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Letter to Congressional Leaders Transmitting a Report on United States Individuals Involved in the Antinarcotics Campaign in Colombia

April 22, 2003

Dear Mr. Speaker: (Dear Mr. President:)

Pursuant to section 3204(f), title III, chapter 2 of the Emergency Supplemental Act, 2000 (the "Act"), as enacted in the Military Construction Appropriations Act, 2001, Public Law 106–246, I am providing a report prepared by my Administration that provides "the aggregate number, locations, activities, and lengths of assignment for all temporary and permanent U.S. military personnel and U.S. individual civilians retained as contractors involved in the antinarcotics campaign in Colombia."

This report is classified because of force protection considerations and the high level of terrorist threat in Colombia. However, the aggregate numbers given below are unclassified.

The report indicates that as of March 13, 2003, the end of this reporting period, there were 347 temporary and permanent U.S. military personnel and 324 U.S. civilians retained as individual contractors in Colombia involved in supporting Plan Colombia. This report further indicates that during January, February, and March 2003, these figures never exceeded the ceilings established in section 3204(b) of the Act, as amended.

Sincerely,

George W. Bush

NOTE: Identical letters were sent to J. Dennis Hastert, Speaker of the House of Representatives, and Richard B. Cheney, President of the Senate.

Statement on Signing the Postal Civil Service Retirement System Funding Reform Act of 2003

April 23, 2003

Today I have signed into law S. 380, the Postal Civil Service Retirement System Funding Reform Act of 2003. The Act reforms the funding of benefits under the Civil Service Retirement System (CSRS) for employees of the United States Postal Service.

Under the Appointments Clause of the Constitution, including as construed by the U.S. Supreme Court in 1997 in *Edmond* v. *United States*, statutory authority to make decisions for the United States that are final must be exercised by, or subject to the control of, a principal officer of the United States. Sections 2(c) and 3(b) of the Act vest in certain circumstances in the CSRS Board of Actuaries (Board) authority to reconsider, review, and make adjustments with finality in certain determinations, redeterminations, and computations made by the Director of the Office of Personnel Management (OPM). Yet, Board members are not principal officers because they have not been appointed by the President, by and with the advice and consent of the Senate, as the Appointments Clause requires. They have instead been appointed by the Director of OPM in accordance with law. Moreover, the Board is not subject to the control of a principal officer in conducting the review, reconsideration, and adjustments for which sections 2(c) and 3(b) of the Act provide, because those sections make such Board action final. Accordingly, to the extent that sections 2(c) and 3(b) make the actions of the Board under those sections final, they are inconsistent with the Appointments Clause.

The Director of OPM shall prepare forthwith for submission to the Congress recommended legislation to conform statutes related to the CSRS Board of Actuaries to the Appointments Clause. While awaiting enactment of corrective legislation, I instruct the Director of OPM, who is a principal officer, to receive any results of reconsideration, review, or adjustments by the Board under sections 2(c) and 3(b) of the Act as advice and opinion for the Director's approval, modification, or disapproval. This instruction gives the fullest effect to the Act that is consistent with the Appointments Clause.

Sections 2(e)(1), 3(e)(1), and 3(f)(1)(B) of the Act purport to require officials in the executive branch to submit recommendations to the Congress or an agent of the Congress. The executive branch shall construe such provisions in a manner consistent with the constitutional authority of the President to submit for the consideration of the Congress

such measures as the President judges necessary and expedient.

George W. Bush

The White House,
April 23, 2003.

NOTE: S. 380, approved April 23, was assigned Public Law No. 108–18.

Executive Order 13297—Applying the Federal Physicians Comparability Allowance Amendments of 2000 to Participants in the Foreign Service Retirement and Disability System, the Foreign Service Pension System, and the Central Intelligence Agency Retirement and Disability System

April 23, 2003

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 827 of the Foreign Service Act of 1980 (22 U.S.C. 4067), section 292 of the Central Intelligence Agency Retirement Act of 1964 (50 U.S.C. 2141), and section 301 of title 3, United States Code, and in order to conform the Foreign Service Retirement and Disability System, the Foreign Service Pension System, and the Central Intelligence Agency Retirement and Disability System to the Civil Service Retirement System, it is hereby ordered as follows:

Section 1. *Foreign Service Retirement and Disability System.* (a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) shall apply to the Foreign Service Retirement and Disability System, subchapter I of chapter 8 of the Foreign Service Act of 1980, as amended:

(i) Section 3(a) of Public Law 106–571 to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(b) of Public Law 106–571 to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Civil Service Retirement System.

(b) The Secretary of State shall issue regulations that reflect the application of sections 3(a) and 3(b) of Public Law 106–571 to the Foreign Service Retirement and Disability System. Such regulations shall provide that the foregoing provisions be retroactive to December 28, 2000.

Sec. 2. *Foreign Service Pension System.* (a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) shall apply to the Foreign Service Pension System, subchapter II of chapter 8 of the Foreign Service Act of 1980, as amended:

(i) Section 3(a) of Public Law 106–571 to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(c) of Public Law 106–571 to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Federal Employees Retirement System.

(b) The Secretary of State shall issue regulations that reflect the application of sections 3(a) and 3(c) of Public Law 106–571 to the Foreign Service Pension System. Such regulations shall provide that the foregoing provisions be retroactive to December 28, 2000.

Sec. 3. *Central Intelligence Agency Retirement and Disability System.*

(a) The following provisions of the Federal Physicians Comparability Allowance Amendments of 2000 (Public Law 106–571) shall apply to the Central Intelligence Agency Retirement and Disability System, title II of the Central Intelligence Agency Retirement Act of 1964, as amended:

(i) Section 3(a) of Public Law 106–571 to provide that any amount received under section 5948 of title 5, United States Code (physicians comparability allowance), be included in the definition of basic pay; and

(ii) Section 3(b) of Public Law 106–571 to provide for the inclusion of the physicians comparability allowance in the computation of an annuity under the same rules that apply with respect to the Civil Service Retirement System.