

107TH CONGRESS
2^D SESSION

H. R. 5387

To make needed reforms in the Federal Bureau of Investigation, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2002

Mr. CONYERS (for himself, Mr. FRANK, Mr. BERMAN, Ms. JACKSON-LEE of Texas, Mr. MEEHAN, Mr. DELAHUNT, Mr. KUCINICH, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Mr. EVANS, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To make needed reforms in the Federal Bureau of
Investigation, and for other purposes.

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 Reform Act of 2002”.

1 **TITLE I—IMPROVING FBI**
2 **OVERSIGHT**

3 **SEC. 101. AUTHORITY OF THE DEPARTMENT OF JUSTICE**
4 **INSPECTOR GENERAL.**

5 Section 8E of the Inspector General Act of 1978 (5
6 U.S.C. App.) is amended—

7 (1) in subsection (b), by striking paragraphs
8 (2) and (3) and inserting the following:

9 “(2) except as specified in subsection (a) and
10 paragraph (3), may investigate allegations of crimi-
11 nal wrongdoing or administrative misconduct by an
12 employee of the Department of Justice, or may, in
13 the discretion of the Inspector General, refer such
14 allegations to the Office of Professional Responsi-
15 bility or the internal affairs office of the appropriate
16 component of the Department of Justice;

17 “(3) shall refer to the Counsel, Office of Profes-
18 sional Responsibility of the Department of Justice,
19 allegations of misconduct involving Department at-
20 torneys, investigators, or law enforcement personnel,
21 where the allegations relate to the exercise of the au-
22 thority of an attorney to investigate, litigate, or pro-
23 vide legal advice, except that no such referral shall
24 be made if the attorney is employed in the Office of
25 Professional Responsibility;

1 “(4) may investigate allegations of criminal
2 wrongdoing or administrative misconduct, including
3 a failure to properly discipline employees, by a per-
4 son who is the head of any agency or component of
5 the Department of Justice; and

6 “(5) shall forward the results of any investiga-
7 tion conducted under paragraph (4), along with any
8 appropriate recommendation for disciplinary action,
9 to the Attorney General, who is authorized to take
10 appropriate disciplinary action.”; and

11 (2) by adding at the end the following:

12 “(d) If the Attorney General does not follow any rec-
13 ommendation of the Inspector General made under sub-
14 section (b)(5), the Attorney General shall submit a report
15 to the chairperson and ranking member of the Committees
16 on the Judiciary of the Senate and the House of Rep-
17 resentatives that sets forth the recommendation of the In-
18 spector General and the reasons of the Attorney General
19 for not following that recommendation.

20 “(e) The Attorney General shall ensure by regulation
21 that any component of the Department of Justice receiv-
22 ing a nonfrivolous allegation of criminal wrongdoing or ad-
23 ministrative misconduct by an employee of the Depart-
24 ment of Justice shall report that information to the In-
25 spector General.”.

1 **SEC. 102. REVIEW OF THE DEPARTMENT OF JUSTICE.**

2 (a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN
3 THE OFFICE OF INSPECTOR GENERAL.—

4 (1) IN GENERAL.—The Inspector General of
5 the Department of Justice shall direct that 1 official
6 from the office of the Inspector General be respon-
7 sible for supervising and coordinating independent
8 oversight of programs and operations of the Federal
9 Bureau of Investigation until September 30, 2003.

10 (2) CONTINUATION OF OVERSIGHT.—The In-
11 spector General may continue individual oversight in
12 accordance with paragraph (1) after September 30,
13 2003, at the discretion of the Inspector General.

14 (b) INSPECTOR GENERAL OVERSIGHT PLAN FOR
15 THE FEDERAL BUREAU OF INVESTIGATION.—Not later
16 than 30 days after the date of the enactment of this Act,
17 the Inspector General of the Department of Justice shall
18 submit to the Chairperson and ranking member of the
19 Committees on the Judiciary of the Senate and the House
20 of Representatives, a plan for oversight of the Federal Bu-
21 reau of Investigation, which plan may include—

22 (1) an audit of the financial systems, informa-
23 tion technology systems, and computer security sys-
24 tems of the Federal Bureau of Investigation;

25 (2) an audit and evaluation of programs and
26 processes of the Federal Bureau of Investigation to

1 identify systemic weaknesses or implementation fail-
2 ures and to recommend corrective action;

3 (3) a review of the activities of internal affairs
4 offices of the Federal Bureau of Investigation, in-
5 cluding the Inspections Division and the Office of
6 Professional Responsibility;

7 (4) an investigation of allegations of serious
8 misconduct by personnel of the Federal Bureau of
9 Investigation;

10 (5) a review of matters relating to any other
11 program or operation of the Federal Bureau of In-
12 vestigation that the Inspector General determines re-
13 quires review; and

14 (6) an identification of resources needed by the
15 Inspector General to implement a plan for oversight
16 of the Federal Bureau of Investigation.

17 (c) REPORT ON INSPECTOR GENERAL FOR FEDERAL
18 BUREAU OF INVESTIGATION.—Not later than 90 days
19 after the date of enactment of this Act, the Attorney Gen-
20 eral shall submit a report and recommendation to the
21 Chairperson and ranking member of the Committees on
22 the Judiciary of the Senate and the House of Representa-
23 tives concerning—

24 (1) whether there should be established, within
25 the Department of Justice, a separate office of the

1 Inspector General for the Federal Bureau of Inves-
2 tigation that shall be responsible for supervising
3 independent oversight of programs and operations of
4 the Federal Bureau of Investigation;

5 (2) what changes have been or should be made
6 to the rules, regulations, policies, or practices gov-
7 erning the Federal Bureau of Investigation in order
8 to assist the Office of the Inspector General in effec-
9 tively exercising its authority to investigate the con-
10 duct of employees of the Federal Bureau of Inves-
11 tigation;

12 (3) what differences exist between the methods
13 and practices used by different Department of Jus-
14 tice components in the investigation and adjudica-
15 tion of alleged misconduct by Department of Justice
16 personnel;

17 (4) what steps should be or are being taken to
18 make the methods and practices described in para-
19 graph (3) uniform throughout the Department of
20 Justice; and

21 (5) whether a set of recommended guidelines re-
22 lating to the discipline of Department of Justice per-
23 sonnel for misconduct should be developed, and what
24 factors, such as the nature and seriousness of the
25 misconduct, the prior history of the employee, and

1 the rank and seniority of the employee at the time
2 of the misconduct, should be taken into account in
3 establishing such recommended disciplinary guide-
4 lines.

5 **TITLE II—WHISTLEBLOWER**
6 **PROTECTION**

7 **SEC. 201. INCREASING PROTECTIONS FOR FBI WHISTLE-**
8 **BLOWERS.**

9 Section 2303 of title 5, United States Code, is
10 amended to read as follows:

11 **“§ 2303. Prohibited personnel practices in the Fed-**
12 **eral Bureau of Investigation**

13 “(a) DEFINITION.—In this section, the term ‘per-
14 sonnel action’ means any action described in clauses (i)
15 through (x) of section 2302(a)(2)(A).

16 “(b) PROHIBITED PRACTICES.—Any employee of the
17 Federal Bureau of Investigation who has the authority to
18 take, direct others to take, recommend, or approve any
19 personnel action, shall not, with respect to such authority,
20 take or fail to take a personnel action with respect to any
21 employee of the Bureau or because of—

22 “(1) any disclosure of information by the em-
23 ployee to the Attorney General (or an employee des-
24 igned by the Attorney General for such purpose),
25 a supervisor of the employee, the Inspector General

1 for the Department of Justice, or a Member of Con-
2 gress that the employee reasonably believes evi-
3 dences—

4 “(A) a violation of any law, rule, or regula-
5 tion; or

6 “(B) mismanagement, a gross waste of
7 funds, an abuse of authority, or a substantial
8 and specific danger to public health or safety;
9 or

10 “(2) any disclosure of information by the em-
11 ployee to the Special Counsel of information that the
12 employee reasonably believes evidences—

13 “(A) a violation of any law, rule, or regula-
14 tion; or

15 “(B) mismanagement, a gross waste of
16 funds, an abuse of authority, or a substantial
17 and specific danger to public health or safety,
18 if such disclosure is not specifically prohibited by law
19 and if such information is not specifically required
20 by Executive order to be kept secret in the interest
21 of national defense or the conduct of foreign affairs.

22 “(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of
23 this title shall apply to an employee of the Federal Bureau
24 of Investigation who claims that a personnel action has
25 been taken under this section against the employee as a

1 reprisal for any disclosure of information described in sub-
2 section (b)(2).

3 “(d) REGULATIONS.—The Attorney General shall
4 prescribe regulations to ensure that a personnel action
5 under this section shall not be taken against an employee
6 of the Federal Bureau of Investigation as a reprisal for
7 any disclosure of information described in subsection
8 (b)(1), and shall provide for the enforcement of such regu-
9 lations in a manner consistent with applicable provisions
10 of sections 1214 and 1221, and in accordance with the
11 procedures set forth in sections 554 through 557 and 701
12 through 706.”.

13 **TITLE III—FBI SECURITY** 14 **CAREER PROGRAM**

15 **SEC. 301. SECURITY MANAGEMENT POLICIES.**

16 The Attorney General shall establish policies and pro-
17 cedures for the effective management (including accession,
18 education, training, and career development) of persons
19 serving in security positions in the Federal Bureau of In-
20 vestigation.

21 **SEC. 302. DIRECTOR OF THE FEDERAL BUREAU OF INVES-** 22 **TIGATION.**

23 (a) IN GENERAL.—Subject to the authority, direc-
24 tion, and control of the Attorney General, the Director of
25 the Federal Bureau of Investigation (referred to in this

1 title as the “Director”) shall carry out all powers, func-
2 tions, and duties of the Attorney General with respect to
3 the security workforce in the Federal Bureau of Investiga-
4 tion.

5 (b) POLICY IMPLEMENTATION.—The Director shall
6 ensure that the policies of the Attorney General estab-
7 lished in accordance with this Act are implemented
8 throughout the Federal Bureau of Investigation at both
9 the headquarters and field office levels.

10 **SEC. 303. DIRECTOR OF SECURITY.**

11 The Director shall appoint a Director of Security, or
12 such other title as the Director may determine, to assist
13 the Director in the performance of the duties of the Direc-
14 tor under this Act.

15 **SEC. 304. SECURITY CAREER PROGRAM BOARDS.**

16 (a) ESTABLISHMENT.—The Director acting through
17 the Director of Security shall establish a security career
18 program board to advise the Director in managing the hir-
19 ing, training, education, and career development of per-
20 sonnel in the security workforce of the Federal Bureau
21 of Investigation.

22 (b) COMPOSITION OF BOARD.—The security career
23 program board shall include—

24 (1) the Director of Security (or a representative
25 of the Director of Security);

1 (2) the senior officials, as designated by the Di-
2 rector, with responsibility for personnel manage-
3 ment;

4 (3) the senior officials, as designated by the Di-
5 rector, with responsibility for information manage-
6 ment;

7 (4) the senior officials, as designated by the Di-
8 rector, with responsibility for training and career de-
9 velopment in the various security disciplines; and

10 (5) such other senior officials for the intel-
11 ligence community as the Director may designate.

12 (c) CHAIRPERSON.—The Director of Security (or a
13 representative of the Director of Security) shall be the
14 chairperson of the board.

15 (d) SUBORDINATE BOARDS.—The Director of Secu-
16 rity may establish a subordinate board structure to which
17 functions of the security career program board may be del-
18 egated.

19 **SEC. 305. DESIGNATION OF SECURITY POSITIONS.**

20 (a) DESIGNATION.—The Director shall designate, by
21 regulation, those positions in the Federal Bureau of Inves-
22 tigation that are security positions for purposes of this
23 Act.

24 (b) REQUIRED POSITIONS.—In designating security
25 positions under subsection (a), the Director shall include,

1 at a minimum, all security-related positions in the areas
2 of—

- 3 (1) personnel security and access control;
- 4 (2) information systems security and informa-
5 tion assurance;
- 6 (3) physical security and technical surveillance
7 countermeasures;
- 8 (4) operational, program, and industrial secu-
9 rity; and
- 10 (5) information security and classification man-
11 agement.

12 **SEC. 306. CAREER DEVELOPMENT.**

13 (a) CAREER PATHS.—The Director shall ensure that
14 appropriate career paths for personnel who wish to pursue
15 careers in security are identified in terms of the education,
16 training, experience, and assignments necessary for career
17 progression to the most senior security positions and shall
18 make available published information on those career
19 paths.

20 (b) LIMITATION ON PREFERENCE FOR SPECIAL
21 AGENTS.—

22 (1) IN GENERAL.—Except as provided in the
23 policy established under paragraph (2), the Attorney
24 General shall ensure that no requirement or pref-
25 erence for a Special Agent of the Federal Bureau of

1 Investigation (referred to in this title as a “Special
2 Agent”) is used in the consideration of persons for
3 security positions.

4 (2) POLICY.—The Attorney General shall estab-
5 lish a policy that permits a particular security posi-
6 tion to be specified as available only to Special
7 Agents, if a determination is made, under criteria
8 specified in the policy, that a Special Agent—

9 (A) is required for that position by law;

10 (B) is essential for performance of the du-
11 ties of the position; or

12 (C) is necessary for another compelling
13 reason.

14 (3) REPORT.—Not later than December 15 of
15 each year, the Director shall submit to the Attorney
16 General a report that lists—

17 (A) each security position that is restricted
18 to Special Agents under the policy established
19 under paragraph (2); and

20 (B) the recommendation of the Director as
21 to whether each restricted security position
22 should remain restricted.

23 (c) OPPORTUNITIES TO QUALIFY.—The Attorney
24 General shall ensure that all personnel, including Special
25 Agents, are provided the opportunity to acquire the edu-

1 cation, training, and experience necessary to qualify for
2 senior security positions.

3 (d) BEST QUALIFIED.—The Attorney General shall
4 ensure that the policies established under this Act are de-
5 signed to provide for the selection of the best qualified
6 individual for a position, consistent with other applicable
7 law.

8 (e) ASSIGNMENTS POLICY.—The Attorney General
9 shall establish a policy for assigning Special Agents to se-
10 curity positions that provides for a balance between—

11 (1) the need for personnel to serve in career en-
12 hancing positions; and

13 (2) the need for requiring service in each such
14 position for sufficient time to provide the stability
15 necessary to carry out effectively the duties of the
16 position and to allow for the establishment of re-
17 sponsibility and accountability for actions taken in
18 the position.

19 (f) LENGTH OF ASSIGNMENT.—In implementing the
20 policy established under subsection (b)(2), the Director
21 shall provide, as appropriate, for longer lengths of assign-
22 ments to security positions than assignments to other po-
23 sitions.

24 (g) PERFORMANCE APPRAISALS.—The Director shall
25 provide an opportunity for review and inclusion of any

1 comments on any appraisal of the performance of a person
2 serving in a security position by a person serving in a secu-
3 rity position in the same security career field.

4 (h) **BALANCED WORKFORCE POLICY.**—In the devel-
5 opment of security workforce policies under this Act with
6 respect to any employees or applicants for employment,
7 the Attorney General shall, consistent with the merit sys-
8 tem principles set out in paragraphs (1) and (2) of section
9 2301(b) of title 5, take into consideration the need to
10 maintain a balanced workforce in which women and mem-
11 bers of racial and ethnic minority groups are appropriately
12 represented in Government service.

13 **SEC. 307. GENERAL EDUCATION, TRAINING, AND EXPERI-**
14 **ENCE REQUIREMENTS.**

15 (a) **IN GENERAL.**—The Director shall establish edu-
16 cation, training, and experience requirements for each se-
17 curity position, based on the level of complexity of duties
18 carried out in the position.

19 (b) **QUALIFICATION REQUIREMENTS.**—Before being
20 assigned to a position as a program manager or deputy
21 program manager of a significant security program, a per-
22 son—

23 (1) must have completed a security program
24 management course that is accredited by the Intel-
25 ligence Community-Department of Defense Joint Se-

1 security Training Consortium or is determined to be
2 comparable by the Director; and

3 (2) must have not less than 6 years experience
4 in security, of which not less than 2 years were per-
5 formed in a similar program office or organization.

6 **SEC. 308. EDUCATION AND TRAINING PROGRAMS.**

7 (a) IN GENERAL.—The Director, in consultation with
8 the Director of Central Intelligence and the Secretary of
9 Defense, shall establish and implement education and
10 training programs for persons serving in security positions
11 in the Federal Bureau of Investigation.

12 (b) OTHER PROGRAMS.—The Director shall ensure
13 that programs established under subsection (a) are estab-
14 lished and implemented, to the maximum extent prac-
15 ticable, uniformly with the programs of the Intelligence
16 Community and the Department of Defense.

17 **SEC. 309. OFFICE OF PERSONNEL MANAGEMENT AP-**
18 **PROVAL.**

19 (a) IN GENERAL.—The Attorney General shall sub-
20 mit any requirement that is established under section 307
21 to the Director of the Office of Personnel Management
22 for approval.

23 (b) FINAL APPROVAL.—If the Director does not dis-
24 approve the requirements established under section 307
25 within 30 days after the date on which the Director re-

1 ceives the requirement, the requirement is deemed to be
2 approved by the Director of the Office of Personnel Man-
3 agement.

4 **TITLE IV—FBI COUNTERINTEL-**
5 **LIGENCE POLYGRAPH PRO-**
6 **GRAM**

7 **SEC. 401. DEFINITIONS.**

8 In this title:

9 (1) POLYGRAPH PROGRAM.—The term “poly-
10 graph program” means the counterintelligence
11 screening polygraph program established under sec-
12 tion 402.

13 (2) POLYGRAPH REVIEW.—The term “Poly-
14 graph Review” means the review of the scientific va-
15 lidity of the polygraph for counterintelligence screen-
16 ing purposes conducted by the Committee to Review
17 the Scientific Evidence on the Polygraph of the Na-
18 tional Academy of Sciences.

19 **SEC. 402. ESTABLISHMENT OF PROGRAM.**

20 Not later than 6 months after publication of the re-
21 sults of the Polygraph Review, the Attorney General, in
22 consultation with the Director of the Federal Bureau of
23 Investigation and the Director of Security of the Federal
24 Bureau of Investigation, shall establish a counterintel-
25 ligence screening polygraph program for the Federal Bu-

1 reau of Investigation that consists of periodic polygraph
2 examinations of employees, or contractor employees of the
3 Federal Bureau of Investigation who are in positions spec-
4 ified by the Director of the Federal Bureau of Investiga-
5 tion as exceptionally sensitive in order to minimize the po-
6 tential for unauthorized release or disclosure of exception-
7 ally sensitive information.

8 **SEC. 403. REGULATIONS.**

9 (a) IN GENERAL.—The Attorney General shall pre-
10 scribe regulations for the polygraph program in accord-
11 ance with subchapter II of chapter 5 of title 5, United
12 States Code (commonly referred to as the Administrative
13 Procedures Act).

14 (b) CONSIDERATIONS.—In prescribing regulations
15 under subsection (a), the Attorney General shall—

16 (1) take into account the results of the Poly-
17 graph Review; and

18 (2) include procedures for—

19 (A) identifying and addressing false posi-
20 tive results of polygraph examinations;

21 (B) ensuring that adverse personnel ac-
22 tions are not taken against an individual solely
23 by reason of the physiological reaction of the in-
24 dividual to a question in a polygraph examina-
25 tion, unless—

1 (i) reasonable efforts are first made
2 independently to determine through alter-
3 native means, the veracity of the response
4 of the individual to the question; and

5 (ii) the Director of the Federal Bu-
6 reau of Investigation determines personally
7 that the personnel action is justified;

8 (C) ensuring quality assurance and quality
9 control in accordance with any guidance pro-
10 vided by the Department of Defense Polygraph
11 Institute and the Director of Central Intel-
12 ligence; and

13 (D) allowing any employee or contractor
14 who is the subject of a counterintelligence
15 screening polygraph examination under the
16 polygraph program, upon written request, to
17 have prompt access to any unclassified reports
18 regarding an examination that relates to any
19 adverse personnel action taken with respect to
20 the individual.

21 **SEC. 404. REPORT ON FURTHER ENHANCEMENT OF FBI**
22 **PERSONNEL SECURITY PROGRAM.**

23 (a) IN GENERAL.—Not later than 9 months after the
24 date of enactment of this Act, the Director of the Federal
25 Bureau of Investigation shall submit to Congress a report

1 setting forth recommendations for any legislative action
2 that the Director considers appropriate in order to en-
3 hance the personnel security program of the Federal Bu-
4 reau of Investigation.

5 (b) POLYGRAPH REVIEW RESULTS.—Any rec-
6 ommendation under subsection (a) regarding the use of
7 polygraphs shall take into account the results of the Poly-
8 graph Review.

9 **TITLE V—FBI POLICE**

10 **SEC. 501. DEFINITIONS.**

11 In this title:

12 (1) DIRECTOR.—The term “Director” means
13 the Director of the Federal Bureau of Investigation.

14 (2) FBI BUILDINGS AND GROUNDS.—

15 (A) IN GENERAL.—The term “FBI build-
16 ings and grounds” means—

17 (i) the whole or any part of any build-
18 ing or structure which is occupied under a
19 lease or otherwise by the Federal Bureau
20 of Investigation and is subject to super-
21 vision and control by the Federal Bureau
22 of Investigation;

23 (ii) the land upon which there is situ-
24 ated any building or structure which is oc-

1 cupied wholly by the Federal Bureau of In-
2 vestigation; and

3 (iii) any enclosed passageway con-
4 necting 2 or more buildings or structures
5 occupied in whole or in part by the Federal
6 Bureau of Investigation.

7 (B) INCLUSION.—The term “FBI build-
8 ings and grounds” includes adjacent streets and
9 sidewalks not to exceed 500 feet from such
10 property.

11 (3) FBI POLICE.—The term “FBI police”
12 means the permanent police force established under
13 section 502.

14 **SEC. 502. ESTABLISHMENT OF FBI POLICE; DUTIES.**

15 (a) IN GENERAL.—Subject to the supervision of the
16 Attorney General, the Director may establish a permanent
17 police force, to be known as the FBI police.

18 (b) DUTIES.—The FBI police shall perform such du-
19 ties as the Director may prescribe in connection with the
20 protection of persons and property within FBI buildings
21 and grounds.

22 (c) UNIFORMED REPRESENTATIVE.—The Director,
23 or designated representative duly authorized by the Attor-
24 ney General, may appoint uniformed representatives of the
25 Federal Bureau of Investigation as FBI police for duty

1 in connection with the policing of all FBI buildings and
2 grounds.

3 (d) AUTHORITY.—

4 (1) IN GENERAL.—In accordance with regula-
5 tions prescribed by the Director and approved by the
6 Attorney General, the FBI police may—

7 (A) police the FBI buildings and grounds
8 for the purpose of protecting persons and prop-
9 erty;

10 (B) in the performance of duties necessary
11 for carrying out subparagraph (A), make ar-
12 rests and otherwise enforce the laws of the
13 United States, including the laws of the District
14 of Columbia;

15 (C) carry firearms as may be required for
16 the performance of duties;

17 (D) prevent breaches of the peace and sup-
18 press affrays and unlawful assemblies; and

19 (E) hold the same powers as sheriffs and
20 constables when policing FBI buildings and
21 grounds.

22 (2) EXCEPTION.—The authority and policing
23 powers of FBI police under this subsection shall not
24 include the service of civil process.

25 (e) PAY AND BENEFITS.—

1 (1) IN GENERAL.—The rates of basic pay, sal-
2 ary schedule, pay provisions, and benefits for mem-
3 bers of the FBI police shall be equivalent to the
4 rates of basic pay, salary schedule, pay provisions,
5 and benefits applicable to members of the United
6 States Secret Service Uniformed Division.

7 (2) APPLICATION.—Pay and benefits for the
8 FBI police under paragraph (1)—

9 (A) shall be established by regulation;

10 (B) shall apply with respect to pay periods
11 beginning after January 1, 2003; and

12 (C) shall not result in any decrease in the
13 rates of pay or benefits of any individual.

14 **SEC. 503. AUTHORITY OF METROPOLITAN POLICE FORCE.**

15 This title does not affect the authority of the Metro-
16 politan Police Force of the District of Columbia with re-
17 spect to FBI buildings and grounds.

18 **TITLE VI—REPORTS**

19 **SEC. 601. REPORT ON LEGAL AUTHORITY FOR FBI PRO-**
20 **GRAMS AND ACTIVITIES.**

21 (a) IN GENERAL.—Not later than December 31,
22 2002, the Attorney General shall submit to Congress a
23 report describing the statutory and other legal authority
24 for all programs and activities of the Federal Bureau of
25 Investigation.

1 (b) CONTENTS.—The report submitted under sub-
2 section (a) shall describe—

3 (1) the titles within the United States Code and
4 the statutes for which the Federal Bureau of Inves-
5 tigation exercises investigative responsibility;

6 (2) each program or activity of the Federal Bu-
7 reau of Investigation that has express statutory au-
8 thority and the statute which provides that author-
9 ity; and

10 (3) each program or activity of the Federal Bu-
11 reau of Investigation that does not have express
12 statutory authority, and the source of the legal au-
13 thority for that program or activity.

14 (c) RECOMMENDATIONS.—The report submitted
15 under subsection (a) shall recommend whether—

16 (1) the Federal Bureau of Investigation should
17 continue to have investigative responsibility for each
18 statute for which the Federal Bureau of Investiga-
19 tion currently has investigative responsibility;

20 (2) the legal authority for any program or ac-
21 tivity of the Federal Bureau of Investigation should
22 be modified or repealed;

23 (3) the Federal Bureau of Investigation should
24 have express statutory authority for any program or
25 activity of the Federal Bureau of Investigation for

1 which the Federal Bureau of Investigation does not
2 currently have express statutory authority; and

3 (4) the Federal Bureau of Investigation
4 should—

5 (A) have authority for any new program or
6 activity; and

7 (B) express statutory authority with re-
8 spect to any new programs or activities.

9 **SEC. 602. REPORT ON FBI INFORMATION MANAGEMENT**
10 **AND TECHNOLOGY.**

11 (a) IN GENERAL.—Not later than December 31,
12 2002, the Attorney General shall submit to Congress a
13 report on the information management and technology
14 programs of the Federal Bureau of Investigation including
15 recommendations for any legislation that may be nec-
16 essary to enhance the effectiveness of those programs.

17 (b) CONTENTS OF REPORT.—The report submitted
18 under subsection (a) shall provide—

19 (1) an analysis and evaluation of whether au-
20 thority for waiver of any provision of procurement
21 law (including any regulation implementing such a
22 law) is necessary to expeditiously and cost-effectively
23 acquire information technology to meet the unique
24 need of the Federal Bureau of Investigation to im-
25 prove its investigative operations in order to respond

1 better to national law enforcement, intelligence, and
2 counterintelligence requirements;

3 (2) the results of the studies and audits con-
4 ducted by the Strategic Management Council and
5 the Inspector General of the Department of Justice
6 to evaluate the information management and tech-
7 nology programs of the Federal Bureau of Investiga-
8 tion, including systems, policies, procedures, prac-
9 tices, and operations; and

10 (3) a plan for improving the information man-
11 agement and technology programs of the Federal
12 Bureau of Investigation.

13 (c) RESULTS.—The results provided under subsection
14 (b)(2) shall include an evaluation of—

15 (1) information technology procedures and
16 practices regarding procurement, training, and sys-
17 tems maintenance;

18 (2) record keeping policies, procedures, and
19 practices of the Federal Bureau of Investigation, fo-
20 cusing particularly on how information is inputted,
21 stored, managed, utilized, and shared within the
22 Federal Bureau of Investigation;

23 (3) how information in a given database is re-
24 lated or compared to, or integrated with, informa-

1 tion in other technology databases within the Fed-
2 eral Bureau of Investigation;

3 (4) the effectiveness of the existing information
4 technology infrastructure of the Federal Bureau of
5 Investigation in supporting and accomplishing the
6 overall mission of the Federal Bureau of Investiga-
7 tion;

8 (5) the management of information technology
9 projects of the Federal Bureau of Investigation, fo-
10 cusing on how the Federal Bureau of Investiga-
11 tion—

12 (A) selects its information technology
13 projects;

14 (B) ensures that projects under develop-
15 ment deliver benefits; and

16 (C) ensures that completed projects deliver
17 the expected results; and

18 (6) the security and access control techniques
19 for classified and sensitive but unclassified informa-
20 tion systems in the Federal Bureau of Investigation.

21 (d) CONTENTS OF PLAN.—The plan provided under
22 subsection (b)(3) shall ensure that—

23 (1) appropriate key technology management po-
24 sitions in the Federal Bureau of Investigation are

1 filled by personnel with experience in the commercial
2 sector;

3 (2) access to the most sensitive information is
4 audited in such a manner that suspicious activity is
5 subject to near contemporaneous security review;

6 (3) critical information systems employ a public
7 key infrastructure to validate both users and recipi-
8 ents of messages or records;

9 (4) security features are tested by the National
10 Security Agency to meet national information sys-
11 tems security standards;

12 (5) all employees in the Federal Bureau of In-
13 vestigation receive annual instruction in records and
14 information management policies and procedures rel-
15 evant to their positions;

16 (6) a reserve is established for research and de-
17 velopment to guide strategic information manage-
18 ment and technology investment decisions;

19 (7) unnecessary administrative requirements for
20 software purchases under \$2,000,000 are eliminated;

21 (8) full consideration is given to contacting with
22 an expert technology partner to provide technical
23 support for the information technology procurement
24 for the Federal Bureau of Investigation;

1 (9) procedures are instituted to procure prod-
2 ucts and services through contracts of other agen-
3 cies, as necessary; and

4 (10) a systems integration and test center, with
5 the participation of field personnel, tests each series
6 of information systems upgrades or application
7 changes before their operational deployment to con-
8 firm that they meet proper requirements.

9 **SEC. 603. GAO REPORT ON CRIME STATISTICS REPORTING.**

10 (a) IN GENERAL.—Not later than 9 months after the
11 date of enactment of this Act, the Comptroller General
12 of the United States shall submit to the Committees on
13 the Judiciary of the Senate and the House of Representa-
14 tives a report on the issue of how statistics are reported
15 and used by Federal law enforcement agencies.

16 (b) CONTENTS.—The report submitted under sub-
17 section (a) shall—

18 (1) identify the current regulations, procedures,
19 internal policies, or other conditions that allow the
20 investigation or arrest of an individual to be claimed
21 or reported by more than 1 Federal or State agency
22 charged with law enforcement responsibility;

23 (2) identify and examine the conditions that
24 allow the investigation or arrest of an individual to
25 be claimed or reported by the Offices of Inspectors

1 General and any other Federal agency charged with
2 law enforcement responsibility;

3 (3) examine the statistics reported by Federal
4 law enforcement agencies, and document those in-
5 stances in which more than 1 agency, bureau, or of-
6 fice claimed or reported the same investigation or
7 arrest during the years 1998 through 2001;

8 (4) examine the issue of Federal agencies si-
9 multaneously claiming arrest credit for in-custody
10 situations that have already occurred pursuant to a
11 State or local agency arrest situation during the
12 years 1998 through 2001;

13 (5) examine the issue of how such statistics are
14 used for administrative and management purposes;

15 (6) set forth a comprehensive definition of the
16 terms “investigation” and “arrest” as those terms
17 apply to Federal agencies charged with law enforce-
18 ment responsibilities; and

19 (7) include recommendations, that when imple-
20 mented, would eliminate unwarranted and duplica-
21 tive reporting of investigation and arrest statistics
22 by all Federal agencies charged with law enforce-
23 ment responsibilities.

24 (c) FEDERAL AGENCY COMPLIANCE.—Federal law
25 enforcement agencies shall comply with requests made by

1 the General Accounting Office for information that is nec-
2 essary to assist in preparing the report required by this
3 section.

4 **TITLE VII—ENDING THE DOUBLE** 5 **STANDARD**

6 **SEC. 701. ALLOWING DISCIPLINARY SUSPENSIONS OF MEM-** 7 **BERS OF THE SENIOR EXECUTIVE SERVICE** 8 **FOR 14 DAYS OR LESS.**

9 Section 7542 of title 5, United States Code, is
10 amended by striking “for more than 14 days”.

11 **SEC. 702. SUBMITTING OFFICE OF PROFESSIONAL RESPON-** 12 **SIBILITY REPORTS TO CONGRESSIONAL COM-** 13 **MITTEES.**

14 (a) **IN GENERAL.**—For each of the 5 years following
15 the date of enactment of this Act, the Office of the Inspec-
16 tor General shall submit to the chairperson and ranking
17 member of the Committees on the Judiciary of the Senate
18 and the House of Representatives an annual report to be
19 completed by the Federal Bureau of Investigation, Office
20 of Professional Responsibility and provided to the Inspec-
21 tor General, which sets forth—

22 (1) basic information on each investigation
23 completed by that Office;

24 (2) the findings and recommendations of that
25 Office for disciplinary action; and

1 (3) what, if any, action was taken by the Direc-
2 tor of the Federal Bureau of Investigation or the
3 designee of the Director based on any such rec-
4 ommendation.

5 (b) CONTENTS.—In addition to all matters already
6 included in the annual report described in subsection (a),
7 the report shall also include an analysis of—

8 (1) whether senior Federal Bureau of Investiga-
9 tion employees and lower level Federal Bureau of In-
10 vestigation personnel are being disciplined and inves-
11 tigated similarly; and

12 (2) whether any double standard is being em-
13 ployed to more senior employees with respect to alle-
14 gations of misconduct.

15 **TITLE VIII—ENHANCING SECURITY AT THE DEPARTMENT**
16 **OF JUSTICE**

18 **SEC. 801. REPORT ON THE PROTECTION OF SECURITY AND**
19 **INFORMATION AT THE DEPARTMENT OF JUS-**
20 **TICE.**

21 Not later than December 31, 2002, the Attorney
22 General shall submit to Congress a report on the manner
23 in which the Security and Emergency Planning Staff, the
24 Office of Intelligence Policy and Review, and the Chief In-
25 formation Officer of the Department of Justice plan to

1 improve the protection of security and information at the
2 Department of Justice, including a plan to establish se-
3 cure electronic communications between the Federal Bu-
4 reau of Investigation and the Office of Intelligence Policy
5 and Review for processing information related to the For-
6 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
7 1801 et seq.).

8 **SEC. 802. AUTHORIZATION FOR INCREASED RESOURCES TO**
9 **PROTECT SECURITY AND INFORMATION.**

10 There are authorized to be appropriated to the De-
11 partment of Justice for the activities of the Security and
12 Emergency Planning Staff to meet the increased demands
13 to provide personnel, physical, information, technical, and
14 litigation security for the Department of Justice, to pre-
15 pare for terrorist threats and other emergencies, and to
16 review security compliance by components of the Depart-
17 ment of Justice—

- 18 (1) \$13,000,000 for fiscal year 2003;
19 (2) \$17,000,000 for fiscal year 2004; and
20 (3) \$22,000,000 for fiscal year 2005.

21 **SEC. 803. AUTHORIZATION FOR INCREASED RESOURCES TO**
22 **FULFILL NATIONAL SECURITY MISSION OF**
23 **THE DEPARTMENT OF JUSTICE.**

24 There are authorized to be appropriated to the De-
25 partment of Justice for the activities of the Office of Intel-

1 ligence Policy and Review to help meet the increased per-
2 sonnel demands to combat terrorism, process applications
3 to the Foreign Intelligence Surveillance Court, participate
4 effectively in counterespionage investigations, provide pol-
5 icy analysis and oversight on national security matters,
6 and enhance secure computer and telecommunications fa-
7 cilities—

- 8 (1) \$7,000,000 for fiscal year 2003;
9 (2) \$7,500,000 for fiscal year 2004; and
10 (3) \$8,000,000 for fiscal year 2005.

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