

General

Central Intelligence Agency



Washington, D.C. 20505

OLL 84-0460

9 FEB 1984

Mr. James C. Frey
Assistant Director for Legislative Reference
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Frey:

This is in response to your request for views of the Central Intelligence Agency (CIA) on the Department of Justice's (DOJ) substitute draft language respecting prohibition of payment of annuities to federal employees convicted of certain felonies. As discussed below, the CIA objects to the DOJ draft language.

The DOJ proposal would expand the list of pension-disqualifying crimes in 5 U.S.C. §8312 through the inclusion of five new categories of felonies and authority for the Attorney General to promulgate regulations listing specific provisions of law for these five new categories. Further, the Office of Personnel Management (OPM) would exercise discretion in deciding whether or not to deny a pension for conviction of one of these new categories of crimes.

The principal objection of the CIA is that the CIA Retirement and Disability System (CIARDS) would fall within the purview of OPM's discretionary authority. This exercise of discretion over CIARDS would be an unprecedented intrusion into this wholly internally-administered retirement system. Consequently, the CIA objects to the draft DOJ language. CIA's objection could be eliminated if subsection (d) of the DOJ draft were modified to exclude CIARDS. Thereafter, the provisions of the DOJ draft could be implemented in CIARDS by Executive Order.

Beyond this procedural objection relating to CIARDS, the CIA does not object to an amendment to 5 U.S.C. § 8312. Indeed, the discussion of amendments to this section suggests that other changes could be made. In this regard, we would like to suggest that the national security-related provisions of section 8312 be updated to include the Intelligence Identities Protection Act, Public Law No. 97-200 (codified at 50 U.S.C. §421-26) to the list of pension-disqualifying crimes.

We appreciate the opportunity to comment upon this draft legislation and we look forward to working with the Administration to produce a revised draft.

Sincerely,

/s/ Clair E. George

Clair E. George
Director, Office of Legislative Liaison

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