UNITED STATES MARSHALS SERVICE IMPROVEMENT ACT
OF 1997

MARCH 17, 1997.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. McCOLLUM, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 927]
[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill
(H.R. 927) to amend title 28, United States Code, to provide for ap-
pointment of United States marshals by the Attorney General, hav-
ing considered the same, report favorably thereon without amend-
ment and recommend that the bill do pass.

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PURPOSE AND SUMMARY

Under current law, U.S. Marshals are appointed by the Presi-
dent, by and with the advice and consent of the Senate. In many
instances, these appointed marshals lack the law enforcement ex-
perience and qualifications necessary for discharging the sensitive
and varied demands of the position of U.S. Marshal. There are no mandated requirements to become a U.S. Marshal, and the only training a newly appointed Marshal receives is a forty hour orientation session.

H.R. 927, the “United States Marshals Service Improvement Act of 1997,” will change the selection process of United States Marshals from that of appointment by the President with the advice and consent of the Senate, to appointment by the Attorney General. United States Marshals will be selected on a competitive basis from among the career managers within the Marshals Service.

Incumbent U.S. Marshals, selected before enactment of H.R. 927, will continue to perform the duties of their office until their terms expire and successors are appointed. Marshals selected between the enactment of this bill and December 31, 1999, will still be appointed by the President, with the advice and consent of the Senate. They will serve a four year term, unless they resign or are removed by the President.

BACKGROUND AND NEED FOR THE LEGISLATION

The U.S. Marshals Service is the nation’s oldest federal law enforcement agency. Since 1789, U.S. Marshals have been involved in a variety of vital law enforcement activities including protection of the federal judiciary and federal witnesses, apprehension of federal fugitives, management and disposal of seized and forfeited properties, transportation of prisoners and hundreds of other special operations projects.

Currently, there is no criteria for the selection of a United States Marshal. Past marshals have included a phone company employee, a children’s television show host, a coroner and a pig farmer. The lack of professional standards for the position of U.S. Marshal will allow persons with backgrounds similar to those above to continue to be appointed. Presently, only fifteen of the nation’s ninety-four U.S. Marshals had previous experience as Deputy Marshals.

Once appointed, a U.S. Marshal is not subject to disciplinary action, short of removal by the President. A U.S. Marshal is not accountable to the Director of the Marshals Service, and cannot be demoted, suspended or transferred. This lack of accountability has resulted in numerous problem, including budgetary irresponsibility among a few individual marshals.

Under H.R. 927, career marshals will be subjected to the same disciplinary actions as the employees that they supervise. An ineffectual U.S. Marshal could be transferred or demoted, and the Director will finally have control over the entire United States Marshals Service.

The ratio of employees to managers in the U.S. Marshals Service nationwide is four to one—the highest ratio in federal law enforcement. H.R. 927 would professionalize the office of U.S. Marshal by
ensuring that only knowledgeable career managers could be considered for the position. Thus, there would no longer be a need for the surplus of middle managers who support the presently unprepared U.S. Marshals.

H.R. 927 is supported by the current, and several former, directors of the United States Marshals Service.

HEARINGS

The Committee’s Subcommittee on Crime held no hearings on H.R. 927.

COMMITTEE CONSIDERATION

On March 6, 1997, the Subcommittee on Crime met in open session and ordered reported the bill H.R. 927 without amendment, by a voice vote, a quorum being present. On March 12, 1997, the Committee met in open session and ordered reported favorably the bill H.R. 927 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 927, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:
U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,

Hon. Henry J. Hyde,
Chairman, Committee on the Judiciary
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 927, the United States Marshals Service Improvement Act of 1997.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

James L. Blum
(For June E. O'Neill, Director).

Enclosure.

H.R. 927—United States Marshals Service Improvement Act of 1997

Summary: Enacting H.R. 927 would enable the Attorney General to appoint U.S. Marshals to the Marshals Service beginning on January 1, 2000. Under current law, U.S. Marshals are appointed by the President with the advice and consent of the Senate. This bill also would require that compensation for all U.S. Marshal positions be consistent with the general schedule pay rates.

Enacting H.R. 927 would allow for reduced appropriations for salaries and benefits of the U.S. Marshals Service. CBO estimates that savings would total about $1 million in fiscal year 2001, $2 million in fiscal year 2001, and $3 million a year thereafter. The legislation would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The legislation also does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995, and would not impose any costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 927 is shown in the table on the following page. Currently 21 U.S. Marshals are compensated according to the executive level pay schedule. Under this bill, all U.S. Marshal positions would be subject to the general schedule and most would receive compensation at the GS-15 pay rate. CBO estimates that, on average, the change in pay rate would result in savings of $31,000 in salaries and benefits per position. Savings would commence in fiscal year 2001, but the full savings of $775,000 a year would not be achieved until fiscal year 2003, when the provisions are fully implemented.

Because this bill would allow the Attorney General to appoint the U.S. Marshals, CBO expects that a number of middle management positions could be eliminated. Based on information from the U.S. Marshals Service, CBO anticipates that the Attorney General would promote an experienced Deputy Chief Marshal to the U.S. Marshal position in the small-to-medium size offices (which constitute about 70 of the 94 districts). As a result, we expect that these 70 offices would no longer need a Deputy Chief Marshal. CBO estimates that if the Marshals Service eliminated about 70 such positions, the federal government would save about $2 million.
annually in salaries and benefits by 2003, when the changes would be fully implemented.

The changes under this bill would not take effect until January 1, 2000. Furthermore, the bill would allow U.S. Marshals appointed prior to the bill’s effective date to complete their four-year terms. It would then likely take several months to a year for the new U.S. Marshals to be appointed by the Attorney General. Therefore, CBO expects that the federal government would not realize any savings until fiscal year 2003. Enacting H.R. 927 would save about $1 million in fiscal year 2001 and $2 million in fiscal year 2002, assuming that future appropriations are reduced to reflect the lower costs for salaries and benefits. For 1997, the Marshals Service received an appropriation of $482 million.

### CHANGES IN SPENDING SUBJECT TO APPROPRIATION

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The costs of this legislation fall within budget function 750 (administration of justice).

Pay-as-you-go considerations: None.

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 and would not impose costs on state, local, or tribal governments.

Estimate prepared by: Susanne S. Mehlman.

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(l)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, section 8 of the Constitution.

### SECTION-BY-SECTION ANALYSIS

Section 1.—Short Title.

This section states that the short title of the bill is the United States Marshals Service Improvement Act of 1997.

Section 2.—Appointments of Marshals.

This section amends chapter 37 of title 28, United States Code, to provide for the appointment of United States Marshals by the Attorney General of the United States. Currently, United States Marshals are appointed by the President, by and with the advice and consent of the Senate. The section also provides that United States Marshals shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and shall be paid on the government service scale. This section ensures that the U.S. Marshals Service will become streamlined and more professional.
Section 3.—Transitional Provisions; Presidential Appointment of Certain United States Marshals.

The section directs that each United States Marshal appointed before enactment of this Act shall remain in that position until the term is completed and a successor is appointed. The section also provides that, during the period between the date of enactment of this Act and December 31, 1999, the President shall appoint U.S. Marshals with the advice and consent of the Senate. These marshals shall serve a four-year term, and shall continue to serve after the four-year term expires until a successor is appointed. This section thus grandfathers the current U.S. Marshals, appointed by the President with the advice and consent of the Senate.

AGENCY VIEWS

The Committee did not receive any agency views regarding H.R. 927, the United States Marshals Service Improvement Act of 1997. The Committee did receive views in the 104th Congress regarding identical legislation, H.R. 2641, the United States Marshals Service Improvement Act of 1996. The agency views received by the Committee are for H.R. 2641 are as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, March 6, 1996.

Hon. BILL McCOLLUM,
Chairman, Subcommittee on Crime, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for the Department of Justice's views on a number of bills the Subcommittee will soon consider. Our views are provided below.

H.R. 2641—The United States Marshals Service Improvements Act

H.R. 2641 would amend 28 U.S.C. § 561(c) to authorize the Director of the Marshals Service to appoint U.S. Marshals from the competitive civil service. Marshals thus would be career law enforcement officers who had risen through the ranks of the Marshals Service. The provision would take effect in the year 2000. Until that time, Marshals would continue to be appointed by the President with the advice and consent of the Senate as they have been since the earliest days of our nation.

We support the thrust of the bill, which is consistent with a recommendation from the National Performance Review. We would, however, note a constitutional concern with the specific language of H.R. 2641. The bill should provide for appointment of Marshals by the Attorney General rather than the Director of the Marshals Service. Courts have held that Marshals are “officers of the United States” in the Constitutional sense. Under the Appointments Clause of the Constitution, such officers must be appointed by the President, courts of law, or heads of Departments.

Appointment of Marshals by the Attorney General would result in naming as Marshals persons who have demonstrated outstanding law enforcement and administrative expertise through a career in the Service. Although politically appointed Marshals have long
served the Nation with dedication and integrity, today the multi-
faceted law enforcement missions of the Marshals Service—involv-
ing such matters as judicial security, fugitive apprehension, pris-
ton transportation, witness protection, and disposal of seized as-
sets—require that its field offices, like those of other law enforce-
ment agencies, be headed by career law enforcement officers.

Again, we are pleased to assist the Subcommittee’s consideration
of these bills. Please do not hesitate to contact me if you need any
additional assistance.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House
of Representatives, changes in existing law made by the bill, as re-
ported, are shown as follows (existing law proposed to be omitted
is enclosed in black brackets, new matter is printed in italic, exist-
ing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

PART II—DEPARTMENT OF JUSTICE

CHAPTER 37—UNITED STATES MARSHALS SERVICE

Sec.
561. United States Marshals Service.
[562. Vacancies.]

§ 561. United States Marshals Service

(a) The President shall appoint, by and with the advice and con-
sent of the Senate, The Attorney General shall appoint a United
States marshal for each judicial district of the United States and
for the Superior Court of the District of Columbia, except that any
marshal appointed for the Northern Mariana Islands may at the
same time serve as marshal in another judicial district. United
States marshals shall be appointed subject to the provisions of title
5 governing appointments in the competitive civil service, and shall
be paid in accordance with the provisions of chapter 51 and sub-
chapter III of chapter 53 of such title relating to classification and
pay rates. Each United States marshal shall be an official of the
Service and shall serve under the direction of the Director.

(d) Each marshal shall be appointed for a term of four years.
A marshal shall, unless that marshal has resigned or been removed
by the President, continue to perform the duties of that office after
the end of that 4-year term until a successor is appointed and qualifies.\]

[(e)] (d) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

1. the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District of New York may reside within 20 miles of the district for which the marshal is appointed; and

2. any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

[(f)] (e) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

[(g)] (f) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

[(h)] (g) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

[(i)] (h) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service.

§ 562. Vacancies

[(a)] In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

[(b)] A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

1. The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

2. The expiration of the thirtieth day following the end of the next session of the Senate.

3. If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.