

103^D CONGRESS
1ST SESSION

H. R. 50

To regulate the conduct of the Federal Bureau of Investigation in certain matters relating to the exercise of rights protected by the first article of amendment to the Federal Constitution.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. EDWARDS of California (for himself, Mr. CONYERS, and Mr. MINETA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To regulate the conduct of the Federal Bureau of Investigation in certain matters relating to the exercise of rights protected by the first article of amendment to the Federal Constitution.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Bureau of In-
5 vestigation First Amendment Protection Act of 1993”.

1 **SEC. 2. INVESTIGATION AUTHORIZATION AND INVESTIGA-**
2 **TION STANDARDS.**

3 (a) IN GENERAL.—Except as provided in section 7,
4 the Federal Bureau of Investigation (hereinafter in this
5 Act referred to as the “Bureau”) shall not initiate or con-
6 duct any investigation that may involve the collection of
7 information about the exercise by a United States person
8 of first amendment rights (hereinafter in this Act referred
9 to as an “investigation covered by this Act”), other than
10 in accordance with the limitations and requirements estab-
11 lished by and under this Act.

12 (b) GUIDELINES BY ATTORNEY GENERAL.—The At-
13 torney General shall issue publicly available guidelines for
14 investigations covered by this Act. Such guidelines shall
15 implement this Act.

16 **SEC. 3. INVESTIGATION AUTHORIZATION PROCEDURES.**

17 (a) REQUIREMENT OF FINDING BY DIRECTOR.—

18 (1) IN GENERAL.—Except as provided in sub-
19 section (c), the Bureau shall not initiate an inves-
20 tigation covered by this Act, unless the Director of
21 the Bureau, or the Director’s designee, finds in writ-
22 ing that—

23 (A) specific and articulable facts reason-
24 ably indicate that the subject of the investiga-
25 tion has engaged, is engaging, or is about to en-
26 gage in a Federal criminal offense; and

1 (B) that the investigation is warranted,
2 taking into consideration the magnitude of the
3 suspected criminal offense, the likelihood it
4 would occur, and the danger to privacy and the
5 exercise of first amendment rights.

6 (2) CITATION OF LAW.—Such finding shall in-
7 clude a citation of the specific section of law estab-
8 lishing the criminal offense.

9 (b) SPECIAL RULE IF ORGANIZATION IS TARGET.—
10 If such investigation is directed at an organization engag-
11 ing in the exercise of rights under the first article of
12 amendment to the Federal Constitution, such finding
13 must also set forth specific and articulable facts reason-
14 ably indicating that all or most of the members of the or-
15 ganization have engaged, are engaging, or are about to
16 engage in a Federal criminal offense.

17 (c) EXCEPTION.—Employees of the Bureau, des-
18 igned for this purpose by the Director of the Bureau,
19 may initiate an investigation without a finding under sub-
20 section (a) if exigent circumstances so require. However,
21 an investigation initiated under this subsection must cease
22 not later than 7 days after the date it is initiated, unless
23 a finding of the sort required under subsection (a) is
24 made.

1 **SEC. 4. INVESTIGATIVE STANDARDS.**

2 (a) LEAST INTRUSIVE TECHNIQUES AND MINIMIZA-
3 TION PROCEDURES TO BE USED.—In the conduct of any
4 investigation covered by this Act, the Bureau shall—

5 (1) seek to gather only information relevant to
6 Federal criminal offenses;

7 (2) employ the least intrusive techniques avail-
8 able to gather information; and

9 (3) follow procedures to minimize the acquisi-
10 tion, retention, or dissemination of any information
11 relating to the exercise of first amendment rights or
12 individual privacy.

13 (b) DISPOSITION OF CERTAIN RECORDS.—Except as
14 provided in this subsection, the Bureau shall not dissemi-
15 nate or use any record, identifiable to a United States per-
16 son, resulting from any investigation prohibited by this
17 Act. The Bureau shall allow the person to which such
18 record relates to examine that record.

19 (c) PERIODIC REVIEW OF INVESTIGATIONS.—An As-
20 sistant Director of the Bureau shall at least once every
21 90 days, and the Department of Justice shall at least once
22 every 180 days, review each open investigation covered by
23 this Act. Such review shall assure that—

24 (1) there is a continuing basis for the investiga-
25 tion; and

1 (2) the requirements of this section are being
2 met with respect to such investigation.

3 **SEC. 5. CIVIL REMEDY.**

4 Any person aggrieved by a violation of this Act may
5 in a civil action against the United States recover appro-
6 priate relief, including whichever is the greater of actual
7 damages or \$10,000.

8 **SEC. 6. DEFINITIONS.**

9 For purposes of this Act—

10 (1) first amendment rights include any right
11 protected under the first article of amendment to the
12 Constitution of the United States;

13 (2) the Bureau includes each agent or other
14 person or entity acting under authority of the Bu-
15 reau; and

16 (3) the term “United States person” has the
17 meaning given that term in section 1801 of title 50,
18 United States Code.

19 **SEC. 7. NONAPPLICABILITY TO BACKGROUND INVESTIGA-**
20 **TIONS.**

21 This Act does not apply to background investigations
22 conducted with the consent of the subject regarding—

23 (1) nominees to judicial and executive branch
24 positions requiring the advice and consent of the
25 Senate;

1 (2) employees of the Department of Justice, or
2 any component thereof; or

3 (3) the granting or retention of security
4 clearances.

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