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Office of Inspector General  
United States Department of State

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Office of Whistleblower Integrity and Special Projects

May 2026

# **Management Assistance Report: Law Enforcement Credentials, Weapons, and Premium Pay for Employees in Non–Law Enforcement Roles**

MANAGEMENT ASSISTANCE REPORT

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## Summary of Review

In October 2025, the Office of Inspector General (OIG) received a whistleblower complaint that the Bureau of Diplomatic Security (DS) at the U.S. Department of State (Department) was not complying with laws and regulations that required special agents who take assignments that do not involve law enforcement duties (“out-of-cone assignments”) to surrender their credentials and weapons and decertify themselves from receiving law enforcement premium pay.

OIG substantiated these allegations. Specifically, OIG found that among special agents assigned to positions that did not involve law enforcement duties, eight special agents had not surrendered government-issued firearms, nine had not surrendered credentials, and two continued to claim law enforcement premium pay. OIG determined that these issues occurred, in part, because DS lacked sufficient accountability mechanisms to ensure compliance with laws and regulations.

DS leadership supports out-of-cone assignments because they enable special agents to fill critical positions and gain interagency leadership experience. DS leadership expressed concerns to OIG that legal requirements pertaining to credentials, weapons, and law enforcement premium pay could deter special agents from serving in out-of-cone assignments, and in response, DS leadership has proposed changes to these requirements. Until the Foreign Affairs Manual (FAM) and other guidance are amended, however, special agents must follow applicable Department standards and federal law with respect to credentials, weapons, and law enforcement premium pay.

OIG performed the investigative work associated with this report in conformance with the *Quality Standards for Investigations* issued by the Council of the Inspectors General on Integrity and Efficiency (CIGIE). The report was drafted in accordance with CIGIE’s *Quality Standards for Federal Offices of Inspector General*, which require adherence to professional standards of independence, due professional care, and quality assurance, including procedures to ensure the accuracy of the information presented.

OIG made three recommendations to DS in this report, and DS agreed with each recommendation. The bureau’s formal response to a draft of this report is reprinted in its entirety in the appendix. OIG considers each recommendation resolved, pending further action.

## BACKGROUND

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Federal law authorizes special agents of the Department and the Foreign Service to conduct investigations, obtain and execute search and arrest warrants, and perform protective functions.<sup>1</sup> The law also authorizes these special agents to carry firearms “for the purpose of

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<sup>1</sup> 22 U.S.C § 2709(a).

performing” these duties, if designated by the Secretary of State and qualified, under regulations approved by the Attorney General.<sup>2</sup>

Employees serving as criminal investigators are also entitled to premium pay to ensure their availability for unscheduled duty in excess of a 40-hour work week based on the needs of the employing agency.<sup>3</sup> This pay is frequently referred to as Law Enforcement Availability Pay, or LEAP, and is 25 percent of the basic pay rate for the position. Employees receiving LEAP must certify annually that they meet eligibility requirements.<sup>4</sup> An employee is not eligible for LEAP when they “[move] to a position that does not qualify as a criminal investigator.”<sup>5</sup> Special agents serving in DS law enforcement positions qualify for LEAP pay.

Because out-of-cone assignments do not involve law enforcement functions, the FAM requires an agent to “surrender his or her credentials, badges, pins, and Government-issued firearm to his or her supervisor.”<sup>6</sup> The statutory authorization for firearms is expressly “for the purpose of performing” law enforcement duties, which employees on out-of-cone assignments are not doing.<sup>7</sup>

DS Assistant Secretary Todd Wilcox told OIG that he was in favor of changing these requirements. He stated that he first learned of this issue prior to his confirmation and was concerned that the surrender requirements disincentivize agents from accepting out-of-cone assignments in other bureaus and agencies that would enhance their professional experience. Once he assumed office, he asked the Department to consider revising the requirements. He told OIG that he wants DS to have a “surge capacity” and not face potential delays related to reissuing weapons and ensuring qualifications should out-of-cone agents need to be recalled quickly from external details. As of spring 2026, proposals to change the requirements are under consideration by Department leadership.

## **FINDINGS**

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### ***Law Enforcement Credentials***

OIG spoke with the DS Credentials Office within the Office of Domestic Facilities Protection (DFP). Credentialing officials explained that the FAM places principal responsibility for the return of such media on the supervisor of the out-of-cone agent. The supervisor is expected to (1) collect the credentials of an agent when they take an out-of-cone assignment and (2) return

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<sup>2</sup> 22 U.S.C § 2709(a)(4). In June 2023, the Attorney General approved the firearms policy that is now found at 12 FAM 092.

<sup>3</sup> 5 U.S.C. § 5545a.

<sup>4</sup> 5 U.S.C. § 5545a(e)(1).

<sup>5</sup> 5 C.F.R. § 550.184(c).

<sup>6</sup> 12 FAM 372.7-1, “Suspension, Termination or Extended Absences.”

<sup>7</sup> 22 U.S.C § 2709(a)(4).

the credentials to the Credentials Office within 30 days. In August 2025, the Bureau of Human Resources Career Development Officers (CDOs) began sharing with the Credentials Office a list CDOs compiled of out-of-cone agents.<sup>8</sup> If an employee appears on the list but the Credentials Office has not received their credentials, the Credentials Office contacts the supervisor to remind them about the surrender requirement. If the credentials remain outstanding, credentials officials then reach out to DS' Office of the Executive Director (DS/EX). DS/EX officials stated that some employees have outright refused to return their credentials and they lacked leverage to enforce the requirement. OIG identified nine out-of-cone employees who have not returned their credentials at the time of this report. DS officials said that they have identified several risks with outstanding credentials, including that some have been offered for sale on internet commerce sites.

### **Weapons**

OIG spoke with the DS Defensive Equipment and Armored Vehicle Division (DEAV), which is responsible for issuing weapons and tracking those weapons issued to DS agents. DEAV officials stated that about two years ago, DEAV implemented a process whereby retiring, resigning, and out-of-cone special agents would be notified of the requirement to turn in their firearms. When an agent is offered an assignment from a bureau other than DS, the CDO requests permission from the DS Assignments Panel for the agent's reassignment. If the DS Assignments Panel approves the reassignment, the CDO notifies the employee of the requirement to turn in their weapon.

In 2024, DS/EX reviewed the list of out-of-cone agents and notified these special agents of the requirement to turn in their weapons. Most special agents complied, but a few special agents refused. DS/EX stated that it has no leverage to enforce the surrender requirement, so it is practically impossible to enforce. OIG identified eight out-of-cone agents who still have their weapons at the time of this report.

Department officials identified several risks if out-of-cone special agents retain their weapons. Special agents who are issued weapons must regularly demonstrate their qualifications to use those weapons properly, but DS has no way to ensure that out-of-cone special agents are maintaining their qualifications.<sup>9</sup> In addition, the use of a weapon by an out-of-cone special agent may create personal legal liability for the employee because the Federal Tort Claims Act only covers the use of force for employees acting within their scope of duties.<sup>10</sup> Out-of-cone special agents likely are not aware that they are taking on personal liability for any use of their weapons if they fail to surrender their weapons as required.

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<sup>8</sup> The Bureau of Human Resources assigns CDOs to Foreign Service staff to counsel and represent their interests during the assignments process.

<sup>9</sup> The Directorate of the Deputy Assistant Secretary and Assistant Director of Training (DS/T) maintains qualification records of special agents.

<sup>10</sup> See *Dry v. United States*, 235 F.3d 1249, 1257 (10th Cir. 2000).

## **LEAP**

The Department issued guidance that implements the LEAP statute and regulations.<sup>11</sup> The guidelines state: “If at any time during the course of the year a Special Agent changes their personal primary skill code or is reassigned at post or transferred through a permanent change of station (PCS) to a position with a primary skill code other than FS-2501 or GS-1811, the Special Agent will no longer be eligible for LEAP, and must notify the DS LEAP Coordinator immediately.” The guidelines note that if an agent fails to do so, they “will be required to reimburse the Department for any overpayment, including resulting from failure to notify the DS LEAP Coordinator of a change in assignment.”

DS/EX officials told OIG that it maintains a list of out-of-cone agents, which DS/EX checks quarterly so that it can remind these individuals of their responsibility to decertify. However, some agents have refused to do so and continue to collect improper payments. OIG identified two out-of-cone agents who are collecting LEAP at the time of this report.<sup>12</sup>

## **CONCLUSION**

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Current Department standards require DS special agents to surrender their credentials and weapons and decertify from LEAP when they take a non-law enforcement position. These requirements may disincentivize special agents from taking developmental assignments, and as of spring 2026, the Department is considering a proposal to amend the requirements. However, until the FAM and other guidance are amended, special agents must follow applicable Department standards and federal law with respect to credentials, weapons, and LEAP.

While Assistant Secretary Wilcox is strongly in favor of amending these requirements, he told OIG that he was unaware that some special agents have refused to comply with existing standards. These agents largely accepted their out-of-cone assignments prior to his tenure. However, he told OIG that he believed that such agents must comply with the current guidance until it is amended.

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<sup>11</sup> DS, *LEAP Law Enforcement Availability Pay Guidelines*.

<sup>12</sup> Many out-of-cone agents do not receive LEAP because Senior Foreign Service Officers do not qualify for LEAP.

## RECOMMENDATIONS

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OIG made three recommendations to the Bureau of Diplomatic Security (DS) to address the deficiencies identified in this report. DS agreed with each recommendation, and the bureau's formal response to a draft of this report is reprinted in its entirety in the appendix. OIG considers each recommendation resolved, pending further action.

**Recommendation 1:** The Bureau of Diplomatic Security should ensure compliance with 12 FAM 372.7-1 by contacting each out-of-cone agent who has retained credentials or weapons and requesting their return within 30 days. The Bureau should refer for disciplinary action any agents who refuse this direction, as well as report them to OIG, as required by 22 U.S.C. § 3929(c)(6).

**Management Response:** In the bureau's April 21, 2026, response, DS agreed with the recommendation.

**OIG Reply:** Based on the bureau's concurrence with this recommendation and planned actions, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when DS provides documentation demonstrating that it has contacted each out-of-cone agent who has retained credentials or weapons and requested their return within 30 days.

**Recommendation 2:** The Bureau of Diplomatic Security should ensure compliance with federal law by referring out-of-cone agents who are still collecting Law Enforcement Availability Pay to the Bureau of the Comptroller and Global Financial Services to recoup these improper payments.

**Management Response:** In the bureau's April 21, 2026, response, DS agreed with the recommendation.

**OIG Reply:** Based on the bureau's concurrence with this recommendation and planned actions, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when DS provides documentation demonstrating that out-of-cone agents who are still collecting Law Enforcement Availability Pay have been referred to the Bureau of the Comptroller and Global Financial Services so that any payments determined to be improper can be recouped.

**Recommendation 3:** The Bureau of Diplomatic Security should refer for disciplinary action any agents who refuse to decertify from Law Enforcement Availability Pay, as well as report them to OIG, as required by 22 U.S.C. § 3929(c)(6).

**Management Response:** In the bureau's April 21, 2026, response, DS agreed with the recommendation.

OIG Reply: Based on the bureau's concurrence with the recommendation and planned actions, OIG considers the recommendation resolved, pending further action. This recommendation will be closed when DS provides documentation demonstrating that it has referred for disciplinary action any agents who refuse to decertify from Law Enforcement Availability Pay, as required by 22 U.S.C. § 3929(c)(6).

## APPENDIX: BUREAU OF DIPLOMATIC SECURITY RESPONSE

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**United States Department of State**

***Washington, D.C. 20520***

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4/21/2026

**Info Memo for Arne B. Baker, Acting – OIG**

FROM: DS – Todd M. Wilcox

SUBJECT: (U) Bureau of Diplomatic Security's Response to the Office of Inspector General (OIG) Draft Management Assistance Report: Law Enforcement Credentials, Weapons, and Premium Pay for Employees in Non-Law Enforcement Roles

(U) Below is the Bureau of Diplomatic Security's response to recommendations 1, 2 and 3 of the subject report.

(U) **Recommendation #1:** The Bureau of Diplomatic Security should ensure compliance with 12 FAM 372.7-1 by contacting each out-of-cone agent who has retained credentials or weapons and request their return within 30 days. The Bureau should refer any agents who refuse this direction for disciplinary action, as well as report them to OIG, as required by 22 U.S.C. § 3929(c)(6).

(U) **Management Response to Draft Report (4/21/26):** The Bureau of Diplomatic Security takes note of this recommendation and will provide 30-day notice to out-of-cone agents to return credentials and weapons. Additionally, DS will continue its current efforts to revise 12 FAM 372.7-1.

(U) **Recommendation #2:** The Bureau of Diplomatic Security should ensure compliance with federal law by referring out-of-cone agents who are still collecting Law Enforcement Availability Pay to the Bureau of the Comptroller and Global Financial Services in order to recoup these improper payments.

(U) **Management Response to Draft Report (4/21/26):** The Bureau of Diplomatic Security takes note of this recommendation and will work with the Bureau of the Comptroller and Global Financial Services to review these payments and recoup any improper payments.

(U) **Recommendation #3:** The Bureau of Diplomatic Security should refer any agents who refuse to decertify from Law Enforcement Availability Pay for

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disciplinary action, as well as report them to OIG, as required by 22 U.S.C. § 3929(c)(6).

**(U) Management Response to Draft Report (4/21/26):** The Bureau of Diplomatic Security takes note of this recommendation and will refer agents who refuse to decertify from Law Enforcement Available Pay (LEAP) for discipline in accordance with applicable laws and regulations.

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