

FEDERAL PROTECTIVE SERVICE REFORM ACT OF 2000

JUNE 14, 2000.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SHUSTER, from the Committee on Transportation and
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 809]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 809) to amend the Act of June 1, 1948, to provide for reform of the Federal Protective Service, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Federal Protective Service Reform Act of 2000”.

SEC. 2. DESIGNATION OF POLICE OFFICERS.

The Act of June 1, 1948 (40 U.S.C. 318–318d), is amended—

(1) in section 1 by striking the section heading and inserting the following:

“SECTION 1. POLICE OFFICERS.”;

(2) in sections 1 and 3 by striking “special policemen” each place it appears and inserting “police officers”;

(3) in section 1(a) by striking “uniformed guards” and inserting “certain employees”; and

(4) in section 1(b) by striking “Special policemen” and inserting the following:
“(1) IN GENERAL.—Police officers”.

SEC. 3. POWERS.

Section 1(b) of the Act of June 1, 1948 (40 U.S.C. 318(b)), is further amended—
(1) by adding at the end the following:

“(2) ADDITIONAL POWERS.—Subject to paragraph (3), a police officer appointed under this section is authorized while on duty—

“(A) to carry firearms in any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

“(B) to petition Federal courts for arrest and search warrants and to execute such warrants;

“(C) to arrest an individual without a warrant if the individual commits a crime in the officer’s presence or if the officer has probable cause to believe that the individual has committed a crime or is committing a crime; and

“(D) to conduct investigations, on and off the property in question, of offenses that have been or may be committed against property under the charge and control of the Administrator or against persons on such property.

“(3) APPROVAL OF REGULATIONS BY ATTORNEY GENERAL.—The additional powers granted to police officers under paragraph (2) shall become effective only after the Commissioner of the Federal Protective Service issues regulations implementing paragraph (2) and the Attorney General of the United States approves such regulations.

“(4) AUTHORITY OUTSIDE FEDERAL PROPERTY.—The Administrator may enter into agreements with State and local governments to obtain authority for police officers appointed under this section to exercise, concurrently with State and local law enforcement authorities, the powers granted to such officers under this section in areas adjacent to property owned or occupied by the United States and under the charge and control of the Administrator.”; and

(2) by moving the left margin of paragraph (1), as designated by section 2(4) of this Act, so as to appropriately align with paragraphs (2), (3), and (4), as added by paragraph (1) of this subsection.

SEC. 4. PENALTIES.

Section 4(a) of the Act of June 1, 1948 (40 U.S.C. 318c(a)), is amended to read as follows:

“(a) IN GENERAL.—Except as provided in subsection (b), whoever violates any rule or regulation promulgated pursuant to section 2 shall be fined or imprisoned, or both, in an amount not to exceed the maximum amount provided for a Class C misdemeanor under sections 3571 and 3581 of title 18, United States Code.”.

SEC. 5. SPECIAL AGENTS.

Section 5 of the Act of June 1, 1948 (40 U.S.C. 318d), is amended—

(1) by striking “nonuniformed special policemen” each place it appears and inserting “special agents”;

(2) by striking “special policeman” and inserting “special agent”; and

(3) by adding at the end the following: “Any such special agent while on duty shall have the same authority outside Federal property as police officers have under section 1(b)(4).”.

SEC. 6. ESTABLISHMENT OF FEDERAL PROTECTIVE SERVICE.

(a) IN GENERAL.—The Act of June 1, 1948 (40 U.S.C. 318–318d), is amended by adding at the end the following:

“(a) IN GENERAL.—The Administrator of General Services shall establish the Federal Protective Service as a separate operating service of the General Services Administration.

“(b) APPOINTMENT OF COMMISSIONER.—

“(1) IN GENERAL.—The Federal Protective Service shall be headed by a Commissioner who shall be appointed by and report directly to the Administrator.

“(2) QUALIFICATIONS.—The Commissioner shall be appointed from among individuals who have at least 5 years of professional law enforcement experience in a command or supervisory position.

“(c) DUTIES OF THE COMMISSIONER.—The Commissioner shall—

“(1) assist the Administrator in carrying out the duties of the Administrator under this Act;

“(2) except as otherwise provided by law, serve as the law enforcement officer and security official of the United States with respect to the protection of Federal officers and employees in buildings and areas that are owned or occupied by the United States and under the charge and control of the Administrator (other than buildings and areas that are secured by the United States Secret Service);

“(3) render necessary assistance, as determined by the Administrator, to other Federal, State, and local law enforcement agencies upon request; and

“(4) coordinate the activities of the Commissioner with the activities of the Commissioner of the Public Buildings Service.

Nothing in this subsection may be construed to supersede or otherwise affect the duties and responsibilities of the United States Secret Service under sections 1752 and 3056 of title 18, United States Code.

“(d) APPOINTMENT OF REGIONAL DIRECTORS AND ASSISTANT COMMISSIONERS.—

“(1) IN GENERAL.—The Commissioner may appoint regional directors and assistant commissioners of the Federal Protective Service.

“(2) QUALIFICATIONS.—The Commissioner shall select individuals for appointments under paragraph (1) from among individuals who have at least 5 years of direct law enforcement experience, including at least 2 years in a supervisory position.”.

(b) PAY LEVEL OF COMMISSIONER.—Section 5316 of title 5, United States Code, is amended by inserting after the paragraph relating to the Commissioner of the Public Buildings Service the following:

“Commissioner, Federal Protective Service, General Services Administration.”.

SEC. 7. PAY AND BENEFITS.

(a) IN GENERAL.—The Act of June 1, 1948 (40 U.S.C. 318–318d), is further amended by adding at the end the following:

“SEC. 7. PAY AND BENEFITS.

“Notwithstanding any other provision of law or any other rule or regulation, the pay and benefits for any employee of the Federal Protective Service who maintains active law enforcement status under section 1 shall be determined in accordance with a pay and benefits package established and maintained by the Administrator of General Services that is equivalent to the pay scale and benefits package applicable to members of the United States Capitol Police. Such pay scale and benefits package shall be established by regulation, shall apply with respect to the pay period beginning January 1, 2001, and ending December 31, 2001 (and such other pay periods as may be authorized by law), and shall not result in a decrease in the pay or benefits of any individual for such pay period.”.

(b) CONFORMING AMENDMENT.—Section 1(a) of such Act (40 U.S.C. 318(a)), is amended by striking “without additional compensation”.

SEC. 8. NUMBER OF POLICE OFFICERS.

(a) IN GENERAL.—The Act of June 1, 1948 (40 U.S.C. 318–318d), is further amended by adding at the end the following:

“SEC. 8. NUMBER OF POLICE OFFICERS.

“After the 1-year period beginning on the date of enactment of this section, there shall be at least 730 full-time equivalent police officers in the Federal Protective Service. This number shall not be reduced unless specifically authorized by law.”.

SEC. 9. EMPLOYMENT STANDARDS AND TRAINING.

The Act of June 1, 1948 (40 U.S.C. 318–318d), is further amended by adding at the end the following:

“SEC. 9. EMPLOYMENT STANDARDS AND TRAINING.

“The Commissioner of the Federal Protective Service shall prescribe minimum standards of suitability for employment to be applied in the contracting of security personnel for buildings and areas that are owned or occupied by the United States and under the control and charge of the Administrator of General Services.”.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

The Act of June 1, 1948 (40 U.S.C. 318–318d), is further amended by adding at the end the following:

“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

“There is authorized to be appropriated from the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) such sums as may be necessary to carry out this Act.”.

SUMMARY AND PURPOSE

H.R. 809, as amended, the “Federal Protective Service Reform Act of 2000,” makes the Federal Protective Service (FPS) a free-standing service within the General Services Administration (GSA); clarifies jurisdictional issues for areas adjacent to Federal property; creates an FPS Commissioner with line authority over the Regional Directors; establishes police and training experience standards for the FPS Commissioner; requires contract security guards to undergo background checks; increases FPS officers pay; and increases the number of full-time FPS officers to 730.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Protective Service dates back to 1790, with the enactment of legislation authorizing the President to appoint three commissioners to establish a federal territory for a permanent seat of the Federal Government. Prior to the formal establishment of the seat of government, the commissioners hired six night watchmen to protect the designated buildings the government was intended to occupy. The FPS traces its origins to the appointment of these six night watchmen.

Through the years the FPS resided in a number of different agencies. The act of June 1, 1948 authorized the Administrator to appoint special policemen for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under charge and control of GSA. In 1949 Congress enacted the Federal Property and Administrative Services Act of 1949, which consolidated real property functions in the newly created GSA. Under this post, the FPS force, known at this time as the United States Special Police, came under the supervision of the Protection Division of the Public Buildings Service, which was created in 1949. In 1971, the Administrator of GSA signed an order formally establishing the Federal Protection Force, later known as the Federal Protective Service and the Civil Service Commission (now known as the Office of Personnel Management) authorized the special classification title of Federal Protective Officer.

Initially the main function of the FPS was protection, as an integral part of building operations. However the concept of "protection" in 1950 was dramatically different than it is today. For the most part, the force held fixed posts and performed duties that would be considered safety functions today, such as: eliminating fire and safety hazards, patrolling buildings, detecting fires, and providing the first line of defense in fighting fires; and answering visitor questions, assisting citizens, rendering first aid, and directing traffic when necessary.

The FPS mission and training requirements have changed over the years. The Civil Service Commission developed standards for applicants, which included a written examination, background investigations and physical examinations. By 1960, the FPS mission became the first line of defense against bomb threats, bombings, vandalism, mass demonstrations and violence against Federal buildings. More recently, the role of the FPS officer has undergone further changes. The FPS has shifted its emphasis from the fixed guard post concept of security to a mobile police patrol and response. FPS officers perform all duties attendant to the normal interpretation of a police officer function, including maintaining law and order, and preventing or deterring disturbances; in addition to investigating both felonies and misdemeanors. FPS officers can make arrests, including arrests during the commission of a crime and the serving of warrants. They do have authority to detain suspects. There are inconsistent jurisdictional issues with local authorities entering Federal facilities to serve warrants, and make arrests. These involve passage of state statutes to provide such authority for concurrent jurisdiction between the Federal government and state and local entities.

The current FPS force is composed of both uniformed and non-uniformed officers, including criminal investigators and physical security specialists. Training for FPS officers includes eight weeks of instruction at the Federal Law Enforcement Training Center in Glynco, Georgia, with additional periodic in-service and refresher training courses. Physical security specialists receive further training to conduct security surveys and provide recommendations pertaining to federal facilities. FPS currently has a force of approximately 672 Federal Protective Officers, 232 physical security specialists, 58 criminal investigators, as well as 5,000 contract guards for perimeter and entry security. The line of authority within the service is not clearly defined and communications between and within the central office and the regions is not optimal. Considering the current political environment, heightened security is necessary and expected.

FPS has been a part of the Public Buildings Service (PBS) since 1949. Originally known as the Public Buildings Administration, PBS is the real property arm of GSA; it operates and maintains 1,993 Federal buildings with over 184 million square feet of office, storage and special space in the United States for use by civilian employees of the Federal government. PBS also acts as the leasing agent for the Federal government, and currently has in place over 6,400 leases with over 150 million square feet of space. Approximately one million Federal employees work in space controlled by PBS.

Since 1971, the workforce of both PBS and FPS has steadily shrunk. In 1971, total employment of Federal Protective Officers (FPO's) exceeded 4,500. By 1995, the FPO force had been reduced to less than 500. At the same time, contract guard workforce had grown from 700, to over 2,500. The total protective force stood at 3,000, while the PBS inventory had grown by 70 million square feet of space, from 230 million square feet of space in the 1970's to over 300 million in 1995. The extent of protective personnel coverage had shrunk dramatically.

By 1995, the year of the Murrah Federal Building bombing in Oklahoma City, Oklahoma, guard functions had been reduced, so that single contract guard, who also provided protection for two other Federal buildings, patrolled this particular building. Indeed, the only means of communication from the scene at Oklahoma City to any command center was through the building manager.

This tragic incident gave rise to numerous initiatives to improve and expand protection. In the wake of the bombing, the President directed the Department of Justice to assess the vulnerability of Federal office buildings in the United States, particularly to acts of terrorism and other forms of violence. The United States Marshals Service coordinated the study. GSA participated, as did the FBI, DOD, Secret Service, Department of State, Social Security Administration, and Administrative Office of the U.S. Courts.

Prior to the study, there had been no government wide standards for security at federal buildings and no central database of the security in place of such facilities. Given the urgency of the task, the report proceeded along two tracks: (1) the development of recommended minimum security standards in light of changed environment of heightened risk; and (2) the surveying of existing security conditions. GSA participated in both efforts. The assessment

covered approximately 1,330 of GSA controlled buildings, that are described as typical single or multi-tenant Federal office buildings, which house approximately 75% of the one million Federal workers housed in GSA controlled space.

The results of this survey were troubling. Of the 347 buildings identified as Level IV (a large multi-tenant, multi-story Federally owned or leased building with 450 employees or more), only 15% x-rayed incoming packages and mail, only 46% of these level IV buildings had parking controls that met recommended standards, only 26% of these buildings had employee and visitor identification control systems.

The report made several recommendations to bring each federal facility up to minimum standards recommended for its security level. Part of the recommendations centered on upgrading the Federal Protective Service. The report noted that the FPS has the experience and historical character to provide security services for much of the Federal workforce. The report noted, however, that FPS has limited resources to determine building security requirements to address terrorist threats and does not have the resources to respond to these requirements even if the requirements are properly articulated.

The report stated that placement of the FPS within the organizational structure of GSA may have limited the ability of the FPS to obtain the resources to assure appropriate security in large, multi-tenant facilities, even when the security needs have been well defined. FPS, according to the report, needs to reestablish its role and take the lead in emphasizing the need for security.

The recommendations reemphasized GSA's primary responsibility for implementing Federal facility security. To that end, there were four recommendations addressing the role and responsibilities of the FPS:

FPS should be responsible for providing security services for GSA-controlled federal facilities, through the use of both FPO's and contract security guards.

FPS should improve the standards for contract guards by raising the hiring qualifications and providing enhanced training.

FPS should be responsible for the implementation and maintenance of the centralized physical database of all Federal office buildings. The data collected for this study should be helpful in creating a more comprehensive database for Federal office buildings.

Consistent with its added responsibilities, consideration should be given to elevating the FPS to a different level within GSA. Alternatively, a modified funding mechanism for FPS should be established to lessen its competition for real property resources.

These recommendations are relevant to H.R. 809, since the major provisions of the bill address them. The last recommendation is especially relevant to the action taken by the Committee in reporting H.R. 809, since its primary feature is the creation of a separate service within GSA for the FPS.

GSA has responded to the urgent need to improve and strengthen FPS. It has undertaken a number of initiatives that will add to the number of full-time FPO's, provide them with greater responsibilities, and strengthen the police force. GSA has also increased the number of contract guards by 100% in the wake of Oklahoma City. However, GSA has not undertaken a fundamental issue with

regard to the FPS; it is still subordinate to the real estate oriented management of PBS, and as such must rely on resources provided to it within the context of real property asset management. So long as FPS remains within the Public Buildings Service, that will not change.

Further, five of the Regional FPS Directors, who report to Assistant Regional Administrators in the 11 geographic regions, do not have law enforcement backgrounds. While the Assistant Commissioner for FPS is a 27-year veteran of law enforcement, he does not have command and control authority over the regional directors, and can only issue policy guidance. In the event of a major catastrophe, the Assistant Commissioner would be forced to rely on a chain of command that leads to the Deputy Administrator of GSA, not to anyone in the Public Buildings Service area. The bill requires that the newly created Commissioner of Federal Protective Service have at least five years law enforcement experience in a command or supervisory capacity, and that Regional Directors will be required to have at least five years of direct law enforcement experience, including two years in a supervisory position. The Commissioner will have line authority over regional directors.

The bill provides the FPO with a pay adjustment, that makes the pay of the FPO on par with the Capitol Hill Police. This will amount to an increase of approximately \$3,000 per year for the FPO. After extensive review of the pay scale of the FPO, and hearing of GSA's inability to attract and retain quality protective officers, the pay matter became another main feature of the legislation. For years, FPS was a training ground for qualified persons who wished to pursue a career in Federal law enforcement. FPS provided training and experience, only to lose FPOs to other Federal law enforcement agencies. Years of personnel ceilings forced GSA to freeze hiring, and in some cases actually reduce levels of employment in this area through attrition. The bill calls for staffing of at least 730 full time officers. The current staffing level is 673. Coverage by FPO's is limited to 22 core cities nationwide, with the bulk of FPOs stationed in Washington, DC. PBS must rely on contract guards in every other city with GSA controlled buildings.

Congressional concern about the personnel levels within the ranks of the FPO is not new. For several years, the annual appropriations acts carried a provision mandating GSA to maintain an FPO force of at least 1,000. That was never enforced, and recently dropped. However, GSA did fill the security needs with contract guards, which presents numerous issues of quality and effectiveness. Inconsistent quality and background requirements, as well as a lack of pre-employment training hindrances does not give a level of confidence that GSA should strive to achieve for the Federal workforce. The bill addresses standards of suitability for employment as a contract guard that will provide much needed uniformity of skills and background of contract guards.

DISCUSSION OF COMMITTEE BILL AND SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Provides that the Act may be cited as the "Federal Protective Service Reform Act of 2000."

Section 2. Designation of Police Officers

Changes the designation of Police Officers, wherever the term “special police” appears, and changes the designation of “uniformed guards” to “certain employees.”

Section 3. Powers

Amends the Act of June 1, 1948, to provide police officers with additional authority, while on duty. Such duties include carrying of firearms, petitioning Federal courts for arrest warrants, and executing arrest warrants, arresting an individual without warrant if such individual commits a crime in the officer’s presence or if the officer has probable cause that the individual has committed a crime or is committing a crime, and conducting investigations, on and off the property in question of offenses that have been or may be committed against property under the control of GSA, or against persons on such property.

These added powers shall become effective only after the Commissioner of Federal Protective Service issues regulations implementing the added powers and the Attorney General has approved such regulations. This latter provision is common among law enforcement agencies of the Federal government, so that there is not a proliferation of police powers granted without necessary coordination. The section also makes explicit that these new powers are only during duty hours, so that there is no ambiguity with regard to an FPO’s ability to carry a firearm while not on duty. The provision does not allow such authority.

The section also authorizes the Administrator to enter into agreements with state and local entities to obtain authority to extend local police powers to FPOs in areas adjacent to property under the custody and control of GSA. Currently, only agreements approved by legislatures allow Federal law enforcement official to enforce local ordinances. FPOs currently do not have arrest authority of individuals committing a crime on property not under the control of GSA.

Section 4. Penalties

Provides for penalties of a Class C misdemeanor, with a fine not to exceed \$5,000, or not more than 30 days imprisonment.

Section 5. Special agents

The Act of June 1, 1948, creating the positions of special policemen, and nonuniformed special policemen, is amended to create a new name for these positions as “special agents”.

Section 6. Establishment of Federal Protective Service

Authorizes the Administrator of General Services to create a Federal protective Service, who shall be headed by a Commissioner, appointed by the Administrator, and who shall report to the Administrator. The new Commissioner shall have at least five years of law enforcement experience in a command or supervisory position. Duties of the Commissioner are set forth, including assisting the Administrator in carrying out the duties of the Act, serving as the law enforcement officer and security official with respect to the protection of property under the custody and control of the Administrator, render necessary assistance to other Federal, state and

local law enforcement agencies upon request, and coordinate the activities with the Commissioner of Public Buildings Service. The section clarifies the role of the Secret Service in connection with the protection of facilities under its control. Further, this section is not intended to change the role of the FBI or United States Marshals Service, in connection with the protection responsibilities of facilities under their control. The section also sets forth requirements for Regional Directors and assistant Commissioners. Each shall have at least five years of law enforcement experience, including two years of supervisory experience. The level of pay for the Commissioner is set at level V of the Executive Schedule.

Section 7. Pay and benefits

The pay and benefits of a Federal Protective Officer shall be equivalent to the pay scale and benefits package of members of the Capitol Hill Police. The effect of this provision is to increase the pay of FPOs by approximately \$3,000 per year. This will depend on the current grade of an FPO, so this figure is not exact for all levels within the FPO hierarchy. Pay shall be commensurate with the equivalent titles within the Capitol Hill Police. FPOs are classified under the GS system of OPM, while the Capitol Hill Police have titles ranging from Private to Deputy Chief.

Section 8. Number of Police Officers

This section sets a minimum level of staffing of FPOs at least 730 full time equivalent police officers, and shall not be reduced unless by law. Current level is 673 FTEs.

Section 9. Employment standards and training

This section directs the Commissioner to prescribe minimum standards of suitability in contracting for security guards.

Section 10. Authorizations of appropriations

Authorizes such sums as necessary from the Federal Buildings Fund to carry out this Act.

HEARINGS

On October 2, 1998 the Subcommittee on Public Buildings and Economic Development held a hearing on H.R. 4034, the predecessor legislation to H.R. 809. Testimony was given by Bob Peck, Commissioner of Public Buildings, as well as officials of government employee unions, the International Brotherhood of Police Officers, and Fraternal Order of Police. Additionally, letters of support have been received from numerous local and statewide law enforcement associations.

COMMITTEE CONSIDERATION

On November 9, 1999 the Subcommittee on Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation marked up H.R. 809. The Subcommittee adopted an amendment in the nature of a substitute. This amendment that makes the Federal Protective Service (FPS) a free standing service within the General Services Administration (GSA) and creates an FPS Commissioner with line authority over Regional Directors.

This amendment also establishes police and training experience standards for the new FPS Commissioner. The bill clarifies and broadens jurisdiction for FPS officers for areas adjacent to Federal property; requires contract security guards to undergo more rigorous background checks; increases FPS officers pay; and increases the number of full-time FPS officers to 730. This legislation enhances the FPS, and has no impact on the facilities secured by the Secret Service, Federal Bureau of Investigations and United States Marshals Service.

On November 9, 1999 the Subcommittee reported H.R. 809, as amended, favorably to the Full Committee by unanimous voice vote. On March 16, 2000, the Full Committee met in open session and reported the bill, as amended by the Subcommittee, by unanimous voice vote.

ROLLCALL VOTES

Clause 3(b) of Rule XIII of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with ordering H.R. 809, as amended, reported.

COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

COST OF LEGISLATION

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 809, as amended.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 809, as amended, from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
 Washington, DC, April 6, 2000.

Hon. BUD SHUSTER,
 Chairman, Committee on Transportation and Infrastructure, House
 of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 809, the Federal Protective Service Reform Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is John R. Righter.

Sincerely,

ROBERT A. SUNSHINE
 (For Dan L. Crippen, Director.)

Enclosure.

H.R. 809—Federal Protective Service Reform Act of 2000

Summary: H.R. 809 would reorganize the Federal Protective Service (FPS) as a separate operating service of the General Services Administration (GSA). The FPS currently is part of GSA’s Public Buildings Service (PBS). The bill also would require that the FPS increase the total number of its police officers to 730, issue guidelines for the contracting of security personnel in GSA-controlled buildings, and provide pay and benefits to its law enforcement personnel that are equal to or greater than those provided by the United States Capitol Police to its officers. The bill would authorize the appropriation of such sums as are necessary to implement its provisions.

CBO estimates that implementing H.R. 809 would increase the FPS’s costs by a total of about \$10 million over the 2001–2005 period, assuming appropriation of the necessary amounts. Because enacting the bill could affect direct spending and receipts, pay-as-you-go procedures would apply; however, CBO estimates that any impact on direct spending and receipts would not be significant. H.R. 809 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA), and would impose no costs on state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 809 is shown in the following table. The costs of this legislation fall within budget function 800 (general government).

| | By fiscal year, in millions of dollars— | | | | | |
|--|---|------|------|------|------|------|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| SPENDING SUBJECT TO APPROPRIATION ¹ | | | | | | |
| FPS Spending Under Current Law: | | | | | | |
| Estimated Authorization Level ² | 247 | 247 | 247 | 247 | 247 | 247 |
| Estimated Outlays | 244 | 245 | 245 | 245 | 245 | 245 |
| Proposed Changes: | | | | | | |
| Estimated Authorization Level | 0 | 2 | 2 | 2 | 2 | 2 |
| Estimated Outlays | 0 | 2 | 2 | 2 | 2 | 2 |
| FPS Spending Under H.R. 809: | | | | | | |
| Estimated Authorization Level | 247 | 249 | 249 | 249 | 249 | 249 |

| | By fiscal year, in millions of dollars— | | | | | |
|-------------------------|---|------|------|------|------|------|
| | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 |
| Estimated Outlays | 244 | 247 | 247 | 247 | 247 | 247 |

¹ By increasing the amount of a criminal fine, the bill also could affect governmental receipts and direct spending, but CBO estimates that such amounts would not be significant.

² The 2000 level is the amount appropriated for the FPS for that year. The levels shown for 2001 through 2005 are CBO baseline projections of spending for FPS without discretionary inflation. Although total spending for FPS would be somewhat greater with adjustments for inflation, the incremental cost of the bill would not differ significantly.

Basis of estimate: Subject to the availability of appropriated funds, CBO estimates that implementing H.R. 809 would cost the FPS about \$10 million over the 2001–2005 period, including costs to provide its employees with more generous compensation, hire additional officers, establish it as a separate entity with GSA, and issue regulations. In addition, the bill could affect both governmental receipts and direct spending, but CBO estimates that such amounts would not be significant.

Spending subject to appropriation

For purposes of this estimate, CBO assumes that appropriations will be provided near the beginning of each fiscal year and will be sufficient to fund the activities authorized by the bill.

Provide Employees with More Generous Compensation. For calendar year 2001 only, H.R. 809 would require that FPS provide its law enforcement personnel with pay and benefits that are equal to or better than the pay and benefits package provided to officers of the U.S. Capitol Police. Based on information from GSA, CBO estimates that implementing the provision would increase average compensation costs for each of its roughly 730 officers by \$1,500 to \$2,000, for a total increase in costs of about \$1 million in fiscal year 2001. Because we think it is unlikely that the FPS would reduce the compensation of its officers in 2002 back to its pre-2001 level, we estimate that the provision would also increase FPS personnel costs by between \$1 million and \$1.5 million in each of fiscal years 2002 through 2005.

Establish the FPS as a Separate Operating Service. H.R. 809 would remove the FPS from the PBS and establish it as a separate operating service of GSA. As a result, the FPS would need to hire about 10 additional employees to provide support services, such as personnel and budgeting, that currently are provided centrally by the PBS. CBO estimates that the new support services would cost the FPS about \$500,000 annually over the 2001–2005 period.

Hire Additional Officers. H.R. 809 would require that the FPS increase the number of its full-time officers to at least 730 within one year of its enactment. According to GSA, the FPS, which currently has about 650 officers, is in the process of increasing that number to about 730, in part by converting current security specialists into police officers. As a result, CBO estimates that implementing this provision would have no significant cost for the FPS.

Issue Regulations. Finally, the bill would require the new FPS Commissioner to write regulations and issue separate guidelines for the contracting of security personnel in GSA-controlled buildings. CBO estimates that issuing the regulations and standards would cost the FPS less than \$500,000 in fiscal year 2001.

Direct spending and receipts

Section 4 would increase the criminal fine for violations of certain regulations on GSA-controlled property; consequently, the federal government might collect additional fines if the bill is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. CBO expects that any additional receipts and direct spending resulting from this provision would be less than \$500,000 each year.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act specifies pay-as-you-go procedures for legislation affecting direct spending and receipts. These procedures would apply to H.R. 809 because it could affect direct spending and receipts, but CBO estimates that the annual amount of such changes would not be significant.

Intergovernmental and private sector impact: H.R. 809 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal costs: John R. Righter; State and local impact: Susan Sieg Tompkins; and private-sector impact: John Harris.

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

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursuant to its powers granted under article I, section 8 of the Constitution.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. (Public Law 104-4.)

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by legislation.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act. (Public Law 104-1.)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

ACT OF JUNE 1, 1948

AN ACT To authorize the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him to appoint special policemen for duty upon Federal property under the jurisdiction of the Federal Works Agency, and for other purposes.

[SECTION 1. SPECIAL POLICE.]**SECTION 1. POLICE OFFICERS.**

(a) APPOINTMENT.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint **[uniformed guards]** *certain employees* of such Administration as **[special policemen without additional compensation]** *police officers* for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

(b) POWERS.—**[Special policemen]**

(1) *IN GENERAL.*—*Police officers* appointed under this section shall have the same powers as sheriffs and constables upon property referred to in subsection (a) to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator of General Services or such duly authorized officials of the General Services Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.

(2) *ADDITIONAL POWERS.*—*Subject to paragraph (3), a police officer appointed under this section is authorized while on duty—*

(A) *to carry firearms in any State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;*

(B) *to petition Federal courts for arrest and search warrants and to execute such warrants;*

(C) *to arrest an individual without a warrant if the individual commits a crime in the officer's presence or if the officer has probable cause to believe that the individual has committed a crime or is committing a crime; and*

(D) *to conduct investigations, on and off the property in question, of offenses that have been or may be committed against property under the charge and control of the Administrator or against persons on such property.*

(3) *APPROVAL OF REGULATIONS BY ATTORNEY GENERAL.*—*The additional powers granted to police officers under paragraph (2) shall become effective only after the Commissioner of the Federal Protective Service issues regulations implementing*

paragraph (2) and the Attorney General of the United States approves such regulations.

(4) *AUTHORITY OUTSIDE FEDERAL PROPERTY.*—The Administrator may enter into agreements with State and local governments to obtain authority for police officers appointed under this section to exercise, concurrently with State and local law enforcement authorities, the powers granted to such officers under this section in areas adjacent to property owned or occupied by the United States and under the charge and control of the Administrator.

* * * * *

SEC. 3. Upon the application of the head of any department or agency of the United States having property of the United States under its administration and control, the Administrator of General Services or officials of the General Services Administration duly authorized by him are authorized to detail any such [special policemen] *police officers* for the protection of such property and if he deems it desirable, to extend to such property the applicability of any such regulations and to enforce the same as herein set forth; and the Administrator of General Services or official of the General Services Administration duly authorized by him, whenever it is deemed economical and in the public interest, may utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, the facilities and services of such State or local law-enforcement agencies.

SEC. 4. [(a) Except as provided in subsection (b), whoever violates any rule or regulation promulgated pursuant to section 2 of this Act shall be fined not more than \$50 or imprisoned not more than thirty days, or both.] (a) *IN GENERAL.*—*Except as provided in subsection (b), whoever violates any rule or regulation promulgated pursuant to section 2 shall be fined or imprisoned, or both, in an amount not to exceed the maximum amount provided for a Class C misdemeanor under sections 3571 and 3581 of title 18, United States Code.*

* * * * *

SEC. 5. Officials or employees of the General Services Administration who have been duly authorized to perform investigative functions may be empowered by the Administrator of General Services, or officials of General Services Administration duly authorized by him, to act as [nonuniformed special policemen] *special agents* in order to protect property under the charge and control of the General Services Administration and to carry firearms, whether on Federal property or in travel status. Such officials or employees who are empowered to act as [nonuniformed special policemen] *special agents* shall have, while on real property under the charge and control of the General Services Administration, the power to enforce Federal laws for the protection of persons and property and the power to enforce rules and regulations made and published for such purposes by the Administrator or duly authorized officials of the General Services Administration. Any such [special policeman] *special agent* may make arrests without warrant for any offense committed upon such property if he has reasonable ground to believe (1) the offense constitutes a felony under the laws of the United States, and (2) that the person to be arrested is guilty of that offense. *Any such special agent while on duty shall have the*

same authority outside Federal property as police officers have under section 1(b)(4).

SEC. 6. ESTABLISHMENT OF FEDERAL PROTECTIVE SERVICE.

(a) *IN GENERAL.*—The Administrator of General Services shall establish the Federal Protective Service as a separate operating service of the General Services Administration.

(b) *APPOINTMENT OF COMMISSIONER.*—

(1) *IN GENERAL.*—The Federal Protective Service shall be headed by a Commissioner who shall be appointed by and report directly to the Administrator.

(2) *QUALIFICATIONS.*—The Commissioner shall be appointed from among individuals who have at least 5 years of professional law enforcement experience in a command or supervisory position.

(c) *DUTIES OF THE COMMISSIONER.*—The Commissioner shall—

(1) assist the Administrator in carrying out the duties of the Administrator under this Act;

(2) except as otherwise provided by law, serve as the law enforcement officer and security official of the United States with respect to the protection of Federal officers and employees in buildings and areas that are owned or occupied by the United States and under the charge and control of the Administrator (other than buildings and areas that are secured by the United States Secret Service);

(3) render necessary assistance, as determined by the Administrator, to other Federal, State, and local law enforcement agencies upon request; and

(4) coordinate the activities of the Commissioner with the activities of the Commissioner of the Public Buildings Service.

Nothing in this subsection may be construed to supersede or otherwise affect the duties and responsibilities of the United States Secret Service under sections 1752 and 3056 of title 18, United States Code.

(d) *APPOINTMENT OF REGIONAL DIRECTORS AND ASSISTANT COMMISSIONERS.*—

(1) *IN GENERAL.*—The Commissioner may appoint regional directors and assistant commissioners of the Federal Protective Service.

(2) *QUALIFICATIONS.*—The Commissioner shall select individuals for appointments under paragraph (1) from among individuals who have at least 5 years of direct law enforcement experience, including at least 2 years in a supervisory position.

SEC. 7. PAY AND BENEFITS.

Notwithstanding any other provision of law or any other rule or regulation, the pay and benefits for any employee of the Federal Protective Service who maintains active law enforcement status under section 1 shall be determined in accordance with a pay and benefits package established and maintained by the Administrator of General Services that is equivalent to the pay scale and benefits package applicable to members of the United States Capitol Police. Such pay scale and benefits package shall be established by regulation, shall apply with respect to the pay period beginning January 1, 2001, and ending December 31, 2001 (and such other pay periods as may

be authorized by law), and shall not result in a decrease in the pay or benefits of any individual for such pay period.

SEC. 8. NUMBER OF POLICE OFFICERS.

After the 1-year period beginning on the date of enactment of this section, there shall be at least 730 full-time equivalent police officers in the Federal Protective Service. This number shall not be reduced unless specifically authorized by law.

SEC. 9. EMPLOYMENT STANDARDS AND TRAINING.

The Commissioner of the Federal Protective Service shall prescribe minimum standards of suitability for employment to be applied in the contracting of security personnel for buildings and areas that are owned or occupied by the United States and under the control and charge of the Administrator of General Services.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated from the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)) such sums as may be necessary to carry out this Act.

SECTION 5316 OF TITLE 5, UNITED STATES CODE

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Administrator, Bonneville Power Administration, Department of the Interior.

* * * * *

Commissioner, Public Buildings Service, General Services Administration.

Commissioner, Federal Protective Service, General Services Administration.

* * * * *

COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, June 13, 2000.

Hon. DAN BURTON,
Chairman, Committee on Government Reform, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Soon the House will consider H.R. 809, the Federal Protective Service Reform Act of 2000. While H.R. 809 primarily contains provisions related to matters solely in the jurisdiction of the Committee on Transportation and Infrastructure, I recognize that Section 7 of the bill regarding federal pay issues are under the jurisdiction of the Committee on Government Reform and agree to modify Section 7 to meet your concern.

I agree that allowing this bill to go forward in no way impairs upon your jurisdiction over these provisions, and I would be

pleased to place this letter and your letter of June 13, 2000 in the Committee's Report. In addition, if a conference is necessary on this bill, I would support any request to have the Committee on Government Reform be represented on the conference with respect to the matters in question.

I look forward to passing this bill on the Floor soon and thank you for your assistance.

Sincerely,

BUD SHUSTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, June 13, 2000.

Hon. BUD SHUSTER,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: In the interest of expediting Floor consideration of the bill, the Committee will not exercise its jurisdiction over H.R. 809. However, we have agreed that the following language is to replace the existing language in section 7 of the legislation.

The Office of Personnel Management shall survey the pay and benefits of all federal police forces to determine whether there are disparities between the pay and benefits of such forces that are not commensurate with differences in duties or working conditions. The Office shall submit a report to the Congress within 12 months after the date of enactment of this Act, which shall contain the Office's findings and recommendations. In order for the Committees to properly evaluate granting law enforcement status, the Committees expect the report to be completed and submitted within the stated timeframe.

As you know, House Rules grant the Committee on Government Reform wide jurisdiction over government management issues including matters related to Federal civil service. This action should not, however, be construed as waiving the Committee's jurisdiction over future legislation of a similar nature.

I look forward to working with you on this and other issues throughout the remainder of the 106th Congress.

Sincerely,

DAN BURTON,
Chairman.