

Calendar No. 351

107TH CONGRESS
2^D SESSION**S. 1974**

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 28, 2002

Mr. LEAHY (for himself and Mr. GRASSLEY) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

APRIL 25, 2002

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

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”.~~

TITLE I—IMPROVING FBI OVERSIGHT

SEC. 101. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

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

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

“(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice; and

“(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility.”; and

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

2 “(d) The Attorney General shall ensure by regulation
3 that any component of the Department of Justice receiv-
4 ing a nonfrivolous allegation of criminal wrongdoing or ad-
5 ministrative misconduct by an employee of the Depart-
6 ment of Justice shall report that information to the In-
7 spector General.”.

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

9 (a) **APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN**
10 **THE OFFICE OF INSPECTOR GENERAL.—**

11 (1) **IN GENERAL.—**The Inspector General of
12 the Department of Justice shall direct that 1 official
13 from the office of the Inspector General be respon-
14 sible for supervising and coordinating independent
15 oversight of programs and operations of the Federal
16 Bureau of Investigation until September 30, 2003.

17 (2) **CONTINUATION OF OVERSIGHT.—**The In-
18 spector General may continue individual oversight in
19 accordance with paragraph (1) after September 30,
20 2003, at the discretion of the Inspector General.

21 (b) **INSPECTOR GENERAL OVERSIGHT PLAN FOR**
22 **THE FEDERAL BUREAU OF INVESTIGATION.—**Not later
23 than 30 days after the date of the enactment of this Act,
24 the Inspector General of the Department of Justice shall
25 submit to the Chairman and ranking member of the Com-

1 mittees on the Judiciary of the Senate and the House of
2 Representatives, a plan for oversight of the Federal Bu-
3 reau of Investigation, which plan may include—

4 (1) an audit of the financial systems, informa-
5 tion technology systems, and computer security sys-
6 tems of the Federal Bureau of Investigation;

7 (2) an audit and evaluation of programs and
8 processes of the Federal Bureau of Investigation to
9 identify systemic weaknesses or implementation fail-
10 ures and to recommend corrective action;

11 (3) a review of the activities of internal affairs
12 offices of the Federal Bureau of Investigation, in-
13 cluding the Inspections Division and the Office of
14 Professional Responsibility;

15 (4) an investigation of allegations of serious
16 misconduct by personnel of the Federal Bureau of
17 Investigation;

18 (5) a review of matters relating to any other
19 program or operation of the Federal Bureau of In-
20 vestigation that the Inspector General determines re-
21 quires review; and

22 (6) an identification of resources needed by the
23 Inspector General to implement a plan for oversight
24 of the Federal Bureau of Investigation.

1 (c) REPORT ON INSPECTOR GENERAL FOR FEDERAL
 2 BUREAU OF INVESTIGATION.—Not later than 90 days
 3 after the date of enactment of this Act, the Attorney Gen-
 4 eral shall submit a report and recommendation to the
 5 Chairman and ranking member of the Committees on the
 6 Judiciary of the Senate and the House of Representatives
 7 concerning whether there should be established, within the
 8 Department of Justice, a separate office of the Inspector
 9 General for the Federal Bureau of Investigation that shall
 10 be responsible for supervising independent oversight of
 11 programs and operations of the Federal Bureau of Inves-
 12 tigation.

13 **TITLE II—WHISTLEBLOWER** 14 **PROTECTION**

15 **SEC. 201. INCREASING PROTECTIONS FOR FBI WHISTLE-** 16 **BLOWERS.**

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

19 **“§ 2303. Prohibited personnel practices in the Fed-** 20 **eral Bureau of Investigation**

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

24 “(b) PROHIBITED PRACTICES.—Any employee of the
 25 Federal Bureau of Investigation who has the authority to

1 take, direct others to take, recommend, or approve any
 2 personnel action, shall not, with respect to such authority,
 3 take or fail to take a personnel action with respect to any
 4 employee of the Bureau or because of—

5 “(1) any disclosure of information by the em-
 6 ployee to the Attorney General (or an employee des-
 7 ignated by the Attorney General for such purpose);
 8 a supervisor of the employee, the Inspector General
 9 for the Department of Justice, or a Member of Con-
 10 gress that the employee reasonably believes
 11 evidences—

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

14 “(B) mismanagement, a gross waste of
 15 funds, an abuse of authority, or a substantial
 16 and specific danger to public health or safety;
 17 or

18 “(2) any disclosure of information by the em-
 19 ployee to the Special Counsel of information that the
 20 employee reasonably believes evidences—

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

23 “(B) mismanagement, a gross waste of
 24 funds, an abuse of authority, or a substantial
 25 and specific danger to public health or safety;

1 if such disclosure is not specifically prohibited by law
 2 and if such information is not specifically required
 3 by Executive order to be kept secret in the interest
 4 of national defense or the conduct of foreign affairs.

5 “(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of
 6 this title shall apply to an employee of the Federal Bureau
 7 of Investigation who claims that a personnel action has
 8 been taken under this section against the employee as a
 9 reprisal for any disclosure of information described in sub-
 10 section (b)(2).

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

21 **TITLE III—FBI SECURITY**

22 **CAREER PROGRAM**

23 **SEC. 301. SECURITY MANAGEMENT POLICIES.**

24 The Attorney General shall establish policies and pro-
 25 cedures for the effective management (including accession;

1 education, training, and career development) of persons
 2 serving in security positions in the Federal Bureau of In-
 3 vestigation.

4 **SEC. 302. DIRECTOR OF THE FEDERAL BUREAU OF INVES-**
 5 **TIGATION.**

6 (a) **IN GENERAL.**—Subject to the authority, direc-
 7 tion, and control of the Attorney General, the Director of
 8 the Federal Bureau of Investigation (referred to in this
 9 title as the “Director”) shall carry out all powers, func-
 10 tions, and duties of the Attorney General with respect to
 11 the security workforce in the Federal Bureau of Investiga-
 12 tion.

13 (b) **POLICY IMPLEMENTATION.**—The Director shall
 14 ensure that the policies of the Attorney General estab-
 15 lished in accordance with this Act are implemented
 16 throughout the Federal Bureau of Investigation.

17 **SEC. 303. DIRECTOR OF SECURITY.**

18 The Director shall appoint a Director of Security, or
 19 such other title as the Director may determine, to assist
 20 the Director in the performance of the duties of the Direc-
 21 tor under this Act.

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

23 (a) **ESTABLISHMENT.**—The Director acting through
 24 the Director of Security shall establish a security career
 25 program board to advise the Director in managing the hir-

1 ing, training, education, and career development of per-
 2 sonnel in the security workforce of the Federal Bureau
 3 of Investigation.

4 (b) COMPOSITION OF BOARD.—The security career
 5 program board shall include—

6 (1) the Director of Security (or a representative
 7 of the Director of Security);

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

11 (3) the senior officials, as designated by the Di-
 12 rector, with responsibility for information manage-
 13 ment;

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

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

19 (c) CHAIRPERSON.—The Director of Security (or a
 20 representative of the Director of Security) shall be the
 21 chairperson of the board.

22 (d) SUBORDINATE BOARDS.—The Director of Secu-
 23 rity may establish a subordinate board structure to which
 24 functions of the security career program board may be del-
 25 egated.

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

2 (a) ~~DESIGNATION.~~—The Director shall designate, by
3 regulation, those positions in the Federal Bureau of Inves-
4 tigation that are security positions for purposes of this
5 Act.

6 (b) ~~REQUIRED POSITIONS.~~—In designating security
7 positions under subsection (a), the Director shall include,
8 at a minimum, all security-related positions in the areas
9 of—

10 (1) personnel security and access control;

11 (2) information systems security and informa-
12 tion assurance;

13 (3) physical security and technical surveillance
14 countermeasures;

15 (4) operational, program, and industrial secu-
16 rity; and

17 (5) information security and classification man-
18 agement.

19 **SEC. 306. CAREER DEVELOPMENT.**

20 (a) ~~CAREER PATHS.~~—The Director shall ensure that
21 appropriate career paths for personnel who wish to pursue
22 careers in security are identified in terms of the education,
23 training, experience, and assignments necessary for career
24 progression to the most senior security positions and shall
25 make available published information on those career
26 paths.

1 (b) LIMITATION ON PREFERENCE FOR SPECIAL
2 AGENTS.—

3 (1) IN GENERAL.—Except as provided in the
4 policy established under paragraph (2), the Attorney
5 General shall ensure that no requirement or pref-
6 erence for a Special Agent of the Federal Bureau of
7 Investigation (referred to in this title as a “Special
8 Agent”) is used in the consideration of persons for
9 security positions.

10 (2) POLICY.—The Attorney General shall estab-
11 lish a policy that permits a particular security posi-
12 tion to be specified as available only to Special
13 Agents, if a determination is made, under criteria
14 specified in the policy, that a Special Agent—

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

16 (B) is essential for performance of the du-
17 ties of the position; or

18 (C) is necessary for another compelling
19 reason.

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

23 (A) each security position that is restricted
24 to Special Agents under the policy established
25 under paragraph (2); and

1 ~~(B) the recommendation of the Director as~~
2 ~~to whether each restricted security position~~
3 ~~should remain restricted.~~

4 ~~(c) OPPORTUNITIES TO QUALIFY.—The Attorney~~
5 ~~General shall ensure that all personnel, including Special~~
6 ~~Agents, are provided the opportunity to acquire the edu-~~
7 ~~cation, training, and experience necessary to qualify for~~
8 ~~senior security positions.~~

9 ~~(d) BEST QUALIFIED.—The Attorney General shall~~
10 ~~ensure that the policies established under this Act are de-~~
11 ~~signed to provide for the selection of the best qualified~~
12 ~~individual for a position, consistent with other applicable~~
13 ~~law.~~

14 ~~(e) ASSIGNMENTS POLICY.—The Attorney General~~
15 ~~shall establish a policy for assigning Special Agents to se-~~
16 ~~curity positions that provides for a balance between—~~

17 ~~(1) the need for personnel to serve in career en-~~
18 ~~hancing positions; and~~

19 ~~(2) the need for requiring service in each such~~
20 ~~position for sufficient time to provide the stability~~
21 ~~necessary to carry out effectively the duties of the~~
22 ~~position and to allow for the establishment of re-~~
23 ~~sponsibility and accountability for actions taken in~~
24 ~~the position.~~

1 (f) ~~LENGTH OF ASSIGNMENT.~~—In implementing the
 2 policy established under subsection (b)(2), the Director
 3 shall provide, as appropriate, for longer lengths of assign-
 4 ments to security positions than assignments to other po-
 5 sitions.

6 (g) ~~PERFORMANCE APPRAISALS.~~—The Director shall
 7 provide an opportunity for review and inclusion of any
 8 comments on any appraisal of the performance of a person
 9 serving in a security position by a person serving in a secu-
 10 rity position in the same security career field.

11 (h) ~~BALANCED WORKFORCE POLICY.~~—In the devel-
 12 opment of security workforce policies under this Act with
 13 respect to any employees or applicants for employment,
 14 the Attorney General shall, consistent with the merit sys-
 15 tem principles set out in paragraphs (1) and (2) of section
 16 2301(b) of title 5, take into consideration the need to
 17 maintain a balanced workforce in which women and mem-
 18 bers of racial and ethnic minority groups are appropriately
 19 represented in Government service.

20 **SEC. 307. GENERAL EDUCATION, TRAINING, AND EXPERI-**
 21 **ENCE REQUIREMENTS.**

22 (a) ~~IN GENERAL.~~—The Director shall establish edu-
 23 cation, training, and experience requirements for each se-
 24 curity position, based on the level of complexity of duties
 25 carried out in the position.

1 (b) **QUALIFICATION REQUIREMENTS.**—Before being
 2 assigned to a position as a program manager or deputy
 3 program manager of a significant security program, a
 4 person—

5 (1) must have completed a security program
 6 management course that is accredited by the Intel-
 7 ligence Community-Department of Defense Joint Se-
 8 curity Training Consortium or is determined to be
 9 comparable by the Director; and

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

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

14 (a) **IN GENERAL.**—The Director, in consultation with
 15 the Director of Central Intelligence and the Secretary of
 16 Defense, shall establish and implement education and
 17 training programs for persons serving in security positions
 18 in the Federal Bureau of Investigation.

19 (b) **OTHER PROGRAMS.**—The Director shall ensure
 20 that programs established under subsection (a) are estab-
 21 lished and implemented, to the maximum extent prac-
 22 ticable, uniformly with the programs of the Intelligence
 23 Community and the Department of Defense.

1 **SEC. 309. OFFICE OF PERSONNEL MANAGEMENT AP-**
 2 **PROVAL.**

3 (a) **IN GENERAL.**—The Attorney General shall sub-
 4 mit any requirement that is established under section 307
 5 to the Director of the Office of Personnel Management
 6 for approval.

7 (b) **FINAL APPROVAL.**—If the Director does not dis-
 8 approve the requirements established under section 307
 9 within 30 days after the date on which the Director re-
 10 ceives the requirement, the requirement is deemed to be
 11 approved by the Director of the Office of Personnel Man-
 12 agement.

13 **TITLE IV—FBI COUNTERINTEL-**
 14 **LIGENCE POLYGRAPH PRO-**
 15 **GRAM**

16 **SEC. 401. DEFINITIONS.**

17 In this title:

18 (1) **POLYGRAPH PROGRAM.**—The term “poly-
 19 graph program” means the counterintelligence
 20 screening polygraph program established under sec-
 21 tion 402.

22 (2) **POLYGRAPH REVIEW.**—The term “Poly-
 23 graph Review” means the review of the scientific va-
 24 lidity of the polygraph for counterintelligence screen-
 25 ing purposes conducted by the Committee to Review

1 the Scientific Evidence on the Polygraph of the Na-
 2 tional Academy of Sciences.

3 **SEC. 402. ESTABLISHMENT OF PROGRAM.**

4 Not later than 6 months after publication of the re-
 5 sults of the Polygraph Review, the Attorney General, in
 6 consultation with the Director of the Federal Bureau of
 7 Investigation and the Director of Security of the Federal
 8 Bureau of Investigation, shall establish a counterintel-
 9 ligence screening polygraph program for the Federal Bu-
 10 reau of Investigation that consists of periodic polygraph
 11 examinations of employees, or contractor employees of the
 12 Federal Bureau of Investigation who are in positions spec-
 13 ified by the Director of the Federal Bureau of Investiga-
 14 tion as exceptionally sensitive in order to minimize the po-
 15 tential for unauthorized release or disclosure of exception-
 16 ally sensitive information.±

17 **SEC. 403. REGULATIONS.**

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

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

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

3 (2) include procedures for—

4 (A) identifying and addressing false posi-
5 tive results of polygraph examinations;

6 (B) ensuring that adverse personnel ac-
7 tions are not taken against an individual solely
8 by reason of the physiological reaction of the in-
9 dividual to a question in a polygraph examina-
10 tion, unless—

11 (i) reasonable efforts are first made
12 independently to determine through alter-
13 native means, the veracity of the response
14 of the individual to the question; and

15 (ii) the Director of the Federal Bu-
16 reau of Investigation determines personally
17 that the personnel action is justified;

18 (C) ensuring quality assurance and quality
19 control in accordance with any guidance pro-
20 vided by the Department of Defense Polygraph
21 Institute and the Director of Central Intel-
22 ligence; and

23 (D) allowing any employee or contractor
24 who is the subject of a counterintelligence
25 screening polygraph examination under the

1 polygraph program, upon written request, to
 2 have prompt access to any unclassified reports
 3 regarding an examination that relates to any
 4 adverse personnel action taken with respect to
 5 the individual.

6 **SEC. 404. REPORT ON FURTHER ENHANCEMENT OF FBI**
 7 **PERSONNEL SECURITY PROGRAM.**

8 (a) IN GENERAL.—Not later than 9 months after the
 9 date of enactment of this Act, the Director of the Federal
 10 Bureau of Investigation shall submit to Congress a report
 11 setting forth recommendations for any legislative action
 12 that the Director considers appropriate in order to en-
 13 hance the personnel security program of the Federal Bu-
 14 reau of Investigation.

15 (b) POLYGRAPH REVIEW RESULTS.—Any rec-
 16 ommendation under subsection (a) regarding the use of
 17 polygraphs shall take into account the results of the Poly-
 18 graph Review.

19 **TITLE V—FBI POLICE**

20 **SEC. 501. DEFINITIONS.**

21 In this title:

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

24 (2) FBI BUILDINGS AND GROUNDS.—

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

3 (i) the whole or any part of any build-
4 ing or structure which is occupied under a
5 lease or otherwise by the Federal Bureau
6 of Investigation and is subject to super-
7 vision and control by the Federal Bureau
8 of Investigation;

9 (ii) the land upon which there is situ-
10 ated any building or structure which is oc-
11 cupied wholly by the Federal Bureau of In-
12 vestigation; and

13 (iii) any enclosed passageway con-
14 necting 2 or more buildings or structures
15 occupied in whole or in part by the Federal
16 Bureau of Investigation.

17 (B) INCLUSION.—The term “FBI build-
18 ings and grounds” includes adjacent streets and
19 sidewalks not to exceed 500 feet from such
20 property.

21 (3) FBI POLICE.—The term “FBI police”
22 means the permanent police force established under
23 section 502.

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

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

5 (b) DUTIES.—The FBI police shall perform such du-
6 ties as the Director may prescribe in connection with the
7 protection of persons and property within FBI buildings
8 and grounds.

9 (c) UNIFORMED REPRESENTATIVE.—The Director,
10 or designated representative duly authorized by the Attor-
11 ney General, may appoint uniformed representatives of the
12 Federal Bureau of Investigation as FBI police for duty
13 in connection with the policing of all FBI buildings and
14 grounds.

15 (d) AUTHORITY.—

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

19 (A) police the FBI buildings and grounds
20 for the purpose of protecting persons and prop-
21 erty;

22 (B) in the performance of duties necessary
23 for carrying out subparagraph (A), make ar-
24 rests and otherwise enforce the laws of the
25 United States, including the laws of the District
26 of Columbia;

1 (C) carry firearms as may be required for
2 the performance of duties;

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

5 (E) hold the same powers as sheriffs and
6 constables when policing FBI buildings and
7 grounds.

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

11 (e) PAY AND BENEFITS.—

12 (1) IN GENERAL.—The rates of basic pay, sal-
13 ary schedule, pay provisions, and benefits for mem-
14 bers of the FBI police shall be equivalent to the
15 rates of basic pay, salary schedule, pay provisions,
16 and benefits applicable to members of the United
17 States Secret Service Uniformed Division.

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

20 (A) shall be established by regulation;

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

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

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

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

5 **TITLE VI—REPORTS**

6 **SEC. 601. REPORT ON LEGAL AUTHORITY FOR FBI PRO-**
7 **GRAMS AND ACTIVITIES.**

8 (a) IN GENERAL.—Not later than December 31,
9 2002, the Attorney General shall submit to Congress a
10 report describing the statutory and other legal authority
11 for all programs and activities of the Federal Bureau of
12 Investigation.

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

15 (1) the titles within the United States Code and
16 the statutes for which the Federal Bureau of Inves-
17 tigation exercises investigative responsibility;

18 (2) each program or activity of the Federal Bu-
19 reau of Investigation that has express statutory au-
20 thority and the statute which provides that author-
21 ity; and

22 (3) each program or activity of the Federal Bu-
23 reau of Investigation that does not have express
24 statutory authority, and the source of the legal au-
25 thority for that program or activity.

1 (e) ~~RECOMMENDATIONS.—~~The report submitted
 2 under subsection (a) shall recommend whether—

3 ~~(1)~~ the Federal Bureau of Investigation should
 4 continue to have investigative responsibility for each
 5 statute for which the Federal Bureau of Investiga-
 6 tion currently has investigative responsibility;

7 ~~(2)~~ the legal authority for any program or ac-
 8 tivity of the Federal Bureau of Investigation should
 9 be modified or repealed;

10 ~~(3)~~ the Federal Bureau of Investigation should
 11 have express statutory authority for any program or
 12 activity of the Federal Bureau of Investigation for
 13 which the Federal Bureau of Investigation does not
 14 currently have express statutory authority; and

15 ~~(4)~~ the Federal Bureau of Investigation
 16 should—

17 ~~(A)~~ have authority for any new program or
 18 activity; and

19 ~~(B)~~ express statutory authority with re-
 20 spect to any new programs or activities.

21 **SEC. 602. REPORT ON FBI INFORMATION MANAGEMENT**
 22 **AND TECHNOLOGY.**

23 (a) ~~IN GENERAL.—~~Not later than December 31,
 24 2002, the Attorney General shall submit to Congress a
 25 report on the information management and technology

1 programs of the Federal Bureau of Investigation including
2 recommendations for any legislation that may be nec-
3 essary to enhance the effectiveness of those programs.

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

6 (1) an analysis and evaluation of whether au-
7 thority for waiver of any provision of procurement
8 law (including any regulation implementing such a
9 law) is necessary to expeditiously and cost-effectively
10 acquire information technology to meet the unique
11 need of the Federal Bureau of Investigation to im-
12 prove its investigative operations in order to respond
13 better to national law enforcement, intelligence, and
14 counterintelligence requirements;

15 (2) the results of the studies and audits con-
16 ducted by the Strategic Management Council and
17 the Inspector General of the Department of Justice
18 to evaluate the information management and tech-
19 nology programs of the Federal Bureau of Investiga-
20 tion, including systems, policies, procedures, prac-
21 tices, and operations; and

22 (3) a plan for improving the information man-
23 agement and technology programs of the Federal
24 Bureau of Investigation.

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

3 (1) information technology procedures and
4 practices regarding procurement, training, and sys-
5 tems maintenance;

6 (2) record keeping policies, procedures, and
7 practices of the Federal Bureau of Investigation, fo-
8 cusing particularly on how information is inputted,
9 stored, managed, utilized, and shared within the
10 Federal Bureau of Investigation;

11 (3) how information in a given database is re-
12 lated or compared to, or integrated with, informa-
13 tion in other technology databases within the Fed-
14 eral Bureau of Investigation;

15 (4) the effectiveness of the existing information
16 technology infrastructure of the Federal Bureau of
17 Investigation in supporting and accomplishing the
18 overall mission of the Federal Bureau of Investiga-
19 tion;

20 (5) the management of information technology
21 projects of the Federal Bureau of Investigation, fo-
22 cusing on how the Federal Bureau of
23 Investigation—

24 (A) selects its information technology
25 projects;

1 (B) ensures that projects under develop-
2 ment deliver benefits; and

3 (C) ensures that completed projects deliver
4 the expected results; and

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

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

10 (1) appropriate key technology management po-
11 sitions in the Federal Bureau of Investigation are
12 filled by personnel with experience in the commercial
13 sector;

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

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

20 (4) security features are tested by the National
21 Security Agency to meet national information sys-
22 tems security standards;

23 (5) all employees in the Federal Bureau of In-
24 vestigation receive annual instruction in records and

1 information management policies and procedures rel-
2 evant to their positions;

3 (6) a reserve is established for research and de-
4 velopment to guide strategic information manage-
5 ment and technology investment decisions;

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

8 (8) full consideration is given to contacting with
9 an expert technology partner to provide technical
10 support for the information technology procurement
11 for the Federal Bureau of Investigation;

12 (9) procedures are instituted to procure prod-
13 ucts and services through contracts of other agen-
14 cies, as necessary; and

15 (10) a systems integration and test center, with
16 the participation of field personnel, tests each series
17 of information systems upgrades or application
18 changes before their operational deployment to con-
19 firm that they meet proper requirements.

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

21 (a) IN GENERAL.—Not later than 9 months after the
22 date of enactment of this Act, the Comptroller General
23 of the United States shall submit to the Committees on
24 the Judiciary of the Senate and the House of Representa-

1 tives a report on the issue of how statistics are reported
2 and used by Federal law enforcement agencies.

3 (b) CONTENTS.—The report submitted under sub-
4 section (a) shall—

5 (1) identify the current regulations, procedures,
6 internal policies, or other conditions that allow the
7 investigation or arrest of an individual to be claimed
8 or reported by more than 1 Federal or State agency
9 charged with law enforcement responsibility;

10 (2) identify and examine the conditions that
11 allow the investigation or arrest of an individual to
12 be claimed or reported by the Offices of Inspectors
13 General and any other Federal agency charged with
14 law enforcement responsibility;

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

20 (4) examine the issue of Federal agencies si-
21 multaneously claiming arrest credit for in-custody
22 situations that have already occurred pursuant to a
23 State or local agency arrest situation during the
24 years 1998 through 2001;

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

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

7 (7) include recommendations, that when imple-
8 mented, would eliminate unwarranted and duplica-
9 tive reporting of investigation and arrest statistics
10 by all Federal agencies charged with law enforce-
11 ment responsibilities.

12 (c) ~~FEDERAL AGENCY COMPLIANCE.~~—Federal law
13 enforcement agencies shall comply with requests made by
14 the General Accounting Office for information that is nec-
15 essary to assist in preparing the report required by this
16 section.

17 **TITLE VII—MISCELLANEOUS** 18 **PROVISIONS**

19 **SEC. 701. ALLOWING DISCIPLINARY SUSPENSIONS OF MEM-** 20 **BERS OF THE SENIOR EXECUTIVE SERVICE** 21 **FOR 14 DAYS OR LESS.**

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

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Federal Bureau of Inves-*
 3 *tigation Reform Act of 2002”.*

4 **TITLE I—IMPROVING FBI**
 5 **OVERSIGHT**

6 **SEC. 101. AUTHORITY OF THE DEPARTMENT OF JUSTICE IN-**
 7 **SPECTOR GENERAL.**

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

10 *(1) in subsection (b), by striking paragraphs (2)*
 11 *and (3) and inserting the following:*

12 *“(2) except as specified in subsection (a) and*
 13 *paragraph (3), may investigate allegations of crimi-*
 14 *nal wrongdoing or administrative misconduct by an*
 15 *employee of the Department of Justice, or may, in the*
 16 *discretion of the Inspector General, refer such allega-*
 17 *tions to the Office of Professional Responsibility or*
 18 *the internal affairs office of the appropriate compo-*
 19 *nent of the Department of Justice;*

20 *“(3) shall refer to the Counsel, Office of Profes-*
 21 *sional Responsibility of the Department of Justice, al-*
 22 *legations of misconduct involving Department attor-*
 23 *neys, investigators, or law enforcement personnel,*
 24 *where the allegations relate to the exercise of the au-*
 25 *thority of an attorney to investigate, litigate, or pro-*
 26 *vide legal advice, except that no such referral shall be*

1 *made if the attorney is employed in the Office of Pro-*
 2 *fessional Responsibility;*

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

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

13 *(2) by adding at the end the following:*

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

22 *“(e) The Attorney General shall ensure by regulation*
 23 *that any component of the Department of Justice receiving*
 24 *a nonfrivolous allegation of criminal wrongdoing or admin-*
 25 *istrative misconduct by an employee of the Department of*

1 *Justice shall report that information to the Inspector Gen-*
 2 *eral.”.*

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

4 *(a) APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN*
 5 *THE OFFICE OF INSPECTOR GENERAL.—*

6 *(1) IN GENERAL.—The Inspector General of the*
 7 *Department of Justice shall direct that 1 official from*
 8 *the office of the Inspector General be responsible for*
 9 *supervising and coordinating independent oversight of*
 10 *programs and operations of the Federal Bureau of In-*
 11 *vestigation until September 30, 2003.*

12 *(2) CONTINUATION OF OVERSIGHT.—The Inspec-*
 13 *tor General may continue individual oversight in ac-*
 14 *cordance with paragraph (1) after September 30,*
 15 *2003, at the discretion of the Inspector General.*

16 *(b) INSPECTOR GENERAL OVERSIGHT PLAN FOR THE*
 17 *FEDERAL BUREAU OF INVESTIGATION.—Not later than 30*
 18 *days after the date of the enactment of this Act, the Inspec-*
 19 *tor General of the Department of Justice shall submit to*
 20 *the Chairperson and ranking member of the Committees on*
 21 *the Judiciary of the Senate and the House of Representa-*
 22 *tives, a plan for oversight of the Federal Bureau of Inves-*
 23 *tigation, which plan may include—*

1 (1) *an audit of the financial systems, informa-*
 2 *tion technology systems, and computer security sys-*
 3 *tems of the Federal Bureau of Investigation;*

4 (2) *an audit and evaluation of programs and*
 5 *processes of the Federal Bureau of Investigation to*
 6 *identify systemic weaknesses or implementation fail-*
 7 *ures and to recommend corrective action;*

8 (3) *a review of the activities of internal affairs*
 9 *offices of the Federal Bureau of Investigation, includ-*
 10 *ing the Inspections Division and the Office of Profes-*
 11 *sional Responsibility;*

12 (4) *an investigation of allegations of serious mis-*
 13 *conduct by personnel of the Federal Bureau of Inves-*
 14 *tigation;*

15 (5) *a review of matters relating to any other pro-*
 16 *gram or operation of the Federal Bureau of Investiga-*
 17 *tion that the Inspector General determines requires*
 18 *review; and*

19 (6) *an identification of resources needed by the*
 20 *Inspector General to implement a plan for oversight*
 21 *of the Federal Bureau of Investigation.*

22 (c) *REPORT ON INSPECTOR GENERAL FOR FEDERAL*
 23 *BUREAU OF INVESTIGATION.—Not later than 90 days after*
 24 *the date of enactment of this Act, the Attorney General shall*
 25 *submit a report and recommendation to the Chairperson*

1 *and ranking member of the Committees on the Judiciary*
2 *of the Senate and the House of Representatives*
3 *concerning—*

4 (1) *whether there should be established, within*
5 *the Department of Justice, a separate office of the In-*
6 *spector General for the Federal Bureau of Investiga-*
7 *tion that shall be responsible for supervising inde-*
8 *pendent oversight of programs and operations of the*
9 *Federal Bureau of Investigation;*

10 (2) *what changes have been or should be made to*
11 *the rules, regulations, policies, or practices governing*
12 *the Federal Bureau of Investigation in order to assist*
13 *the Office of the Inspector General in effectively exer-*
14 *cising its authority to investigate the conduct of em-*
15 *ployees of the Federal Bureau of Investigation;*

16 (3) *what differences exist between the methods*
17 *and practices used by different Department of Justice*
18 *components in the investigation and adjudication of*
19 *alleged misconduct by Department of Justice per-*
20 *sonnel;*

21 (4) *what steps should be or are being taken to*
22 *make the methods and practices described in para-*
23 *graph (3) uniform throughout the Department of Jus-*
24 *tice; and*

(5) *whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.*

TITLE II—WHISTLEBLOWER PROTECTION

SEC. 201. INCREASING PROTECTIONS FOR FBI WHISTLE- BLOWERS.

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

“§2303. Prohibited personnel practices in the Federal Bureau of Investigation

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

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

1 “(1) any disclosure of information by the em-
 2 ployee to the Attorney General (or an employee des-
 3 ignated by the Attorney General for such purpose), a
 4 supervisor of the employee, the Inspector General for
 5 the Department of Justice, or a Member of Congress
 6 that the employee reasonably believes evidences—

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

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

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

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

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

24 “(c) *INDIVIDUAL RIGHT OF ACTION*.—Chapter 12 of
 25 this title shall apply to an employee of the Federal Bureau

1 of Investigation who claims that a personnel action has
 2 been taken under this section against the employee as a re-
 3 prisal for any disclosure of information described in sub-
 4 section (b)(2).

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

14 **TITLE III—FBI SECURITY**

15 **CAREER PROGRAM**

16 **SEC. 301. SECURITY MANAGEMENT POLICIES.**

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

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

23 **TIGATION.**

24 (a) *IN GENERAL.*—Subject to the authority, direction,
 25 and control of the Attorney General, the Director of the Fed-

1 eral Bureau of Investigation (referred to in this title as the
 2 “Director”) shall carry out all powers, functions, and duties
 3 of the Attorney General with respect to the security work-
 4 force in the Federal Bureau of Investigation.

5 (b) *POLICY IMPLEMENTATION.*—The Director shall en-
 6 sure that the policies of the Attorney General established
 7 in accordance with this Act are implemented throughout the
 8 Federal Bureau of Investigation at both the headquarters
 9 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 the
 13 Director in the performance of the duties of the Director
 14 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 of
 21 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 management;*

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

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

9 (5) *such other senior officials for the intelligence*
 10 *community as the Director may designate.*

11 (c) *CHAIRPERSON.—The Director of Security (or a*
 12 *representative of the Director of Security) shall be the chair-*
 13 *person of the board.*

14 (d) *SUBORDINATE BOARDS.—The Director of Security*
 15 *may establish a subordinate board structure to which func-*
 16 *tions of the security career program board may be delegated.*

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

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

21 (b) *REQUIRED POSITIONS.—In designating security*
 22 *positions under subsection (a), the Director shall include,*
 23 *at a minimum, all security-related positions in the areas*
 24 *of—*

25 (1) *personnel security and access control;*

1 (2) *information systems security and informa-*
 2 *tion assurance;*

3 (3) *physical security and technical surveillance*
 4 *countermeasures;*

5 (4) *operational, program, and industrial secu-*
 6 *rity; and*

7 (5) *information security and classification man-*
 8 *agement.*

9 **SEC. 306. CAREER DEVELOPMENT.**

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

16 (b) *LIMITATION ON PREFERENCE FOR SPECIAL*
 17 *AGENTS.*—

18 (1) *IN GENERAL.*—*Except as provided in the pol-*
 19 *icy established under paragraph (2), the Attorney*
 20 *General shall ensure that no requirement or pref-*
 21 *erence for a Special Agent of the Federal Bureau of*
 22 *Investigation (referred to in this title as a “Special*
 23 *Agent”)* *is used in the consideration of persons for se-*
 24 *curity positions.*

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

6 *(A) is required for that position by law;*

7 *(B) is essential for performance of the du-*
 8 *ties of the position; or*

9 *(C) is necessary for another compelling rea-*
 10 *son.*

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

14 *(A) each security position that is restricted*
 15 *to Special Agents under the policy established*
 16 *under paragraph (2); and*

17 *(B) the recommendation of the Director as*
 18 *to whether each restricted security position*
 19 *should remain restricted.*

20 (c) *OPPORTUNITIES TO QUALIFY.*—*The Attorney Gen-*
 21 *eral shall ensure that all personnel, including Special*
 22 *Agents, are provided the opportunity to acquire the edu-*
 23 *cation, training, and experience necessary to qualify for*
 24 *senior security positions.*

1 (d) *BEST QUALIFIED.*—*The Attorney General shall en-*
2 *sure that the policies established under this Act are designed*
3 *to provide for the selection of the best qualified individual*
4 *for a position, consistent with other applicable law.*

5 (e) *ASSIGNMENTS POLICY.*—*The Attorney General*
6 *shall establish a policy for assigning Special Agents to secu-*
7 *rity positions that provides for a balance between—*

8 (1) *the need for personnel to serve in career en-*
9 *hancing positions; and*

10 (2) *the need for requiring service in each such*
11 *position for sufficient time to provide the stability*
12 *necessary to carry out effectively the duties of the po-*
13 *sition and to allow for the establishment of responsi-*
14 *bility and accountability for actions taken in the po-*
15 *sition.*

16 (f) *LENGTH OF ASSIGNMENT.*—*In implementing the*
17 *policy established under subsection (b)(2), the Director shall*
18 *provide, as appropriate, for longer lengths of assignments*
19 *to security positions than assignments to other positions.*

20 (g) *PERFORMANCE APPRAISALS.*—*The Director shall*
21 *provide an opportunity for review and inclusion of any*
22 *comments on any appraisal of the performance of a person*
23 *serving in a security position by a person serving in a secu-*
24 *rity position in the same security career field.*

1 (h) *BALANCED WORKFORCE POLICY.*—*In the develop-*
 2 *ment of security workforce policies under this Act with re-*
 3 *spect to any employees or applicants for employment, the*
 4 *Attorney General shall, consistent with the merit system*
 5 *principles set out in paragraphs (1) and (2) of section*
 6 *2301(b) of title 5, take into consideration the need to main-*
 7 *tain a balanced workforce in which women and members*
 8 *of racial and ethnic minority groups are appropriately rep-*
 9 *resented in Government service.*

10 **SEC. 307. GENERAL EDUCATION, TRAINING, AND EXPERI-**
 11 **ENCE REQUIREMENTS.**

12 (a) *IN GENERAL.*—*The Director shall establish edu-*
 13 *cation, training, and experience requirements for each secu-*
 14 *rity position, based on the level of complexity of duties car-*
 15 *ried out in the position.*

16 (b) *QUALIFICATION REQUIREMENTS.*—*Before being as-*
 17 *signed to a position as a program manager or deputy pro-*
 18 *gram manager of a significant security program, a*
 19 *person—*

20 (1) *must have completed a security program*
 21 *management course that is accredited by the Intel-*
 22 *ligence Community-Department of Defense Joint Se-*
 23 *curity Training Consortium or is determined to be*
 24 *comparable by the Director; and*

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

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

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

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

15 **SEC. 309. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.**

16 (a) *IN GENERAL.*—*The Attorney General shall submit*
17 *any requirement that is established under section 307 to*
18 *the Director of the Office of Personnel Management for ap-*
19 *proval.*

20 (b) *FINAL APPROVAL.*—*If the Director does not dis-*
21 *approve the requirements established under section 307*
22 *within 30 days after the date on which the Director receives*
23 *the requirement, the requirement is deemed to be approved*
24 *by the Director of the Office of Personnel Management.*

1 **TITLE IV—FBI COUNTERINTEL-**
 2 **LIGENCE POLYGRAPH PRO-**
 3 **GRAM**

4 **SEC. 401. DEFINITIONS.**

5 *In this title:*

6 (1) *POLYGRAPH PROGRAM.*—The term “poly-
 7 graph program” means the counterintelligence screen-
 8 ing polygraph program established under section 402.

9 (2) *POLYGRAPH REVIEW.*—The term “Polygraph
 10 Review” means the review of the scientific validity of
 11 the polygraph for counterintelligence screening pur-
 12 poses conducted by the Committee to Review the Sci-
 13 entific Evidence on the Polygraph of the National
 14 Academy of Sciences.

15 **SEC. 402. ESTABLISHMENT OF PROGRAM.**

16 *Not later than 6 months after publication of the results*
 17 *of the Polygraph Review, the Attorney General, in consulta-*
 18 *tion with the Director of the Federal Bureau of Investiga-*
 19 *tion and the Director of Security of the Federal Bureau*
 20 *of Investigation, shall establish a counterintelligence screen-*
 21 *ing polygraph program for the Federal Bureau of Investiga-*
 22 *tion that consists of periodic polygraph examinations of em-*
 23 *ployees, or contractor employees of the Federal Bureau of*
 24 *Investigation who are in positions specified by the Director*
 25 *of the Federal Bureau of Investigation as exceptionally sen-*

1 *sitive in order to minimize the potential for unauthorized*
 2 *release or disclosure of exceptionally sensitive information.*

3 **SEC. 403. REGULATIONS.**

4 (a) *IN GENERAL.*—*The Attorney General shall pre-*
 5 *scribe regulations for the polygraph program in accordance*
 6 *with subchapter II of chapter 5 of title 5, United States*
 7 *Code (commonly referred to as the Administrative Proce-*
 8 *dures Act).*

9 (b) *CONSIDERATIONS.*—*In prescribing regulations*
 10 *under subsection (a), the Attorney General shall—*

11 (1) *take into account the results of the Polygraph*
 12 *Review; and*

13 (2) *include procedures for—*

14 (A) *identifying and addressing false posi-*
 15 *tive results of polygraph examinations;*

16 (B) *ensuring that adverse personnel actions*
 17 *are not taken against an individual solely by*
 18 *reason of the physiological reaction of the indi-*
 19 *vidual to a question in a polygraph examina-*
 20 *tion, unless—*

21 (i) *reasonable efforts are first made*
 22 *independently to determine through alter-*
 23 *native means, the veracity of the response of*
 24 *the individual to the question; and*

1 (ii) the Director of the Federal Bureau
2 of Investigation determines personally that
3 the personnel action is justified;

4 (C) ensuring quality assurance and quality
5 control in accordance with any guidance pro-
6 vided by the Department of Defense Polygraph
7 Institute and the Director of Central Intelligence;
8 and

9 (D) allowing any employee or contractor
10 who is the subject of a counterintelligence screen-
11 ing polygraph examination under the polygraph
12 program, upon written request, to have prompt
13 access to any unclassified reports regarding an
14 examination that relates to any adverse per-
15 sonnel action taken with respect to the indi-
16 vidual.

17 **SEC. 404. REPORT ON FURTHER ENHANCEMENT OF FBI**
18 **PERSONNEL SECURITY PROGRAM.**

19 (a) *IN GENERAL.*—Not later than 9 months after the
20 date of enactment of this Act, the Director of the Federal
21 Bureau of Investigation shall submit to Congress a report
22 setting forth recommendations for any legislative action
23 that the Director considers appropriate in order to enhance
24 the personnel security program of the Federal Bureau of
25 Investigation.

1 (b) *POLYGRAPH REVIEW RESULTS.*—Any rec-
 2 ommendation under subsection (a) regarding the use of
 3 polygraphs shall take into account the results of the Poly-
 4 graph Review.

5 ***TITLE V—FBI POLICE***

6 ***SEC. 501. DEFINITIONS.***

7 *In this title:*

8 (1) *DIRECTOR.*—The term “Director” means the
 9 Director of the Federal Bureau of Investigation.

10 (2) *FBI BUILDINGS AND GROUNDS.*—

11 (A) *IN GENERAL.*—The term “FBI build-
 12 ings and grounds” means—

13 (i) *the whole or any part of any build-*
 14 *ing or structure which is occupied under a*
 15 *lease or otherwise by the Federal Bureau of*
 16 *Investigation and is subject to supervision*
 17 *and control by the Federal Bureau of Inves-*
 18 *tigation;*

19 (ii) *the land upon which there is situ-*
 20 *ated any building or structure which is oc-*
 21 *cupied wholly by the Federal Bureau of In-*
 22 *vestigation; and*

23 (iii) *any enclosed passageway con-*
 24 *necting 2 or more buildings or structures*

1 *occupied in whole or in part by the Federal*
 2 *Bureau of Investigation.*

3 *(B) INCLUSION.—The term “FBI buildings*
 4 *and grounds” includes adjacent streets and side-*
 5 *walks not to exceed 500 feet from such property.*

6 *(3) FBI POLICE.—The term “FBI police” means*
 7 *the permanent police force established under section*
 8 *502.*

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

10 *(a) IN GENERAL.—Subject to the supervision of the At-*
 11 *torney General, the Director may establish a permanent po-*
 12 *lice force, to be known as the FBI police.*

13 *(b) DUTIES.—The FBI police shall perform such duties*
 14 *as the Director may prescribe in connection with the protec-*
 15 *tion of persons and property within FBI buildings and*
 16 *grounds.*

17 *(c) UNIFORMED REPRESENTATIVE.—The Director, or*
 18 *designated representative duly authorized by the Attorney*
 19 *General, may appoint uniformed representatives of the Fed-*
 20 *eral Bureau of Investigation as FBI police for duty in con-*
 21 *nection with the policing of all FBI buildings and grounds.*

22 *(d) AUTHORITY.—*

23 *(1) IN GENERAL.—In accordance with regula-*
 24 *tions prescribed by the Director and approved by the*
 25 *Attorney General, the FBI police may—*

1 (A) police the FBI buildings and grounds
2 for the purpose of protecting persons and prop-
3 erty;

4 (B) in the performance of duties necessary
5 for carrying out subparagraph (A), make arrests
6 and otherwise enforce the laws of the United
7 States, including the laws of the District of Co-
8 lumbia;

9 (C) carry firearms as may be required for
10 the performance of duties;

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

13 (E) hold the same powers as sheriffs and
14 constables when policing FBI buildings and
15 grounds.

16 (2) *EXCEPTION.*—The authority and policing
17 powers of FBI police under this subsection shall not
18 include the service of civil process.

19 (e) *PAY AND BENEFITS.*—

20 (1) *IN GENERAL.*—The rates of basic pay, salary
21 schedule, pay provisions, and benefits for members of
22 the FBI police shall be equivalent to the rates of basic
23 pay, salary schedule, pay provisions, and benefits ap-
24 plicable to members of the United States Secret Serv-
25 ice Uniformed Division.

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

3 *(A) shall be established by regulation;*

4 *(B) shall apply with respect to pay periods*
 5 *beginning after January 1, 2003; and*

6 *(C) shall not result in any decrease in the*
 7 *rates of pay or benefits of any individual.*

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

9 *This title does not affect the authority of the Metropoli-*
 10 *tan Police Force of the District of Columbia with respect*
 11 *to FBI buildings and grounds.*

12 **TITLE VI—REPORTS**

13 **SEC. 601. REPORT ON LEGAL AUTHORITY FOR FBI PRO-**
 14 **GRAMS AND ACTIVITIES.**

15 *(a) IN GENERAL.—Not later than December 31, 2002,*
 16 *the Attorney General shall submit to Congress a report de-*
 17 *scribing the statutory and other legal authority for all pro-*
 18 *grams and activities of the Federal Bureau of Investigation.*

19 *(b) CONTENTS.—The report submitted under sub-*
 20 *section (a) shall describe—*

21 *(1) the titles within the United States Code and*
 22 *the statutes for which the Federal Bureau of Inves-*
 23 *tigation exercises investigative responsibility;*

24 *(2) each program or activity of the Federal Bu-*
 25 *reau of Investigation that has express statutory au-*

1 *thority and the statute which provides that authority;*
 2 *and*

3 *(3) each program or activity of the Federal Bu-*
 4 *reau of Investigation that does not have express statu-*
 5 *tory authority, and the source of the legal authority*
 6 *for that program or activity.*

7 *(c) RECOMMENDATIONS.—The report submitted under*
 8 *subsection (a) shall recommend whether—*

9 *(1) the Federal Bureau of Investigation should*
 10 *continue to have investigative responsibility for each*
 11 *statute for which the Federal Bureau of Investigation*
 12 *currently has investigative responsibility;*

13 *(2) the legal authority for any program or activ-*
 14 *ity of the Federal Bureau of Investigation should be*
 15 *modified or repealed;*

16 *(3) the Federal Bureau of Investigation should*
 17 *have express statutory authority for any program or*
 18 *activity of the Federal Bureau of Investigation for*
 19 *which the Federal Bureau of Investigation does not*
 20 *currently have express statutory authority; and*

21 *(4) the Federal Bureau of Investigation should—*

22 *(A) have authority for any new program or*
 23 *activity; and*

24 *(B) express statutory authority with respect*
 25 *to any new programs or activities.*

1 **SEC. 602. REPORT ON FBI INFORMATION MANAGEMENT**
2 **AND TECHNOLOGY.**

3 (a) *IN GENERAL.*—Not later than December 31, 2002,
4 the Attorney General shall submit to Congress a report on
5 the information management and technology programs of
6 the Federal Bureau of Investigation including recommenda-
7 tions for any legislation that may be necessary to enhance
8 the effectiveness of those programs.

9 (b) *CONTENTS OF REPORT.*—The report submitted
10 under subsection (a) shall provide—

11 (1) *an analysis and evaluation of whether au-*
12 *thority for waiver of any provision of procurement*
13 *law (including any regulation implementing such a*
14 *law) is necessary to expeditiously and cost-effectively*
15 *acquire information technology to meet the unique*
16 *need of the Federal Bureau of Investigation to im-*
17 *prove its investigative operations in order to respond*
18 *better to national law enforcement, intelligence, and*
19 *counterintelligence requirements;*

20 (2) *the results of the studies and audits con-*
21 *ducted by the Strategic Management Council and the*
22 *Inspector General of the Department of Justice to*
23 *evaluate the information management and technology*
24 *programs of the Federal Bureau of Investigation, in-*
25 *cluding systems, policies, procedures, practices, and*
26 *operations; and*

1 (3) a plan for improving the information man-
2 agement and technology programs of the Federal Bu-
3 reau of Investigation.

4 (c) *RESULTS.*—The results provided under subsection
5 (b)(2) shall include an evaluation of—

6 (1) information technology procedures and prac-
7 tices regarding procurement, training, and systems
8 maintenance;

9 (2) record keeping policies, procedures, and prac-
10 tices of the Federal Bureau of Investigation, focusing
11 particularly on how information is inputted, stored,
12 managed, utilized, and shared within the Federal Bu-
13 reau of Investigation;

14 (3) how information in a given database is re-
15 lated or compared to, or integrated with, information
16 in other technology databases within the Federal Bu-
17 reau of Investigation;

18 (4) the effectiveness of the existing information
19 technology infrastructure of the Federal Bureau of In-
20 vestigation in supporting and accomplishing the over-
21 all mission of the Federal Bureau of Investigation;

22 (5) the management of information technology
23 projects of the Federal Bureau of Investigation, focus-
24 ing on how the Federal Bureau of Investigation—

1 (A) selects its information technology
2 projects;

3 (B) ensures that projects under development
4 deliver benefits; and

5 (C) ensures that completed projects deliver
6 the expected results; and

7 (6) the security and access control techniques for
8 classified and sensitive but unclassified information
9 systems in the Federal Bureau of Investigation.

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

12 (1) appropriate key technology management po-
13 sitions in the Federal Bureau of Investigation are
14 filled by personnel with experience in the commercial
15 sector;

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

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

22 (4) security features are tested by the National
23 Security Agency to meet national information sys-
24 tems security standards;

1 (5) all employees in the Federal Bureau of Inves-
 2 tigation receive annual instruction in records and in-
 3 formation management policies and procedures rel-
 4 evant to their positions;

5 (6) a reserve is established for research and de-
 6 velopment to guide strategic information management
 7 and technology investment decisions;

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

10 (8) full consideration is given to contacting with
 11 an expert technology partner to provide technical sup-
 12 port for the information technology procurement for
 13 the Federal Bureau of Investigation;

14 (9) procedures are instituted to procure products
 15 and services through contracts of other agencies, as
 16 necessary; and

17 (10) a systems integration and test center, with
 18 the participation of field personnel, tests each series
 19 of information systems upgrades or application
 20 changes before their operational deployment to con-
 21 firm that they meet proper requirements.

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

23 (a) *IN GENERAL.*—Not later than 9 months after the
 24 date of enactment of this Act, the Comptroller General of
 25 the United States shall submit to the Committees on the

1 *Judiciary of the Senate and the House of Representatives*
 2 *a report on the issue of how statistics are reported and used*
 3 *by Federal law enforcement agencies.*

4 (b) *CONTENTS.*—*The report submitted under sub-*
 5 *section (a) shall—*

6 (1) *identify the current regulations, procedures,*
 7 *internal policies, or other conditions that allow the*
 8 *investigation or arrest of an individual to be claimed*
 9 *or reported by more than 1 Federal or State agency*
 10 *charged with law enforcement responsibility;*

11 (2) *identify and examine the conditions that*
 12 *allow the investigation or arrest of an individual to*
 13 *be claimed or reported by the Offices of Inspectors*
 14 *General and any other Federal agency charged with*
 15 *law enforcement responsibility;*

16 (3) *examine the statistics reported by Federal*
 17 *law enforcement agencies, and document those in-*
 18 *stances in which more than 1 agency, bureau, or of-*
 19 *fice claimed or reported the same investigation or ar-*
 20 *rest during the years 1998 through 2001;*

21 (4) *examine the issue of Federal agencies simul-*
 22 *taneously claiming arrest credit for in-custody situa-*
 23 *tions that have already occurred pursuant to a State*
 24 *or local agency arrest situation during the years 1998*
 25 *through 2001;*

1 (5) *examine the issue of how such statistics are*
 2 *used for administrative and management purposes;*

3 (6) *set forth a comprehensive definition of the*
 4 *terms “investigation” and “arrest” as those terms*
 5 *apply to Federal agencies charged with law enforce-*
 6 *ment responsibilities; and*

7 (7) *include recommendations, that when imple-*
 8 *mented, would eliminate unwarranted and duplica-*
 9 *tive reporting of investigation and arrest statistics by*
 10 *all Federal agencies charged with law enforcement re-*
 11 *sponsibilities.*

12 (c) *FEDERAL AGENCY COMPLIANCE.—Federal law en-*
 13 *forcement agencies shall comply with requests made by the*
 14 *General Accounting Office for information that is necessary*
 15 *to assist in preparing the report required by this section.*

16 ***TITLE VII—ENDING THE DOUBLE***
 17 ***STANDARD***

18 ***SEC. 701. ALLOWING DISCIPLINARY SUSPENSIONS OF MEM-***
 19 ***BERS OF THE SENIOR EXECUTIVE SERVICE***
 20 ***FOR 14 DAYS OR LESS.***

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

1 **SEC. 702. SUBMITTING OFFICE OF PROFESSIONAL RESPON-**
2 **SIBILITY REPORTS TO CONGRESSIONAL COM-**
3 **MITTEES.**

4 (a) *IN GENERAL.*—For each of the 5 years following
5 the date of enactment of this Act, the Office of the Inspector
6 General shall submit to the chairperson and ranking mem-
7 ber of the Committees on the Judiciary of the Senate and
8 the House of Representatives an annual report to be com-
9 pleted by the Federal Bureau of Investigation, Office of Pro-
10 fessional Responsibility and provided to the Inspector Gen-
11 eral, which sets forth—

12 (1) *basic information on each investigation com-*
13 *pleted by that Office;*

14 (2) *the findings and recommendations of that Of-*
15 *fice for disciplinary action; and*

16 (3) *what, if any, action was taken by the Direc-*
17 *tor of the Federal Bureau of Investigation or the des-*
18 *ignee of the Director based on any such recommenda-*
19 *tion.*

20 (b) *CONTENTS.*—In addition to all matters already in-
21 cluded in the annual report described in subsection (a), the
22 report shall also include an analysis of—

23 (1) *whether senior Federal Bureau of Investiga-*
24 *tion employees and lower level Federal Bureau of In-*
25 *vestigation personnel are being disciplined and inves-*
26 *tigated similarly; and*

1 (2) *whether any double standard is being em-*
 2 *ployed to more senior employees with respect to alle-*
 3 *gations of misconduct.*

4 ***TITLE VIII—ENHANCING SECU-***
 5 ***RITY AT THE DEPARTMENT***
 6 ***OF JUSTICE***

7 ***SEC. 801. REPORT ON THE PROTECTION OF SECURITY AND***
 8 ***INFORMATION AT THE DEPARTMENT OF JUS-***
 9 ***TICE.***

10 *Not later than December 31, 2002, the Attorney Gen-*
 11 *eral shall submit to Congress a report on the manner in*
 12 *which the Security and Emergency Planning Staff, the Of-*
 13 *fice of Intelligence Policy and Review, and the Chief Infor-*
 14 *mation Officer of the Department of Justice plan to im-*
 15 *prove the protection of security and information at the De-*
 16 *partment of Justice, including a plan to establish secure*
 17 *electronic communications between the Federal Bureau of*
 18 *Investigation and the Office of Intelligence Policy and Re-*
 19 *view for processing information related to the Foreign Intel-*
 20 *ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).*

21 ***SEC. 802. AUTHORIZATION FOR INCREASED RESOURCES TO***
 22 ***PROTECT SECURITY AND INFORMATION.***

23 *There are authorized to be appropriated to the Depart-*
 24 *ment of Justice for the activities of the Security and Emer-*
 25 *gency Planning Staff to meet the increased demands to pro-*

1 *vide personnel, physical, information, technical, and litiga-*
 2 *tion security for the Department of Justice, to prepare for*
 3 *terrorist threats and other emergencies, and to review secu-*
 4 *urity compliance by components of the Department of*
 5 *Justice—*

6 (1) \$13,000,000 for fiscal year 2003;

7 (2) \$17,000,000 for fiscal year 2004; and

8 (3) \$22,000,000 for fiscal year 2005.

9 **SEC. 803. AUTHORIZATION FOR INCREASED RESOURCES TO**
 10 **FULFILL NATIONAL SECURITY MISSION OF**
 11 **THE DEPARTMENT OF JUSTICE.**

12 *There are authorized to be appropriated to the Depart-*
 13 *ment of Justice for the activities of the Office of Intelligence*
 14 *Policy and Review to help meet the increased personnel de-*
 15 *mands to combat terrorism, process applications to the For-*
 16 *ign Intelligence Surveillance Court, participate effectively*
 17 *in counterespionage investigations, provide policy analysis*
 18 *and oversight on national security matters, and enhance*
 19 *secure computer and telecommunications facilities—*

20 (1) \$7,000,000 for fiscal year 2003;

21 (2) \$7,500,000 for fiscal year 2004; and

22 (3) \$8,000,000 for fiscal year 2005.

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107TH CONGRESS
2^D SESSION

S. 1974

A BILL

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

APRIL 25, 2002

Reported with an amendment