

106TH CONGRESS  
2D SESSION

# H. R. 3927

To encourage greater community accountability of law enforcement agencies,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2000

Mr. CONYERS (for himself, Mr. RANGEL, Mr. MEEKS of New York, Ms. JACKSON-LEE of Texas, Mr. SERRANO, Ms. CARSON, Mr. WYNN, Mr. OWENS, Mr. SCOTT, Mr. DAVIS of Illinois, Mr. TOWNS, Mr. GONZALEZ, Mr. UNDERWOOD, and Mr. CUMMINGS) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To encourage greater community accountability of law  
enforcement agencies, 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 “Law Enforcement  
5       Trust and Integrity Act of 2000”.

# **TITLE I—LAW ENFORCEMENT ACCREDITATION**

## **SEC. 101. ACCREDITATION OF LAW ENFORCEMENT AGEN- CIES.**

### **(a) STANDARDS.—**

(1) INITIAL ANALYSIS.—The Attorney General shall perform an initial analysis of existing accreditation standards and methodology developed by law enforcement accreditation organizations nationwide, including but not limited to national, state, regional, and tribal accreditation organizations.

(2) IN GENERAL.—The Attorney General shall recommend additional areas for the development of national standards for the accreditation of law enforcement agencies in consultation with existing law enforcement accreditation organizations, professional law enforcement associations, labor organizations, community-based organizations, and professional civilian oversight organizations.

(3) DEVELOPMENT OF UNIFORM STANDARDS.—After completion of the initial review and analysis under paragraph (2), the Attorney General shall recommend, in consultation with such organizations, the adoption of additional standards, including standards relating to early warning programs, civil-

1       ian review procedures, traffic stop documentation  
2       and procedures, administrative due process require-  
3       ments, and training.

4               (4) CONTINUING ACCREDITATION PROCESS.—

5       The Attorney General shall adopt policies and proce-  
6       dures to partner with law enforcement accreditation  
7       organizations, professional law enforcement associa-  
8       tions, labor organizations, community-based organi-  
9       zations, and professional civilian oversight organiza-  
10      tions to continue the development of further accredi-  
11      tation standards consistent with paragraph (2) and  
12      to encourage the pursuit of accreditation of Federal,  
13      State, local, and tribal law enforcement agencies by  
14      certified law enforcement accreditation organiza-  
15      tions.

16      (b) ACCREDITATION GRANTS.—The Attorney Gen-  
17      eral may make funds available to State, local, and tribal  
18      law enforcement agencies under this title to assist in gain-  
19      ing or maintaining accreditation from certified law en-  
20      forcement accreditation organizations.

21   **SEC. 102. DEFINITIONS.**

22      In this title:

23              (1) The term “law enforcement accreditation  
24      organization” means a professional law enforcement  
25      organization involved in the development of stand-

ards of accreditation for law enforcement agencies at the national, State, regional, or tribal level (such as the Commission on Accreditation of Law Enforcement Agencies (CALEA)).

(2) The term “law enforcement agency” means a State, local, or Indian tribal public agency engaged in the prevention, detection, or investigation of violations of criminal laws.

(3) The term “community-based organization” means a grassroots organization that monitors the issue of police misconduct and that has a national presence and membership (such as the National Association for the Advancement of Colored People (NAACP), the American Civil Liberties Union (ACLU), the National Council of La Raza, the National Urban League, the National Congress of American Indians, and the National Asian Pacific American Legal Consortium (NAPALC)).

(4) The term “professional law enforcement association” means a law enforcement membership association that works for the needs of Federal, State, local, or Indian tribal law enforcement groups and with the civilian community on matters of common interest (such as the Hispanic American Police Command Officers Association (HAPCOA), National

1 Asian Pacific Officers Association (NAPOA), Na-  
2 tional Black Police Association (NBPA), National  
3 Latino Peace Officers Association (NLPOA), Na-  
4 tional Organization of Black Law Enforcement Ex-  
5 ecutives (NOBLE), Native American Law Enforce-  
6 ment Association (NALEA), International Associa-  
7 tion of Chiefs of Police (IACP), and Fraternal Order  
8 of Police (FOP)).

9 (5) The term “professional civilian oversight or-  
10 ganization” means a membership organization  
11 formed to address and advance the cause of civilian  
12 oversight of law enforcement and whose members  
13 are from Federal, State, regional, local, or tribal or-  
14 ganizations that review issues or complaints against  
15 law enforcement entities or individuals (such as the  
16 National Association for Civilian Oversight of Law  
17 Enforcement (NACOLE)).

## 18 **TITLE II—LAW ENFORCEMENT**

## 19 **DEVELOPMENT PROGRAMS**

### 20 **SEC. 201. LAW ENFORCEMENT GRANTS.**

21 (a) GRANT AUTHORIZATION.—The Attorney General  
22 may make grants to States, units of local government, In-  
23 dian tribal governments, or other public and private enti-  
24 ties, or to any multijurisdictional or regional consortia of  
25 such entities, to study and implement effective manage-

1 ment, training, recruiting, hiring, and oversight policies  
2 and programs for law enforcement agencies.

3 (b) PROJECT GRANTS TO STUDY LAW ENFORCE-  
4 MENT AGENCY MANAGEMENT.—Grants made under sub-  
5 section (a) shall be used for the study of management and  
6 operations standards for law enforcement agencies, includ-  
7 ing standards relating to administrative due process, resi-  
8 dency requirements, compensation and benefits, use of  
9 force, racial profiling, early warning programs, civilian re-  
10 view boards or analogous procedures, or research into the  
11 effectiveness of existing programs, projects, or other ac-  
12 tivities designed to address misconduct by law enforce-  
13 ment officers.

14 (c) PROJECT GRANTS TO DEVELOP PILOT PRO-  
15 GRAMS.—Grants made under subsection (a) shall also be  
16 used to develop pilot programs and implement effective  
17 programs in the areas of training, hiring and recruitment,  
18 and oversight that are designed to improve management  
19 and address misconduct by law enforcement officers.  
20 These programs shall include the following characteristics:

21 (1) TRAINING.—Law enforcement policies,  
22 practices, and procedures addressing training and  
23 instruction to comply with accreditation standards in  
24 the areas of—

25 (A) the use of lethal and nonlethal force;

1 (B) responding to and reporting instances  
2 of law enforcement misconduct, including but  
3 not limited to use of excessive force or racial  
4 profiling;

5 (C) tactical and defensive strategy;

6 (D) arrests, searches, and handcuffing;

7 (E) professional verbal communications  
8 with civilians;

9 (F) police interactions with youth, the  
10 mentally ill, and monolingual, multi-cultural  
11 communities;

12 (G) proper traffic, pedestrian, airport, and  
13 other enforcement stops; and

14 (H) community relations.

15 (2) RECRUITMENT, HIRING, RETENTION, AND  
16 PROMOTION OF DIVERSE LAW ENFORCEMENT OFFI-  
17 CERS.—Policies, procedures, and practices for—

18 (A) the hiring and recruitment of diverse  
19 law enforcement agencies representative of the  
20 communities they serve;

21 (B) the development of valid, job-related  
22 educational and psychological standards; and

23 (C) initiatives to encourage residency and  
24 continuing education.

1           (3) OVERSIGHT.—Complaint procedures, in-  
2           cluding the establishment of civilian review boards or  
3           analogous procedures for jurisdictions across a range  
4           of sizes and agency configurations, complaint proce-  
5           dures by community-based organizations, early  
6           warning programs, and administrative due process  
7           requirements inherent to complaint procedures for  
8           members of the public and law enforcement.

9           (4) VICTIM SERVICES.—Counseling services, in-  
10          cluding psychological counseling, for individuals and  
11          communities traumatized by law enforcement mis-  
12          conduct.

13          (d) AMOUNTS.—Of the amounts appropriated for the  
14          purposes of this title—

15                (1) 4 percent shall be available for grants to In-  
16                dian tribal governments;

17                (2) 20 percent shall be available for grants to  
18                community-based organizations;

19                (3) 10 percent shall be available for grants to  
20                professional law enforcement associations; and

21                (4) the remaining funds shall be available for  
22                grants to applicants in each State in an amount that  
23                bears the same ratio to the amount of remaining  
24                funds as the population of the State bears to the  
25                population of all of the States.



1 (e) TECHNICAL ASSISTANCE.—

2 (1) The Attorney General may provide technical  
3 assistance to States, units of local government, In-  
4 dian tribal governments, and to other public and pri-  
5 vate entities, in furtherance of the purposes of this  
6 section.

7 (2) The technical assistance provided by the At-  
8 torney General may include the development of mod-  
9 els for State, local, and Indian tribal governments,  
10 and other public and private entities, to reduce law  
11 enforcement misconduct. Any development of such  
12 models shall be in consultation with community-  
13 based organizations.

14 (f) USE OF COMPONENTS.—The Attorney General  
15 may use any component or components of the Department  
16 of Justice in carrying out this title.

17 (g) MATCHING FUNDS.—

18 (1) IN GENERAL.—Except in the case of an In-  
19 dian tribal government or nonprofit community-  
20 based organization, the portion of the costs of a pro-  
21 gram, project, or activity provided by a grant under  
22 subsection (a) may not exceed 75 percent.

23 (2) WAIVERS.—The Attorney General may  
24 waive, wholly or in part, the requirement under

1 paragraph (1) of a non-Federal contribution to the  
2 costs of a program, project, or activity.

3 (h) APPLICATIONS.—

4 (1) APPLICATION.—An application for a grant  
5 under this title shall be submitted in such form, and  
6 contain such information, as the Attorney General  
7 may prescribe by guidelines.

8 (2) APPROVAL.—A grant may not be made  
9 under this title unless an application has been sub-  
10 mitted to, and approved by, the Attorney General.

11 (i) PERFORMANCE EVALUATION.—

12 (1) MONITORING COMPONENTS.—Each pro-  
13 gram, project, or activity funded under this title  
14 shall contain a monitoring component, which shall be  
15 developed pursuant to guidelines established by the  
16 Attorney General. Such monitoring component shall  
17 include systematic identification and collection of  
18 data about activities, accomplishments, and pro-  
19 grams throughout the life of the program, project, or  
20 activity and presentation of such data in a usable  
21 form.

22 (2) EVALUATION COMPONENTS.—Selected grant  
23 recipients shall be evaluated on the local level or as  
24 part of a national evaluation, pursuant to guidelines  
25 established by the Attorney General. Such evalua-

1        tions may include independent audits of police be-  
2        havior and other assessments of individual program  
3        implementations. In selected jurisdictions that are  
4        able to support outcome evaluations, the effective-  
5        ness of funded programs, projects, and activities  
6        may be required.

7            (3) PERIODIC REVIEW AND REPORTS.—The At-  
8        torney General may require a grant recipient to sub-  
9        mit biannually to the Attorney General the results of  
10       the monitoring and evaluations required under para-  
11       graphs (1) and (2) and such other data and infor-  
12       mation as the Attorney General deems reasonably  
13       necessary.

14        (j) REVOCATION OR SUSPENSION OF FUNDING.—If  
15       the Attorney General determines, as a result of monitoring  
16       under subsection (i) or otherwise, that a grant recipient  
17       under this title is not in substantial compliance with the  
18       terms and requirements of the approved grant application  
19       submitted under subsection (h), the Attorney General may  
20       revoke or suspend funding of that grant, in whole or in  
21       part.

22        (k) DEFINITIONS.—In this title:

23            (1) The terms “law enforcement accreditation  
24        organization”, “law enforcement agency”, “commu-  
25       nity-based organization”, and “professional law en-

1 enforcement association” have the meaning given such  
 2 terms in section 102 of this Act.

3 (2) The term “private entity” means a private  
 4 security organization engaged in the prevention, de-  
 5 tection, or investigation of violations of criminal laws  
 6 and/or organizational policy (such as airport security  
 7 or department store security).

8 (3) The term “civilian review board” means an  
 9 administrative entity that—

10 (A) is independent and adequately funded;

11 (B) has investigatory authority and staff  
 12 subpoena power;

13 (C) has representative diversity;

14 (D) has policymaking authority;

15 (E) provides advocates for civilian com-  
 16 plainants;

17 (F) has mandatory police power to conduct  
 18 hearings; and

19 (G) conducts statistical studies on pre-  
 20 vailing trends of unusual complaints.

## 21 **TITLE III—ADMINISTRATIVE** 22 **DUE PROCESS PROCEDURES**

### 23 **SEC. 301. ATTORNEY GENERAL TO CONDUCT STUDY.**

24 (a) STUDY.—

1           (1) IN GENERAL.—The Attorney General shall  
2       conduct a nationwide study of the prevalence and ef-  
3       fect of any law, rule, or procedure that allows a law  
4       enforcement officer to delay for an unreasonable or  
5       arbitrary period of time the answer to questions  
6       posed by a local internal affairs officer, prosecutor,  
7       or review board on the investigative integrity and  
8       prosecution of law enforcement misconduct.

9           (2) INITIAL ANALYSIS.—The Attorney General  
10      shall perform an initial analysis of New York City’s  
11      48-Hour Rule to determine whether, at a threshold  
12      level, the effect of this type of rule or procedure  
13      raises material investigatory issues that could impair  
14      or hinder a prompt and thorough investigation of  
15      possible misconduct, including criminal conduct, that  
16      would justify a wider inquiry.

17          (3) DATA COLLECTION.—After completion of  
18      the initial analysis under paragraph (2), and consid-  
19      ering material investigatory issues, the Attorney  
20      General shall gather additional data nationwide on  
21      rules similar to New York City’s 48-Hour Rule from  
22      a representative and statistically significant sample  
23      of jurisdictions, to determine whether such rules and  
24      procedures raise such material investigatory issues.

25      (b) REPORTING.—

1           (1) INITIAL ANALYSIS.—Not later than 120  
2       days after the date of the enactment of this title, the  
3       Attorney General shall submit to Congress a report  
4       containing the results of its initial analysis, make  
5       such report available to the public, and identify the  
6       jurisdictions for which the study is to be conducted.

7           (2) DATA COLLECTED.—Not later than 2 years  
8       after the date of the enactment of this title, the At-  
9       torney General shall submit to Congress a report  
10      containing the results of the data collected under  
11      this title and cause a copy of such report to be pub-  
12      lished in the Federal Register.

13 **TITLE IV—ENHANCED FUNDING**  
14 **TO COMBAT POLICE MIS-**  
15 **CONDUCT**

16 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

17       There are authorized to be appropriated for fiscal  
18   year 2001, in addition to any other sums authorized to  
19   be appropriated for this purpose, \$5,000,000 for addi-  
20   tional expenses related to the enforcement of section  
21   210401 of the Violent Crime Control and Law Enforce-  
22   ment Act of 1994 (42 U.S.C. 14141), criminal enforce-  
23   ment (18 U.S.C. 242 and 245), and administrative en-  
24   forcement by the Department of Justice’s Office of Civil  
25   Rights, and \$3,300,000 for additional expenses related to

1 conflict resolution by the Department of Justice’s Commu-  
 2 nity Relations Service.

3 **TITLE V—ENHANCED AUTHOR-**  
 4 **ITY IN PATTERN AND PRAC-**  
 5 **TICE INVESTIGATIONS**

6 **SEC. 501. UNLAWFUL CONDUCT.**

7 Section 210401(a) of the Violent Crime and Law En-  
 8 forcement Act of 1994 (42 U.S.C. 14141(a)) is  
 9 amended—

10 (1) by inserting “criminal or” before “juvenile  
 11 justice”; and

12 (2) by inserting “adults or” before “juveniles”.

13 **SEC. 502. PRIVATE CAUSE OF ACTION RELATING TO POLICE**  
 14 **PATTERN OR PRACTICE.**

15 Section 210401 of the Violent Crime Control and  
 16 Law Enforcement Act of 1994 (42 U.S.C. 14141) is  
 17 amended—

18 (1) in subsection (b) by striking “paragraph  
 19 (1)” and inserting “subsection (a)”; and

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

21 “(c) CIVIL ACTION BY AGGRIEVED PERSON.—A per-  
 22 son who is aggrieved by a violation of subsection (a) may,  
 23 in a civil action, obtain declaratory and injunctive relief  
 24 with respect to the violation. The court in an action under  
 25 this subsection may award the prevailing party (other than

1 the United States) a reasonable attorney’s fee, including  
 2 litigation expenses and expert witness fees, as part of the  
 3 costs. Fees may be awarded to a prevailing defendant only  
 4 when a plaintiff’s civil action is shown to be frivolous, un-  
 5 reasonable, or without foundation. The Attorney General  
 6 may intervene as a party in a civil action brought under  
 7 this subsection.”.

## 8 **TITLE VI—DEPRIVATION OF** 9 **RIGHTS UNDER COLOR OF LAW**

### 10 **SEC. 601. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.**

11 Section 242 of title 18, United States Code, is  
 12 amended—

13 (1) by inserting “(a)” before “Whoever”; and

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

15 “(b)(1) Whoever, under color of any law, statute, or-  
 16 dinance, regulation, custom, or tribal law, in any State,  
 17 territory, commonwealth, possession, district, or Indian  
 18 country, intentionally—

19 “(A) subjects, or attempts to subject, any per-  
 20 son to force exceeding that which is reasonably nec-  
 21 essary to carry out a legitimate law enforcement  
 22 duty; or

23 “(B) engages in or causes any unwanted sexual  
 24 act, or unwanted sexual contact, with or by any  
 25 other person, or attempts to do so,



1 “shall be punished as prescribed under paragraph (2).

2 “(2)(A) The punishment for an offense under this  
3 subsection is a fine under this title, or imprisonment under  
4 subparagraph (B), or both.

5 “(B) The imprisonment for an offense under this  
6 subsection shall be—

7 “(i) if death results from the act committed in  
8 violation of this subsection, imprisonment for any  
9 term of years or for life;

10 “(ii) if bodily injury results from the act com-  
11 mitted in violation of this subsection, or if such act  
12 involves a sexual act, or such act includes the use,  
13 threatened use, or attempted use of a firearm or  
14 dangerous weapon, imprisonment for not more than  
15 10 years; and

16 “(iii) in any other case, imprisonment not to ex-  
17 ceed 2 years.

18 “(3) As used in this subsection—

19 “(A) the term ‘sexual act’ has the meaning set  
20 forth in subparagraphs (A) through (C) of section  
21 2246(2);

22 “(B) the term ‘sexual contact’ has the meaning  
23 given such term in section 2246(3); and

24 “(C) the term ‘bodily injury’ has the meaning  
25 given such term in section 1515(a)(5).

1 “(4) No prosecution of a case described in this sub-  
 2 section shall be undertaken, except upon notification in  
 3 writing by the Assistant Attorney General for Civil Rights  
 4 that, in that official’s judgment, a prosecution by the  
 5 United States is in the public interest and necessary to  
 6 secure substantial justice.”.

7 **SEC. 602. AVAILABILITY OF EXPERT WITNESS FEES IN 42**  
 8 **U.S.C. 1983 ACTIONS.**

9 Section 722 of the Revised Statutes of the United  
 10 States (42 U.S.C. 1988) is amended by striking “or  
 11 1977A” and inserting “, 1977A, or 1979”.

12 **TITLE VII—STUDY OF DEATHS IN**  
 13 **CUSTODY**

14 **SEC. 701. STUDY.**

15 Section 20104(a) of the Violent Crime Control and  
 16 Law Enforcement Act of 1994 (42 U.S.C. 13704(a)) is  
 17 amended—

18 (1) in paragraph (2), by striking “or” after the  
 19 semicolon;

20 (2) in paragraph (3)(B), by striking the period  
 21 and inserting “; or”; and

22 (3) by adding at the end the following new  
 23 paragraphs:

24 “(4) such State has provided an assurance that  
 25 it shall follow guidelines that may be established by

1 the Attorney General in reporting, on a quarterly  
2 basis, information regarding the death of any person  
3 who is in the process of arrest, has been arrested,  
4 has been incarcerated or is en route to be incarcerated  
5 at any municipal or county jail, State prison,  
6 or other State or local correctional facility (including  
7 any juvenile facility) that, at a minimum, includes—

8 “(A) the name, gender, ethnicity, immigra-  
9 tion status, and age of the deceased;

10 “(B) the date, time, and location of death;  
11 and

12 “(C) a brief description of the cir-  
13 cumstances surrounding the death.

14 “(5) such State has provided an assurance that  
15 it shall follow guidelines that may be established by  
16 the Attorney General in reporting, on a quarterly  
17 basis, information regarding the medical treatment  
18 given to or withheld from any person who was in-  
19 jured while in the process of arrest, incarceration, or  
20 en route to be incarcerated at any municipal or  
21 county jail, State prison, or other State or local cor-  
22 rectional facility (including any juvenile facility).”.

1 **TITLE VIII—NATIONAL TASK**  
2 **FORCE ON LAW ENFORCE-**  
3 **MENT OVERSIGHT**

4 **SEC. 801. NATIONAL TASK FORCE ON LAW ENFORCEMENT**  
5 **OVERSIGHT.**

6 (a) ESTABLISHMENT.—There is established within  
7 the Department of Justice a task force to be known as  
8 the Task Force on Law Enforcement Oversight (herein-  
9 after in this title referred to as the “Task Force”).

10 (b) COMPOSITION.—The Task Force shall be com-  
11 posed of individuals appointed by the Attorney General,  
12 who shall appoint at least 1 individual from each of the  
13 following:

14 (1) the Special Litigation Section of the Civil  
15 Rights Division;

16 (2) the Criminal Section of the Civil Rights Di-  
17 vision;

18 (3) the Coordination and Review Section of the  
19 Civil Rights Division;

20 (4) the Employment Litigation Section of the  
21 Civil Rights Division;

22 (5) the Disability Rights Section of the Civil  
23 Rights Division;

24 (6) the Office of Justice Programs;

1           (7) the Office of Community Oriented Policing  
2       Services (COPS);

3           (8) the Corruption/Civil Rights Section of the  
4       Federal Bureau of Investigation;

5           (9) the Community Relations Service; and

6           (10) the unit within the Department of Justice  
7       assigned as a liaison for civilian review boards.

8       (c) POWERS AND DUTIES.—The Task Force shall—

9           (1) coordinate investigative, prosecutorial, and  
10       enforcement efforts of Federal, State, local, and In-  
11       dian tribal governments in cases related to law en-  
12       forcement misconduct; and

13          (2) consult with professional law enforcement  
14       associations (as defined in section 102), labor orga-  
15       nizations, and community-based organizations (as  
16       defined in section 102) to coordinate the process of  
17       the detection and referral of complaints regarding  
18       incidents of alleged law enforcement misconduct.

19       (d) AUTHORIZATION OF APPROPRIATIONS.—There is  
20       authorized to be appropriated \$5,000,000 for each fiscal  
21       year to carry out this section.

1 **TITLE IX—IMMIGRATION EN-**  
2 **FORCEMENT REVIEW COM-**  
3 **MISSION**

4 **SEC. 901. CREATION OF IMMIGRATION ENFORCEMENT RE-**  
5 **VIEW COMMISSION.**

6       There is established a commission to be known as the  
7 Immigration Enforcement Review Commission (herein-  
8 after in this title referred to as the “Review Commis-  
9 sion”). The Review Commission shall be comprised of a  
10 Board of Commissioners, an Investigations Office, and a  
11 Community Outreach Office. In the execution of its duties,  
12 the Review Commission shall comply with the require-  
13 ments established in this title. The Immigration and Natu-  
14 ralization Service and the Customs Service (hereinafter in  
15 this title referred to as the “Services”) shall cooperate  
16 fully with the Review Commission and its employees in  
17 carrying out the duties of the Review Commission under  
18 this title, and shall provide to the Commission such  
19 records as the Commission considers appropriate.

20 **SEC. 902. DUTIES OF REVIEW COMMISSION.**

21       The Review Commission shall be responsible for in-  
22 vestigating complaints of civil rights abuses against any  
23 of the Services, employees of any of the Services, divisions  
24 of any of the Services, or any facilities where detainees  
25 are held in custody of any of the Services. Based upon

1 its findings, the Review Commission shall make rec-  
2 ommendations to the Services to discipline employees of  
3 any of the Services responsible for committing abuses. The  
4 Review Commission shall also make policy recommenda-  
5 tions to the Services as appropriate.

6 **SEC. 903. BOARD OF COMMISSIONERS.**

7 (a) COMPOSITION OF THE BOARD OF COMMIS-  
8 SIONERS.—The Board of Commissioners (hereinafter in  
9 this title referred to as the “Board”) shall be composed  
10 of 7 members who shall be appointed by the President,  
11 in consultation with community-based organizations and  
12 professional law enforcement associations, by and with the  
13 advice and consent of the Senate. The President shall des-  
14 ignate 1 member to serve as Director of the Board. Not  
15 more than 4 members may be of the same political party.  
16 The members of the Board shall be full-time employees.

17 (b) APPOINTMENTS AND TERMS OF OFFICE.—

18 (1) Except as provided in paragraph (2), the  
19 term of each Commissioner shall be 6 years.

20 (2) Of the members first appointed, 4 shall be  
21 appointed to terms of 3 years. Not more than 2  
22 members appointed under this paragraph may be of  
23 the same political party.

24 (3) A member appointed to fill a vacancy occur-  
25 ring before the expiration of the term for which that

1 member's predecessor was appointed shall be ap-  
2 pointed only for the remainder of that term.

3 (4) No person shall serve as a member of the  
4 Board for more than 2 terms.

5 (c) COMPENSATION.—Each member of the Board  
6 shall receive compensation at the annual rate of basic pay  
7 in effect for level V of the Executive Schedule.

8 (d) ELIGIBILITY.—A member of the Board may not  
9 have been employed by any of the Services within the pe-  
10 riod beginning 5 years before appointment, or employed  
11 by any law enforcement agency within the period begin-  
12 ning 1 year before appointment.

13 **SEC. 904. ADMINISTRATIVE PROVISIONS.**

14 (a) INVESTIGATIONS OFFICE.—The Review Commis-  
15 sion shall employ such investigative personnel as the  
16 Board considers advisable, in accordance with the civil  
17 service and classification laws. Investigators shall be  
18 charged with the responsibility of investigating all com-  
19 plaints brought to the Review Commission's attention.

20 (b) COMMUNITY OUTREACH OFFICE.—The Board  
21 shall appoint a Director of Community Outreach. The Di-  
22 rector of Community Outreach shall establish local com-  
23 munity task forces to improve the working relationship be-  
24 tween the Services and local community groups and orga-  
25 nizations.



1       (c) REVIEW COMMISSION FACILITIES.—The Review  
2 Commission shall establish a headquarters and 3 regional  
3 offices. The Review Commission may not maintain offices  
4 in a facility under the control or operation of any of the  
5 Services, or any facility in which any of the Services occu-  
6 pies space.

7       (d) PERSONNEL LIMITATION.—An employee of the  
8 Review Commission may not have been employed by any  
9 of the Services within the period beginning 5 years before  
10 appointment or employed by any law enforcement agency  
11 within the period beginning 1 year before appointment.

12       (e) REGULATIONS.—The Review Commission is au-  
13 thorized to promulgate such rules and regulations as may  
14 be necessary to carry out this title including procedures  
15 for the filing, investigation, and resolution of complaints.

16 **SEC. 905. OPERATIONS OF REVIEW COMMISSION.**

17       (a) COMPLAINT FORMS.—

18               (1) Complaint forms shall be made available at  
19 each facility of any of the Services and shall be  
20 available upon request from the Review Commission.

21               (2) The complaint forms shall be written in lan-  
22 guages reflecting the languages of the immigrant  
23 population.

24       (b) FILING OF COMPLAINTS.—

1           (1) Complaints may be filed in person, by mail,  
2           by telephone, by facsimile, or by any other reason-  
3           able means. Complaints may be filed by any person,  
4           including anonymously, and may be filed on behalf  
5           of third parties. Complaints need not be filed on the  
6           official complaint forms.

7           (2) The Review Commission shall establish and  
8           operate a multilingual, 24-hour, toll-free hotline to  
9           receive complaints.

10          (3) Whenever possible, upon receipt of a com-  
11          plaint, the Review Commission shall provide to the  
12          complainant information which describes the review  
13          procedures of the Review Commission. Such infor-  
14          mation shall be available in languages reflecting the  
15          languages of the immigrant population.

16          (c) PUBLIC OUTREACH.—

17          (1) The Review Commission shall educate mem-  
18          bers of the public about its functions and shall re-  
19          ceive and actively seek out suggestions from the pub-  
20          lic to improve the functioning of the Review Com-  
21          mission.

22          (2) The Review Commission shall develop out-  
23          reach materials, which shall include a description of  
24          the Review Commission, its duties, and its complaint  
25          procedures. Such materials shall be made available

1 to the public in languages reflecting the languages  
2 of the immigrant population.

3 (3) The Review Commission shall oversee the  
4 display and dissemination of outreach materials at  
5 each facility of any of the Services.

6 (d) SERVICE EMPLOYEES' DUTY TO INFORM COM-  
7 MISSION.—

8 (1) When a complaint of agent misconduct is  
9 brought to the attention of an employee of any of  
10 the Services, that employee shall promptly inform  
11 the complainant of proper procedures for filing a  
12 complaint.

13 (2) An employee of any of the Services who wit-  
14 nesses or otherwise obtains actual knowledge of the  
15 use of force that is unreasonable in light of the facts  
16 and circumstances and involves another employee of  
17 any of the Services, shall report such incident to the  
18 Review Commission within 24 hours of the acquisi-  
19 tion of knowledge of such incident.

20 (3) The Review Commission may promulgate  
21 regulations requiring employees of any of the Serv-  
22 ices to report to the Commission other violations of  
23 the Services' operating procedures.

24 (e) INVESTIGATION OF COMPLAINTS.—Each com-  
25 plaint shall be investigated by an investigator who shall

1 complete and submit a written report to the Board of  
2 Commissioners within 60 days of the assignment, unless  
3 the Board authorizes an extension. The Services shall  
4 grant investigators access to information, documents, or  
5 other items relevant to the matter under investigation.  
6 The Board may issue subpoenas. Each employee of any  
7 of the Services shall cooperate fully with Review Commis-  
8 sion investigations, subject to the protections afforded by  
9 the Constitution. Employees of the Services shall be ad-  
10 vised of their constitutional rights and the procedural  
11 rights afforded under this title.

12 (f) DISPOSITION OF COMPLAINTS.—

13 (1) When the Board receives a written report  
14 on a complaint from an investigator, the Board shall  
15 designate a panel of 3 of its members (hereinafter  
16 in this title referred to as a “Panel”) to review the  
17 report.

18 (2) A Panel shall conduct hearings on the com-  
19 plaint if—

20 (A) the alleged abuse is of a serious na-  
21 ture, as defined by the regulations prescribed  
22 under authority of this title; or

23 (B) the Panel, by majority vote, decides to  
24 hold a hearing.

1           (3) The Panel shall issue a written finding on  
2           the complaint based on the report alone or on the  
3           report and a hearing, if one is held.

4           (4) The Panel shall forward its finding to both  
5           the complainant and the employee. The complainant  
6           and the employee shall have 30 days in which to re-  
7           view the Panel's official finding. During the 30-day  
8           period, either the complainant or the employee may  
9           take one of the following actions:

10                 (A) If no hearing was held, request that  
11                 the Panel conduct a hearing. A hearing shall be  
12                 held if one member of the Panel votes to hold  
13                 a hearing.

14                 (B) Regardless of whether a hearing was  
15                 held, request an en banc review of the Panel's  
16                 decision. An en banc review will be granted if  
17                 a majority of the Board votes to conduct such  
18                 review.

19           (5) If neither party makes a request pursuant  
20           to subparagraphs (A) or (B) of paragraph (4), or if  
21           such a request is denied, then the Board, promptly,  
22           shall report its finding to the appropriate Service.

23           (6) All findings made by the Board of Commis-  
24           sioners sitting en banc shall be reported directly to

1 the appropriate Service with copies to the complain-  
2 ant and the employee.

3 (g) HEARINGS.—

4 (1) Both the complainant and the subject em-  
5 ployee shall have the right to be represented by  
6 counsel or other representative at Board hearings, to  
7 present witnesses, and to cross-examine witnesses.

8 (2) Any finding of a violation on the part of an  
9 employee by the Board must be established by a pre-  
10 ponderance of the evidence.

11 (3)(A) Except as provided in subparagraph (B),  
12 hearings shall be open to the public and transcripts  
13 of hearings shall be available to the public.

14 (B) For good cause the Board of Commis-  
15 sioners may close to the public all or any part of a  
16 hearing and may seal all or any part of the tran-  
17 script of a hearing.

18 (4) Unless mandated by unusual circumstances,  
19 a hearing shall be conducted in one location within  
20 the United States that is generally convenient to the  
21 complainant and any potential witnesses.

22 (h) DISCIPLINARY RECOMMENDATIONS.—

23 (1) When a finding of a violation may con-  
24 stitute a criminal offense, the Board shall inform the  
25 appropriate Federal or State authorities so that ap-

1       appropriate prosecutorial action may be considered.  
2       Prosecutorial action shall not relieve the Board of its  
3       duties under this title.

4           (2) When a complaint has been substantiated,  
5       the Board shall recommend disciplinary action  
6       against the subject employee. The Board's rec-  
7       ommendations shall be based on a schedule of sanc-  
8       tions determined by the Commission. If the Service  
9       does not adopt the recommendations of the Board,  
10      it shall provide a written explanation of the grounds  
11      for refusal to do so within 30 days of the Board's  
12      recommendation. The Commission's recommenda-  
13      tions and the Service's explanation shall be made  
14      public.

15           (3) Nothing in this title shall affect the author-  
16      ity of the Services to discipline their employees.

17           (i) EARLY WARNING PROGRAM.—The Review Com-  
18      mission shall conduct a periodic review of all complaints  
19      in order to determine whether particular Service employ-  
20      ees have been the subject of repeated complaints or have  
21      otherwise demonstrated they may be having difficulty  
22      dealing appropriately with members of the public. The re-  
23      sults of this review shall be presented to the Services. The  
24      Review Commission shall make recommendations to the  
25      Services with respect to so identified Service employees in-

cluding, but not limited to, recommendations of training or counseling.

(j) RECORDS OF COMPLAINTS AND STATISTICAL SUMMARIES.—The Review Commission shall maintain records of complaints, including a summary of reports made pursuant to the Early Warning Program under subsection (i). The Review Commission shall compile and publish, at least annually, a statistical summary of all complaints received and the dispositions of such complaints.

**SEC. 906. RETALIATION.**

(a) RETALIATION PROHIBITED.—Retaliation is prohibited and shall constitute the basis for a complaint to the Commission.

(b) DEFINITION.—For the purposes of this title, the term “retaliation” means any action or threat of action against a person, including a Service employee, because such person filed a complaint, testified, assisted, or participated in any manner in an investigation or hearing related to the complaint procedures established by this title.

**SEC. 907. LIMITATION ON USE OF TESTIMONY.**

No testimony or other information gathered as part of a complaint, investigation, or hearing under this title may be used in any proceeding under the Immigration and Nationality Act.



1 **SEC. 908. FUNDING.**

2 Funds authorized to be appropriated for the Office  
3 of the Inspector General of the Department of Justice and  
4 the Office of the Inspector General of the Department of  
5 the Treasury are authorized to be available to carry out  
6 this title.

7 **TITLE X—FEDERAL DATA COL-**  
8 **LECTION ON RACIAL**  
9 **PROFILING**

10 **SEC. 1001. DATA COLLECTION.**

11 (a) IN GENERAL.—The Attorney General, the Sec-  
12 retary of the Treasury, and the Secretary of the Interior  
13 shall collect data that is sufficiently detailed to permit an  
14 analysis of investigatory actions carried out by Federal  
15 law enforcement agencies including, but not limited to, the  
16 Immigration and Naturalization Service, the Drug En-  
17 forcement Administration, the Customs Service, and the  
18 National Park Service by race, ethnicity, and gender.

19 (b) INVESTIGATORY ACTIONS INCLUDED.—For pur-  
20 poses of subsection (a), investigatory actions include traf-  
21 fic stops, pedestrian stops, inspections and interviews of  
22 entrants into the United States that are more extensive  
23 than those customarily carried out, requests for consent  
24 to search, and warrantless searches. Data shall also be col-  
25 lected on the type of search conducted and on the results  
26 of the searches included in the data collection.

1 (c) REPORTS.—

2 (1) DEPARTMENT REPORTS.—Not later than 1  
3 year after the date of the enactment of this  
4 section—

5 (A) each official referred to in subsection  
6 (a) shall prepare a report on the data collected  
7 pursuant to that subsection, including a de-  
8 scription of any civilian complaints received al-  
9 leging bias based on the race, ethnicity, or gen-  
10 der of the complainant in law enforcement ac-  
11 tivities, the process for investigating and resolv-  
12 ing such complaints, and the outcomes of any  
13 such investigations; and

14 (B) each official referred to in subsection  
15 (a) other than the Attorney General shall trans-  
16 mit such report to the Attorney General.

17 (2) MASTER REPORT.—The Attorney General  
18 shall promptly—

19 (A) analyze each report prepared under  
20 paragraph (1);

21 (B) prepare, in consultation with the heads  
22 of relevant agencies, a master report containing  
23 those analyses, which shall include the training  
24 programs, policies, and practices regarding the  
25 use of race, ethnicity, and gender in the law en-

1           enforcement activities of those agencies and the  
2           recommendations of the Attorney General for  
3           improving those programs, policies, and prac-  
4           tices; and

5           (C) transmit such master report to the  
6           President.

7           (3) PROTECTION OF INDIVIDUAL IDENTITIES.—

8           The reports prepared under paragraph (1) and the  
9           master report prepared under paragraph (2) shall  
10          not include any information likely to reveal the iden-  
11          tity of any individual.

## 12           **TITLE XI—WHISTLEBLOWER** 13           **PROTECTION**

### 14           **SEC. 1101. PROHIBITION AGAINST DISCRIMINATION OR RE-** 15           **TALIATION.**

16          (a) IN GENERAL.—No person shall retaliate or dis-  
17          criminate in any manner against any local, State, tribal,  
18          or Federal law enforcement officer because the officer act-  
19          ing in good faith—

20               (1) engaged in any disclosure of information re-  
21               lating to the unlawful behavior of any fellow officer  
22               in the line of duty;

23               (2) advocated on behalf of a civilian with re-  
24               spect to the treatment received from a law enforce-  
25               ment officer; or

1           (3) initiated, cooperated, or otherwise partici-  
2           pated in any investigation or proceeding of any law  
3           enforcement agency relating to a pattern and prac-  
4           tice of officer misconduct.

5           (b) ATTEMPTS.—No person shall retaliate or dis-  
6           criminate in any manner against any law enforcement offi-  
7           cer because the officer has attempted or has an intention  
8           to engage in an action for which a protection against dis-  
9           crimination or retaliation is provided under subsection (a).

10          (c) RESTRICTIONS ON REPORTING PROHIBITED.—  
11          No person shall by contract, policy, or procedure prohibit  
12          or restrict any law enforcement officer from engaging in  
13          any action for which a protection against discrimination  
14          or retaliation is provided under subsection (a).

15          (d) CONFIDENTIAL INFORMATION.—This section  
16          does not protect disclosures that would violate Federal,  
17          State, or tribal law or diminish or impair the rights of  
18          any person to the continued protection of confidentiality  
19          of communications provided by State, tribal or Federal  
20          law.

21          (e) GOOD FAITH ACTION.—A law enforcement officer  
22          with respect to the conduct described in paragraph (1) of  
23          subsection (a) shall be considered to be acting in good  
24          faith for purposes of that subsection if the officer reason-  
25          ably believes that—

1 (1) the information is true; and

2 (2) the information disclosed by the law en-  
3 forcement officer—

4 (A) evidences a violation of any law, rule,  
5 or regulation, or of a generally recognized pro-  
6 fessional or legal standard; or

7 (B) relates to services or conditions which  
8 potentially endangers 1 or more officers or civil-  
9 ians.

10 **SEC. 1102. CONFIDENTIALITY OF COMPLAINTS TO GOVERN-**  
11 **MENT AGENCIES.**

12 The identity of a law enforcement officer who com-  
13 plains in good faith to a government agency or department  
14 about the unlawful practices of a law enforcement agency  
15 shall remain confidential and shall not be disclosed by any  
16 person except upon the knowing written consent of the law  
17 enforcement officer. This section shall not preempt any  
18 right of confrontation protected by the Constitution or by  
19 Federal, State, or tribal law.

20 **SEC. 1103. ENFORCEMENT.**

21 (a) PRIVATE CAUSE OF ACTION.—

22 (1) Any law enforcement officer who believes  
23 that he or she has been retaliated or discriminated  
24 against in violation of section 1101 may file a civil  
25 action in any Federal, State, or tribal court of com-

1       petent jurisdiction against the person believed to  
2       have violated section 1101.

3           (2) If the court determines that a violation of  
4       section 1101 has occurred, the court shall award  
5       such damages which result from that violation, in-  
6       cluding compensatory damages, reinstatement, reim-  
7       bursement of any wages, salary, employment bene-  
8       fits, or other compensation denied or lost to such  
9       employee by reason of the violation, as well as puni-  
10      tive damages, attorneys' fees, and costs (including  
11      expert witness fees). The court shall award interest  
12      on the amount of damages awarded at the prevailing  
13      rate.

14          (3) The court may issue temporary, prelimi-  
15      nary, and permanent injunctive relief restraining  
16      violations of section 1101, including the restraint of  
17      any withholding of the payment of wages, salary,  
18      employment benefits, or other compensation, plus in-  
19      terest, found by the court to be due and the re-  
20      straint of any other change in the terms and condi-  
21      tions of employment, and may award such other eq-  
22      uitable relief as may be appropriate, including em-  
23      ployment, reinstatement, and promotion.

24          (4) An action may be brought under this sub-  
25      section not later than 2 years after the date of the

1 last event constituting the alleged violation for which  
2 the action is brought.

3 (b) CIVIL PENALTY.—Any person who violates a pro-  
4 vision of section 1101 shall be subject to a civil penalty  
5 of not to exceed \$10,000 for each violation. In determining  
6 the amount of any penalty under this subsection, the ap-  
7 propriateness of such penalty to the size of the business  
8 of the person charged and the gravity of the violation shall  
9 be considered. The amount of any penalty under this sub-  
10 section, when finally determined, may be—

11 (1) deducted from any sums owing by the  
12 United States to the person charged; or

13 (2) ordered by the court, in an action brought  
14 for a violation of section 1101 brought by the law  
15 enforcement officer who suffered retaliation or dis-  
16 crimination.

17 (c) CRIMINAL PENALTY.—Any person who willfully  
18 and repeatedly violates a provision of section 1101 and  
19 such violation is related to—

20 (1) a pattern or practice of such violations;

21 (2) a quality of services that would likely lead  
22 to serious injury or death to civilians or law enforce-  
23 ment officers; or

24 (3) retaliation against a law enforcement officer  
25 that could lead to serious injury or death;

1 shall be fined under title 18, United States Code, impris-  
2 oned for not more than 1 year, or both.

3 **SEC. 1104. BURDEN OF PROOF.**

4 (a) ON COMPLAINANT.—In any civil action brought  
5 under this title, the complainant shall have the initial bur-  
6 den of making a prima facie showing that behavior de-  
7 scribed in subsections (a) through (c) of section 1101 was  
8 a contributing factor in the adverse action or inaction al-  
9 leged in the complaint. A prima facie case shall be estab-  
10 lished if the complainant can show that—

11 (1) the respondent knew of the complainant's  
12 protected activities at the time that the alleged unfa-  
13 vorable action or inaction was taken; and

14 (2) the discriminatory action occurred within a  
15 period of time such that a reasonable person could  
16 conclude that an activity protected under section  
17 1101 was a contributing factor in the discriminatory  
18 treatment.

19 (b) ON RESPONDENT.—Once the complainant estab-  
20 lishes a prima facie case, the burden shifts to the respond-  
21 ent to demonstrate, by clear and convincing evidence, that  
22 it would have taken the same adverse action or inaction  
23 in the absence of such behavior.

24 **SEC. 1105. DEFINITIONS.**

25 For purposes of this title:



1           (1) The term “discrimination or retaliation” in-  
2       cludes a threat, intimidation, or any adverse change  
3       in a law enforcement officer’s wages, benefits, or  
4       terms or conditions of employment. In the case of a  
5       law enforcement officer who is not an employee of  
6       the law enforcement agency, such term includes any  
7       adverse action taken against the worker or the work-  
8       er’s employer, including the cancellation of or refusal  
9       to renew a contract with the law enforcement officer  
10      or the employer.

11          (2) The term “person” includes an institution,  
12      Federal, State, tribal, or local governmental entity,  
13      or any other public or private entity.

14      **SEC. 1106. NOTICE.**

15      (a) IN GENERAL.—Each law enforcement agency  
16      shall post and keep posted, in conspicuous places on the  
17      premises of the law enforcement agency where notices to  
18      employees and applicants for employment are customarily  
19      posted, a notice, to be prepared or approved by the Attor-  
20      ney General, setting forth excerpts from, or summaries of,  
21      the pertinent provisions of this title and information per-  
22      taining to the filing of a charge under section 1101.

23      (b) PENALTY.—Any law enforcement agency that  
24      willfully violates this section may be assessed by the Attor-

1 ney General a civil penalty not to exceed \$100 for each  
2 separate offense.

3 **SEC. 1107. NONPREEMPTION.**

4       Nothing in this title preempts any other law, and  
5 nothing in this title shall be construed or interpreted to  
6 impair or diminish in any way the authority of any State  
7 to enact and enforce any law which provides equivalent  
8 or greater protections for law enforcement officers or the  
9 disclosure of unsafe practices in a law enforcement agency.

10 **SEC. 1108. EFFECTIVE DATE.**

11       This title shall apply to acts of retaliation or discrimi-  
12 nation occurring on or after the first day of the first  
13 month that begins after the date of the enactment of this  
14 title.

○