methods; e.g., data storage, software applications, and networking.

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July 26, 2006

Patricia Bradshaw
Deputy Undersecretary of Defense, Civilian Personnel Policy
U.S Department of Defense
1300 Defense Pentagon
Washington, DC 20301-1300

Dear Ms. Bradshaw,

I would like to thank you once again for appearing before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

As discussed during the hearing, I have attached to this letter a list of questions that I would like to be added to the hearing record. This letter and attachment are a follow up to an electronic or faxed version that was mailed on July 26, 2006.

I request that these questions be answered and submitted electronically to the following email address no later than 5:00 pm on August 14, 2006: chad.christofferson@mail.house.gov. If this deadline cannot be met, I ask that my Subcommittee staff be informed as soon as possible.

Once again, I thank you for your assistance on this important subject. If you have any questions please do not hesitate to contact me.

Sincerely,

Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"
Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Ms. Patricia Bradshaw, Department of Defense

- In your testimony, you mention that "Department policy ...[establishes the use of re-employed annuitants] in certain circumstances such as for hard-to-fill or critical positions, positions requiring unique or unusual circumstances, when necessary to provide continuity during transitions, or for mentoring." Can you please expand on how the Department of Defense determines that a position needs to be filled by a retiree?

- How does the Department of Defense determine the annuitants that are candidates for re-employment?
    - Is re-employment just based on past performance or is there also an examination or other process for selection?
    - In the case of an examination or selection process, who is in charge of it and what does it consist of?

- Does DOD limit the length of time an annuitant may be re-employed?

- Is there a limit on the number of annuitants you can re-employ, and if so, who sets it?

- Are there restrictions on the positions that re-employed annuitants may fill?
    - What are these restrictions and what are the exceptions?

- During Hurricane Katrina, how did the Department of Defense make use of its authority to re-employ annuitants?

- What measures has the Department of Defense taken to assure employees do not take advantage of the opportunity to double-dip by retiring early, for example?

- What is the average retirement age at the Department of Defense?

- What is the average age of your re-employed annuitants?

Response to Questions on Reemployed Annuitants

Question 1: Please expand on how the Department of Defense (DoD) determines that a position needs to be filled by a retiree?

Answer: Hiring of annuitants is just one tool used by DoD to attract and retain talented men and women. Before a position is filled with an annuitant a determination must be made that it is critical or hard-to-fill (as evidenced by historically high turnover or severe lack of candidates); is necessary for a specific project or initiative; requires unique expertise, knowledge or special qualifications not currently available; or is being used to mentor less experienced employees or to provide continuity during organizational transitions.

Question 2: How does the Department determine the annuitants that are candidates for reemployment? Is re-employment just based on past performance or is there also an examination or other process for selection? In the case of an examination or selection process, who is in charge of it and what does it consist of?

Answer: The primary factor in the decision to hire a reemployed annuitant is whether the individual has the skills necessary for the position. The quality of the individual's performance is one of the factors considered when making this determination. In DoD, as in other Federal agencies, reemployed annuitants do not have to apply under external competitive procedures and no examinations are required if applying for a position at a lower or the same grade level previously held. If an annuitant is applying for a position at a higher grade level then previously held, they must compete under internal merit promotion procedures which could involve a variety of selection processes (i.e., rating panels, ranking of the annuitant qualifications...etc.). Generally, selections are made by the managers in the field with direct knowledge of the duties and responsibilities of the positions. Additionally, reemployed annuitants must meet one of the criteria identified in the DoD policy.

Question 3: Does DoD limit the length of time an annuitant may be reemployed?

Answer: Positions may be filled on a time-limited or indefinite basis depending on the individual circumstances and the position requirements. Appointments to address mentoring needs or critical organizational transitions are limited to 2087 hours or one year of work. Extensions are not authorized.

Question 4: Is there a limit on the number of annuitants you can reemploy, and if so, who sets the number?

Answer: There is no limit set on the number of annuitants who can be reemployed. Decisions are driven by mission requirements and the urgency of filling the requirement. However, we also recognize the need to bring new talent into the Department and to maintain opportunities for advancement for the current workforce.

Question 5: Are there restrictions on the positions that re-employed annuitants may fill? What are these restrictions and what are the exceptions?

Answer: Positions filled by annuitants must meet the criteria in question 1, unless the annuitant is placed through the Priority Placement Program (for employees affected by reductions and downsizing) or is being returned to work following recovery from an on the job injury.

Question 6: During Hurricane Katrina, how did the Department of Defense make use of its authority to re-employ annuitants?

Answer: The criteria above were also used in determining hiring needs for annuitants during Hurricane Katrina. The Department employed annuitants with specialized skills to support the Army Corps of Engineers in the aftermath of Hurricane Katrina. For example, one individual, with unique Hydraulic Engineering and Navigational assessment capabilities, was rehired to support an engineering cell in support of Task Force Katrina. Another individual was rehired for his expertise as a Resident Civil Engineer.

Question 7: What measures have the Department of Defense taken to assure employees do not take advantage of the opportunity to double –dip by retiring early, for example?

Answer:
The criteria listed in question 1 were developed to ensure that this authority is used appropriately. Because of those criteria, individuals cannot automatically assume that they will be reemployed as annuitants. The approving official must certify that the appointment of the annuitant meets the DoD criteria. In addition, our policy states that if the time between retirement and reemployment is less than 90 days, there must be evidence that other retention options (e.g., retention allowance, flexible work schedules, and telework) were considered and offered before the employee retired.

Question 8: What is the average retirement age at the Department of Defense?

Answer: The average retirement age for DoD civilian employees last year was 58 years of age. This includes both optional and early retirees. The average age for optional retirees was 61 years of age for that same time period.

Question 9: What is the average age of DoD re-employed annuitants?

Answer: The average age for a DoD re-employed annuitant is 62 years of age.

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INDEPENDENT

July 26, 2006

Duncan D. Templeton
Legislative Vice President
Federal Law Enforcement Officers Association
P.O. Box 326, Lewisberry, PA 17339

Dear Mr. Templeton,

I would like to thank you once again for appearing on behalf of Art Gordon before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

As discussed during the hearing, I have attached to this letter a list of questions that I would like to be added to the hearing record. This letter and attachment are a follow up to an electronic or faxed version that was mailed on July 26, 2006.

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Once again, I thank you for your assistance on this important subject. If you have any questions please do not hesitate to contact me.

Sincerely,

Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"
Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Mr. Art Gordon, Federal Law Enforcement Officers Association

- In your testimony, you mentioned that time limits on the length of returned service should not be restricted but that uniform policies need to be established. What kind of policies would you propose that would enhance flexibilities for hiring retired law enforcement officers but also avoid potential abuses?

- Is the federal government doing enough to compete with the private sector to recruit federal LEO retirees? What else can we do to recruit retired law enforcement officers?

- Do you have statistics on how many federal law enforcement retirees return to work and in what capacity:
    - In the federal sector?
    - In the private or state and local government?

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August 12, 2006

Honorable Jon C. Porter
Chairman, Subcommittee on the Federal Workforce
and Agency Organization
Committee on Government Reform
United States House of Representatives
Washington, DC

Dear Chairman Porter:

As President of the Federal Law Enforcement Officers Association (FLEOA), representing over 25,000 Federal law enforcement officers, I wanted to take this opportunity to thank you for allowing FLEOA to provide testimony to your committee on this important issue.

Attached for your information is the FLEOA response to the "Questions Submitted for the Record" dated July 26, 2006, on "Retirees Returning to the Rescue: Re-employing Annuitants in Time of National Need".

This is an important issue for all of us in Federal law enforcement, as we continue to investigate and interdict terrorists who are planning to attack our nation. Retired annuitants are vital to our nation's effort to thwart terrorism.

If I can be of any further assistance to you or your committee, please do not hesitate to call me. I can be reached at 443-463-5912.

Sincerely,

Art Gordon, National President

ATTACHMENT: FLEOA response to questions submitted for the record, July 26, 2006

"Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need" Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Mr. Art Gordon, Federal Law Enforcement Officers Association

- **In your testimony, you mentioned that time limits on the length of returned service should not be restricted but that uniform policies need to be established. What kind of policies would you propose that would enhance flexibilities for hiring retired law enforcement officers but also avoid potential abuses?**

Response #1

Arbitrary time limits facing rehired-annuitants discourages these individuals from returning to the Federal work-force. Currently within the Department of Homeland Security many retired Federal law enforcement officers (approximately 150 criminal investigators) returned to the Federal work-force as rehired annuitants. Some individuals received a 5 year dual compensation waiver, while others only received a 3 year dual compensation waiver. There does not appear to be any logical reason for doing this. In essence, some of these individuals were told they would be rehired for 5 years while others were told that they would be rehired for 3 years. Many retirees are reluctant to leave the private sector and return to the Federal work-force for a short period of time.

There should be no time limits established for rehired annuitants. The length of time of the re-employment of these individuals should be based on; (1) the critical need of the agency, (2) the area of expertise of the rehired annuitant, (3) the performance of the employee and (4) the inability of the agency to fill positions critical to the safety and security of our nation.

Current Federal employees receive annual performance appraisals and if they are not performing satisfactorily, they are terminated. The same standards should apply to rehired annuitants and this would eliminate any possible abuses. A rehired annuitant not performing satisfactorily would also be terminated.

- **Is the federal government doing enough to compete with the private sector to recruit federal LEO retirees? What else can we do to recruit retired law enforcement officers?**

Response #2

No the Federal government is not doing enough to compete with the private sector.

Federal LEO retirees are highly experienced criminal investigators who receive 25 to 30 years of actual hands-on experience during their careers honing their investigative skills, and in addition, they also receive hundreds of hours of formal training from some of our nation's finest experts in the law enforcement field. These skilled individuals are highly sought by the private sector and State and local governments. The Federal LEO retirees are afforded an opportunity to continue to utilize their skills and expertise as they start a second career and become eligible for a second retirement annuity. They can continue to work as long as they choose. Unfortunately rehired annuitants are not offered this same opportunity and their time of re-employment is very limited.

The rules need to be changed. Federal law enforcement retirees should be allowed to return to the Federal work-force without penalty and begin a second career and be eligible for a second retirement annuity, as Secret Service agent retirees are currently allowed to do. If not, the brain drain will continue and the federal law enforcement agencies will continue to lose these highly trained and highly skilled criminal investigators to the private sector.

- **Do you have statistics on how many federal law enforcement retirees return to work and in what capacity:**
  - **In the federal sector?**
  - **In the private or state and local government?**

Response #3

I don't have actual statistics, but I believe I can provide the committee with some fairly accurate numbers on this issue based on our research.

In the Federal Sector

Prior to September 11, 2001, the only Federal law enforcement retirees that returned to the Federal work-force were Secret Service agents, simply because they were not considered rehired annuitants and many of the Inspector General Offices (i.e. DOJ OIG, DHS OIG, HUD OIG, Dept of Agriculture OIG, Social Security OIG, NASA OIG, SEC OIG, SBA OIG, etc and GAO) needed experienced investigators and hired them. The Secret Service agents retired under the Washington DC Metropolitan Police retirement system and can be re-employed by the Federal government without penalty.

With the creation of the Department of Homeland Security, the Federal Air Marshal Service and the Transportation Security Administration, approximately 150 retired Federal law enforcement officers were brought back into Federal service as rehired annuitants. These are retired Federal criminal investigators from the FBI, ATF, DEA, ICE, Customs, etc. In addition, approximately 100 Retired Secret Service agents also returned to Federal service. It was apparent that terrorists' striking the US Homeland was a wake-up call for Federal law enforcement.

Within TSA, most of these individuals are serving as Federal Security Directors, Assistant Federal Security Directors for Law Enforcement and in some headquarters executive positions. Within the Federal Air Marshal Service, these individuals are serving in all mid and upper–level management positions, including Director, Assistant Directors, Special Agents in Charge, Assistant Special Agents in Charge and Assistants to the SAC, etc.

In the Private Sector or State and Local Government

Retired Federal law enforcement officers currently serve in various capacities in the private sector such as: Executive VP for Corporate Security at most major corporations, Chief of security at most colleges and universities, Chief of Security at many hospitals, Chief of Security for various major league baseball teams and football teams, Chief of Security for many major airlines, banks and financial institutions, etc. They also serve as investigators for many corporations, insurance companies, credit card companies and financial institutions.

In addition, retired Federal law enforcement officers currently serve in various capacities in State and local governments such as: Chief of police, high ranking police official, Homeland Security Director/Coordinator, Law Enforcement Advisor and various investigative positions within law enforcement agencies and prosecutors offices.

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DISTRICT OF COLUMBIA

BERNARD SANDERS, VERMONT,
INDEPENDENT

July 26, 2006

Charles Fallis
President
NARFE
606 N Washington St.
Alexandria, VA 22314

Dear Mr. Fallis,

I would like to thank you once again for appearing before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

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Once again, I thank you for your assistance on this important subject. If you have any questions please do not hesitate to contact me.

Sincerely,

Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"
Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Mr. Charles Fallis, National Active and Retired Federal Employees Association

- You mention in your testimony that "we should not ignore this pool of ready, willing, and able proud men and women who have dedicated their careers to service in our nation." Generally, do you see a trend in annuitants eagerly returning to the workforce in greater numbers?
    - In the past, retirees may have had more motivation to return to work in the private sector so they could get both an annuity and salary. Are more retirees now returning to the federal workforce?
    - If so, do you think the numbers are increasing because of the greater availability of dual compensation?
- *In your testimony, you state that "many crucial federal workers avoid the red tape of the waiver process altogether by going to work for a government contractor where their federal annuity presents no barrier to being paid full salary at the new job."*
    - Is the federal government doing enough to compete with the private sector to recruit federal annuitants?
    - What other incentives can the government offer to attract annuitants back to the federal workforce?
- You mention inequity between agencies as to how the test for granting a waiver is determined.
    - Do you think the granting of waivers both between and within agencies is consistent?
    - If not, how do you propose improving consistency in the waiver process?

THE NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES ASSOCIATION'S (NARFE) RESPONSES TO CHAIRMAN PORTER'S QUESTIONS FOR THE JULY 25, 2006 HEARING RECORD

1. NARFE does not track the employment status of federal annuitants, nor does it survey its membership regarding employment status. However, data provided by OPM indicates that, as of September 2005, there were close to four thousand re-employed annuitants out of a total workforce of 1.7 million. The data indicates that about half of these re-employed annuitants have been granted a waiver from the salary offset.

   NARFE recognizes the trend of more retirees returning to the U.S. workforce, and believes more annuitants are now interested in returning for two main reasons: additional income security, and a desire to remain engaged in and contribute to the workforce. The combination of increased longevity, soaring health care and education costs, and mounting daily living expenses results in many retirees feeling the financial need to return to the workforce for added income. Civil Service Retirement System (CSRS) annuitants affected by the Social Security Offsets, the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP), face an elimination or a significantly reduced Social Security benefit, and may be forced to remain in the workforce in order to make ends meet. Additionally, offset-affected CSRS annuitants may purposely seek private sector employment to increase their Social Security covered earnings in order to reduce or eliminate the impact of the WEP. Federal retirees are also motivated to return to the workforce for non-financial reasons, such as a desire to contribute specialized skills, or a wish to remain engaged professionally, mentally, and physically in their profession. In light of the War on Terror, annuitants possessing certain expertise or a desire to serve their country anew may be more inclined to return to federal service, but many annuitants will be attracted to private sector work, where the pay is often substantially higher.

   The salary offset rule results in annuitants seeking employment in the private sector versus returning to federal service. The data from OPM indicates that certain federal retirees will seek re-employment with the federal government despite the salary offset. However, NARFE believes that removing the salary offset will make the federal government a more attractive employer to annuitants. Pay always is a major factor for employees, and annuitants are no different in this respect.

2. Loosening the application of the salary offset will aid the federal government in competing on more equal terms with the private sector. Again, pay is the primary factor for an employee accepting a job offer. The examination of the salary offset by OPM and your subcommittee bodes well for the future re-employment of annuitants.

Another area of interest to re-employed annuitants is part-time work and/or the ability to construct a flexible work schedule. As these workers are not building a career, there are certain 'life events' they will not wish to miss for work, or for certain aging/physical reasons they may not consider taking full-time employment. Allowing for flexibility in work schedules would make federal agencies attractive employers to many annuitants.

We believe pay and flexible work schedules are the primary incentives that the federal government should employ in hopes of attracting annuitants. NARFE also is highly supportive of OPM's work to allow full-time employees to end their federal careers as part-time workers, without negatively impacting their annuity calculation. However, as we stated in our testimony, we believe the annuities of retirees who have already been negatively affected also must be addressed. In addition, we believe it is important that pay and work schedules remain the primary incentives used as recruitment tools, as we do not believe that other employee benefits (such as FEHBP or TSP) should be manipulated for only a select group of employees. As an employer, the federal government needs to maintain a core set of equal benefits that are available to all employees.

3. We have no expertise in the waiver-granting process within federal agencies. NARFE has only anecdotal information from federal retirees on the waiver-granting process and DOD's special authority. We believe is it important that OPM oversee a waiver process that is operated in a uniform and consistent manner. We have heard some reports from annuitants that certain HR/personnel offices at agencies were unaware of the waiver process or the DOD special authority, and that certain HR/personnel offices were confused about how to implement the new employee benefits, for those with existing annuities and FEHBP coverage. If the salary offset is loosened further, it is important that HR/personnel offices be fully informed on the waiver process and know how to manage this package of benefits for reemployed annuitants.

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INDEPENDENT

July 26, 2006

Nancy H. Kichak
Associate Director
Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415-0001

Dear Ms. Kichak,

I would like to thank you once again for appearing before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

As discussed during the hearing, I have attached to this letter a list of questions that I would like to be added to the hearing record. This letter and attachment are a follow up to an electronic or faxed version that was mailed on July 26, 2006.

I request that these questions be answered and submitted electronically to the following email address no later than 5:00 pm on August 14, 2006: chad.christofferson@mail.house.gov. If this deadline cannot be met, I ask that my Subcommittee staff be informed as soon as possible.

Once again, I thank you for your assistance on this important subject. If you have any questions please do not hesitate to contact me.

Sincerely,

Jon C. Porter
Chairman
Subcommittee on Federal Workforce
and Agency Organization

"Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need"
Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Nancy Kichak, Office of Personnel Management:

- What do agencies need to do to request a waiver and does OPM provide specific guidance regarding waivers in the regulations or in some other easily accessible resource? Will your proposed regulation provide further guidance?

- Who benefits, besides the re-employed annuitant, by allowing for dual compensation?

- Are there any financial implications in granting waivers and re-employing annuitants beyond those for the annuitant—*i.e. for the retirement fund, for the agency, for the taxpayer, etc?*
    - Do the annuity funds and the re-employed annuitants' salaries come from the same pot of money?

    - What is the difference between hiring a new employee and an annuitant – does one cost the government more, or is the primary cost difference the training time required for new employees?

- Do you think it would be beneficial to statutorily require a break in service and/or a change in position prior to re-employment?
    - What about limiting the time frame for re-employment and/or requiring re-employed annuitants' positions to be re-certified each year/every two years, etc.?

- Are employees required to provide notice of their intent to retire within a specific period of time prior to retirement?

"Retirees Returning to the Rescue:
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QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Nancy Kichak, Office of Personnel Management:

- **What do agencies need to do to request a waiver and does OPM provide specific guidance regarding waivers in the regulations or in some other easily accessible resource? Will your proposed regulation provide further guidance?**

When submitting their requests to OPM, agencies must provide justification which shows the request meets one of the following criteria: an emergency hiring need, a severe recruiting difficulty, or the need to retain a particular individual uniquely qualified for a project. In addition, agencies may request a delegation of authority (and provide appropriate justification) when faced with emergencies posing immediate and direct threats to life or property or emergencies resulting from other unusual circumstances.

The criteria which agencies must meet in order to justify an individual waiver or delegation of authority is contained in regulation at 5 CFR 553.201 and 5 CFR 553.202, respectively. These criteria describe what is required and needed with each request.

OPM has not determined whether we will provide further guidance on our proposed regulation. Our decision will depend on the volume and nature of comments we receive during the open comment period (which ends September 21, 2006).

- **Who benefits, besides the re-employed annuitant, by allowing for dual compensation?**

When used judiciously and appropriately, everyone gains: the Government as a whole, the employing agency, the annuitant, and the taxpayer. When inappropriately used, everyone loses but the annuitant. The key to cost-effective use of dual compensation waivers lies in close control over their availability.

- **Are there any financial implications in granting waivers and re-employing annuitants beyond those for the annuitant—*i.e. for the retirement fund, for the agency, for the taxpayer, etc?***

Depending upon how waivers are used, either costs or savings may accrue to the employing agency and the Government as a whole. Of course, since all Government payments ultimately come from the taxpayer, the cost or savings to the Government is passed on to the taxpayer.

Insofar as costs are concerned, the principal risk involved in an expansion of dual compensation waivers is that individuals will change their employment patterns in order to take advantage of the possibility of concurrent receipt of annuity and salary. Retirement costs are based upon certain expected patterns of employment behavior, including patterns as to when individuals typically choose to retire. If individuals begin to retire at an earlier time to become reemployed annuitants with waivers, there are two effects. First, generally speaking, earlier retirements increase their cost. Second, at a time when an individual would have been continuing to work prior to retirement and receiving only salary, the Government would be paying the individual two streams of income, while still receiving only the same amount of work.

A second cost issue is that individuals who would have been willing to work as reemployed annuitants without a waiver may no longer be willing to do so. When an annuitant becomes reemployed without a waiver, the amount offset from salary is paid into the Retirement Fund. If that individual instead receives a waiver, the net outlay for that reemployed individual becomes higher to the Retirement Fund and the Government as a whole.

On the other hand, when dual compensation waivers are used for individuals who would otherwise be retired, and who would otherwise be unwilling to work for the Government, then the Government receives necessary services at the lowest possible cost. Under these circumstances, there are substantial savings that may accrue to the employing agency and the Government. Savings may include training costs, benefit expenses, and greater efficiency from experienced staff.

- **Do the annuity funds and the re-employed annuitants' salaries come from the same pot of money?**

Annuities are paid from the Civil Service Retirement and Disability Fund, while salary payments normally come from agency appropriations. As noted above, all Government payments ultimately come from the taxpayers.

- **What is the difference between hiring a new employee and an annuitant –does one cost the government more, or is the primary cost difference the training time required for new employees?**

This is an extraordinarily complex issue for which there is no single, simple answer. Hiring a new employee has the advantages of potentially paying a lower salary to reflect the less experience and of having an employee who will be available for a longer duration. Reemploying an annuitant has the advantage of hiring an employee able to fully perform immediately. Although cost is an important consideration, the agencies must propose the options that best meets the needs of the government. The key to this issue is the ability to utilize dual compensation waivers when they make sense.

- **Do you think it would be beneficial to statutorily require a break in service and/or a change in position prior to re-employment?**

As stated during the hearing, OPM is considering proposals to allow waivers for part-time employees to assist with transition into retirement and to defray the impact of the impending waves of retirement. Such conditions as breaks in service and limitations on duration of appointment will be considered in that effort.

OPM does not believe it would be beneficial to statutorily require a break in service and/or a change in position prior to reemployment with salary offset waivers. Under current statute and regulations, OPM grants waivers to agencies faced with an exceptional difficulty in recruiting or retaining qualified individuals, emergencies, or other unusual circumstances. A break in service would prolong the condition which brought about the need for the waiver in the first place, and/or delay an agencies' emergency response effort.

In some circumstances (e.g., an emergency hiring need, a severe recruiting difficulty) an agency may need to bring an annuitant back into the position they held prior to retirement. We do note that under current regulations pertaining to annuitants rehired on the basis of a need to retain a particular individual (5 CFR 553. 201(e)) OPM may grant waivers only to allow the individual to perform "project" work, and not the routine, ongoing work of the position. Further, unless the waiver request is based on a need to retain a particular individual (5 CFR 553. 201(e)) the individual must be off the agency's rolls before the request may be submitted to OPM for consideration.

- **What about limiting the time frame for re-employment and/or requiring re-employed annuitants' positions to be re-certified each year/every two years, etc.?**

Under current provisions, OPM may grant waivers only to help agencies meet temporary emergency hiring needs or when the agency has encountered an exceptional difficulty in recruiting or retaining qualified individuals. Though the nature of these temporary needs vary, they are time limited. Agencies may request an extension of any waiver OPM approves, but OPM reviews the need for the extension based on the agencies' justification and the regulatory criteria contained in 5 CFR 553.

- **Are employees required to provide notice of their intent to retire within a specific period of time prior to retirement?**

Once an individual meets the age and service requirements for retirement, an individual may voluntarily separate at any time, and with no advance notice. The annuity of such an individual will commence at no later time than if the individual had provided advance notice.

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BERNARD SANDERS, VERMONT,
INDEPENDENT

July 26, 2006

Ms. Barbara Panther
Associate Deputy Assistant Secretary for Human Resource Management
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Ms. Panther,

I would like to thank you once again for appearing before the Subcommittee on Federal Workforce and Agency Organization hearing entitled, "Retirees Returning to the Rescue: Re-employing Annuitants in Times of National Need." I appreciate your willingness to testify before the Subcommittee on the Office of Personnel Management's the subject of re-employed Federal annuitants.

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Sincerely,

Jon C. Porter
Chairman
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"Retirees Returning to the Rescue:
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Subcommittee on the Federal Workforce and Agency Organization
Chairman Jon C. Porter

QUESTIONS SUBMITTED FOR THE RECORD
July 26, 2006

Questions for Ms. Barbara Panther, Department of Veterans Affairs

- Would the changes OPM has proposed in regulations published last week authorizing greater delegation of authority to agencies and less restrictive criteria for granting salary offset waivers give VA the flexibility it needs?

- There is a concern that easing the dual compensation restrictions could result in abuse. Based on your testimony, VA has had some experience with reemploying annuitants and obtaining waivers of the salary offset. What has VA done to avoid abuse of this enhanced flexibility?

- You also mention in your testimony that it might be a good idea to develop a database of retired federal employees and their skills sets to use as a call-back roster, so to speak.
    - Does VA have any plans to develop and maintain such a call-back list of VA retires?
    - Was your suggestion that such a database be created for all retired Federal employees?

Questions for the Record
Honorable Jon C. Porter, Chairman
Subcommittee on the Federal Workforce and Agency Organization
House Committee on Government Reform

July 25, 2006

Retirees Returning to the Rescue:
Re-employing Annuitants in Times of National Need

Question 1: Would the changes OPM has proposed in regulations published last week authorizing greater delegation of authority to agencies and less restrictive criteria for granting salary offset waiver give VA the flexibility it needs?

Response: The proposed Office of Personnel Management (OPM) regulations that would grant waivers in situations resulting from unusual circumstances that do not involve an emergency provide more flexibility to the Department of Veterans Affairs (VA). However, in addition to the one-time emergency use, OPM should establish criteria that would allow re-employed annuitants who come back on a part-time work schedule to automatically receive the waiver of the offset. This was put forward during testimony when it was mentioned that many retirees aren't interested in working full-time and are only interested in coming back on a part-time basis. This kind of proposal from OPM would be very beneficial.

Question 2: There is a concern that easing the dual compensation restrictions could result in abuse. Based on your testimony, VA has had some experience with reemploying annuitants and obtaining waivers of the salary offset. What has VA done to avoid abuse of this enhanced flexibility?

Response: Past history shows that VA has been very judicious in approving waivers. We believe that requiring higher level review and approval at VA Central Office is appropriate and necessary to ensure that there are no abuses. A waiver of the dual compensation reduction may be approved only on a case-by-case basis when necessary to provide critical specialized work in direct support of security, policy development, and other directly related health care functions. The requirement of detailed review and approval by VA Central Office is key to avoiding abuse of the flexibility.

Question 3: You also mention in your testimony that it might be a good idea to develop a database of retired federal employees and their skills sets to use as a call-back roster, so to speak.

a. Does VA have any plans to develop and maintain such a call-back list of VA retires?

Response: VA does not have any plans to develop or maintain a call back list of VA retirees. Individual facilities maintain or have networks and contacts with retirees in their local communities.

b. Was your suggestion that such a database be created for all retired Federal employees:

Response: No, it was not our intention to suggest that a database be created for all retired Federal employees. We would like access to a larger community of Federal retires and suggest that a database of Federal retirees interested in working as reemployed annuitants would provide a ready pool of candidates with valuable skills and experience. Such a pool would make it much easier to identify available retirees in a crisis situation.

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