

106TH CONGRESS
2D SESSION

H. R. 3981

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

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, Mr. CUMMINGS, Mr. HINCHEY, Mr. ENGEL, Ms. WATERS, and Mr. NADLER) introduced the following bill; which was referred to the Committee on Judiciary

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 Indian 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 but not limited to standards relating to early warning

1 programs, civilian review procedures, traffic stop
2 documentation and procedures, administrative due
3 process requirements, 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 Indian tribal law enforcement agen-
14 cies by certified law enforcement accreditation orga-
15 nizations.

16 (b) ACCREDITATION GRANTS.—The Attorney Gen-
17 eral may make funds available to State, local, and Indian
18 tribal law enforcement agencies under this title to assist
19 in gaining or maintaining accreditation from certified law
20 enforcement 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 Indian 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 Indian
14 tribal organizations that review issues or complaints
15 against law enforcement entities or individuals (such
16 as the National Association for Civilian Oversight of
17 Law Enforcement (NACOLE)).

18 (6) The term “Indian tribe” means a tribe,
19 band, pueblo, nation, or other organized group or
20 community of Indians, including an Alaska Native
21 village (as defined in or established under the Alaska
22 Native Claims Settlement Act (43 U.S.C. 1601 et
23 seq.)), that is recognized as eligible for the special
24 programs and services provided by the United States
25 to Indians because of their status as Indians.

1 (7) The term “State” includes the District of
2 Columbia, the Commonwealth of Puerto Rico, the
3 Commonwealth of the Northern Mariana Islands,
4 American Samoa, Guam, the Virgin Islands, and
5 any other territory or possession of the United
6 States.

7 **TITLE II—LAW ENFORCEMENT**
8 **DEVELOPMENT PROGRAMS**

9 **SEC. 201. LAW ENFORCEMENT GRANTS.**

10 (a) GRANT AUTHORIZATION.—The Attorney General
11 may make grants to States, units of local government, In-
12 dian tribal governments, or other public and not-for-profit
13 private entities, or to any multijurisdictional or regional
14 consortia of such entities, to study and implement effective
15 management, training, recruiting, hiring, and oversight
16 policies and programs for law enforcement agencies.

17 (b) PROJECT GRANTS TO STUDY LAW ENFORCE-
18 MENT AGENCY MANAGEMENT.—Grants made under sub-
19 section (a) shall be used for the study of management and
20 operations standards for law enforcement agencies, includ-
21 ing standards relating to administrative due process, resi-
22 dency requirements, compensation and benefits, use of
23 force, racial profiling, early warning programs, civilian re-
24 view boards or analogous procedures, or research into the
25 effectiveness of existing programs, projects, or other ac-

1 tivities designed to address misconduct by law enforce-
2 ment officers.

3 (c) PROJECT GRANTS TO DEVELOP PILOT PRO-
4 GRAMS.—Grants made under subsection (a) shall also be
5 used to develop pilot programs and implement effective
6 programs in the areas of training, hiring and recruitment,
7 and oversight that are designed to improve management
8 and address misconduct by law enforcement officers.
9 These programs shall include the following characteristics:

10 (1) TRAINING.—Law enforcement policies,
11 practices, and procedures addressing training and
12 instruction to comply with accreditation standards in
13 the areas of—

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

15 (B) responding to and reporting instances
16 of law enforcement misconduct, including but
17 not limited to use of excessive force or racial
18 profiling;

19 (C) tactical and defensive strategy;

20 (D) arrests, searches, and handcuffing;

21 (E) professional verbal communications
22 with civilians;

23 (F) police interactions with youth, the
24 mentally ill, and monolingual, multi-cultural
25 communities;

1 (G) proper traffic, pedestrian, airport, and
2 other enforcement stops; and

3 (H) community relations.

4 (2) RECRUITMENT, HIRING, RETENTION, AND
5 PROMOTION OF DIVERSE LAW ENFORCEMENT OF-
6 FICERS.—Policies, procedures, and practices for—

7 (A) the hiring and recruitment of diverse
8 law enforcement agencies representative of the
9 communities they serve;

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

12 (C) initiatives to encourage residency and
13 continuing education.

14 (3) OVERSIGHT.—Complaint procedures, in-
15 cluding the establishment of civilian review boards or
16 analogous procedures for jurisdictions across a range
17 of sizes and agency configurations, complaint proce-
18 dures by community-based organizations, early
19 warning programs, and administrative due process
20 requirements inherent to complaint procedures for
21 members of the public and law enforcement.

22 (4) VICTIM SERVICES.—Counseling services, in-
23 cluding psychological counseling, for individuals and
24 communities traumatized by law enforcement mis-
25 conduct.

1 (d) AMOUNTS.—

2 (1) Except as provided in paragraph (2), of the
3 amounts appropriated for the purposes of this
4 title—

5 (A) 4 percent shall be available for grants
6 to Indian tribal governments;

7 (B) 20 percent shall be available for grants
8 to community-based organizations;

9 (C) 10 percent shall be available for grants
10 to professional law enforcement associations;
11 and

12 (D) the remaining funds shall be available
13 for grants to applicants in each State in an
14 amount that bears the same ratio to the
15 amount of remaining funds as the population of
16 the State bears to the population of all of the
17 States.

18 (2) Of the amounts appropriated for the pur-
19 poses of this title, five percent shall be set aside for
20 use by the Attorney General for research, statistics,
21 and evaluation activities consistent with this title.

22 (e) TECHNICAL ASSISTANCE.—

23 (1) The Attorney General may provide technical
24 assistance to States, units of local government, In-
25 dian tribal governments, and to other public and pri-

1 vate entities, in furtherance of the purposes of this
2 section.

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

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

14 (g) MATCHING FUNDS.—

15 (1) IN GENERAL.—Except in the case of an In-
16 dian tribal government or nonprofit organization,
17 the portion of the costs of a program, project, or ac-
18 tivity provided by a grant under subsection (a) may
19 not exceed 75 percent.

20 (2) WAIVERS.—The Attorney General may
21 waive, wholly or in part, the requirement under
22 paragraph (1) of a non-Federal contribution to the
23 costs of a program, project, or activity.

24 (h) APPLICATIONS.—

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

5 (2) ASSURANCES.—An application for a grant
6 under this title shall contain assurances that the ap-
7 plicant shall maintain a common set of core data ele-
8 ments that conform to the Law Enforcement Man-
9 agement and Administrative Statistics (LEMAS)
10 program of the Bureau of Justice Statistics.

11 (3) APPROVAL.—A grant may not be made
12 under this title unless an application has been sub-
13 mitted to, and approved by, the Attorney General.

14 (i) PERFORMANCE EVALUATION.—

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

1 (2) EVALUATION COMPONENTS.—Selected grant
2 recipients shall be evaluated on the local level or as
3 part of a national evaluation, pursuant to guidelines
4 established by the Attorney General. Such evalua-
5 tions may include independent audits of police be-
6 havior and other assessments of individual program
7 implementations. In selected jurisdictions that are
8 able to support outcome evaluations, the effective-
9 ness of funded programs, projects, and activities
10 may be required.

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

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

1 (k) DEFINITIONS.—In this title:

2 (1) The terms “law enforcement accreditation
3 organization”, “law enforcement agency”, “commu-
4 nity-based organization”, and “professional law en-
5 forcement association” have the meaning given such
6 terms in section 102 of this Act.

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

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

14 (A) is independent and adequately funded;

15 (B) has investigatory authority and staff
16 subpoena power;

17 (C) has representative diversity;

18 (D) has policymaking authority;

19 (E) provides advocates for civilian com-
20 plainants;

21 (F) has mandatory police power to conduct
22 hearings; and

23 (G) conducts statistical studies on pre-
24 vailing trends of unusual complaints.

1 (4) The term “Indian tribe” means a tribe,
2 band, pueblo, nation, or other organized group or
3 community of Indians, including an Alaska Native
4 village (as defined in or established under the Alaska
5 Native Claims Settlement Act (43 U.S.C. 1601 et
6 seq.)), that is recognized as eligible for the special
7 programs and services provided by the United States
8 to Indians because of their status as Indians.

9 (5) The term “State” includes the District of
10 Columbia, the Commonwealth of Puerto Rico, the
11 Commonwealth of the Northern Mariana Islands,
12 American Samoa, Guam, the Virgin Islands, and
13 any other territory or possession of the United
14 States.

15 (1) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as may be
17 necessary to support enhancements to the Law Enforce-
18 ment Management and Administrative Statistics
19 (LEMAS) program of the Bureau of Justice Statistics for
20 the collection of information from grant recipients pursu-
21 ant to subsection (b), and to support the national evalua-
22 tion pursuant to subsection (i)(2).

1 **TITLE III—ADMINISTRATIVE**
2 **DUE PROCESS PROCEDURES**

3 **SEC. 301. ATTORNEY GENERAL TO CONDUCT STUDY.**

4 (a) STUDY.—

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

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

21 (3) DATA COLLECTION.—After completion of
22 the initial analysis under paragraph (2), and consid-
23 ering material investigatory issues, the Attorney
24 General shall gather additional data nationwide on
25 rules similar to New York City’s 48-Hour Rule from

1 a representative and statistically significant sample
2 of jurisdictions, to determine whether such rules and
3 procedures raise such material investigatory issues.

4 (b) REPORTING.—

5 (1) INITIAL ANALYSIS.—Not later than 1 year
6 after the date of the enactment of this title, the At-
7 torney General shall submit to Congress a report
8 containing the results of its initial analysis, make
9 such report available to the public, and identify the
10 jurisdictions for which the study is to be conducted.

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

17 (c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated such sums as may be
19 necessary to carry out this section.

1 **TITLE IV—ENHANCED FUNDING**
2 **TO COMBAT POLICE MIS-**
3 **CONDUCT**

4 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS.**

5 There are authorized to be appropriated for fiscal
6 year 2001, in addition to any other sums authorized to
7 be appropriated for this purpose—

8 (1) \$5,000,000 for additional expenses related
9 to the enforcement of section 210401 of the Violent
10 Crime Control and Law Enforcement Act of 1994
11 (42 U.S.C. 14141), criminal enforcement (18 U.S.C.
12 242 and 245), and administrative enforcement by
13 the Department of Justice's Office of Civil Rights;

14 (2) \$3,300,000 for additional expenses related
15 to conflict resolution by the Department of Justice's
16 Community Relations Service; and

17 (3) such sums as may be necessary to collect
18 data on the use of excessive force by law enforce-
19 ment in accordance with section 210402 of the Vio-
20 lent Crime Control and Law Enforcement Act of
21 1994 (42 U.S.C. 14141).

1 **TITLE V—ENHANCED AUTHOR-**
2 **ITY IN PATTERN AND PRAC-**
3 **TICE INVESTIGATIONS**

4 **SEC. 501. UNLAWFUL CONDUCT.**

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

8 (1) by inserting “criminal or” before “juvenile
9 justice”; and

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

11 **SEC. 502. PRIVATE CAUSE OF ACTION RELATING TO POLICE**
12 **PATTERN OR PRACTICE.**

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

16 (1) in subsection (b) by striking “paragraph
17 (1)” and inserting “subsection (a)”; and

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

19 “(c) CIVIL ACTION BY AGGRIEVED PERSON.—A per-
20 son who is aggrieved by a violation of subsection (a) may,
21 in a civil action, obtain declaratory and injunctive relief
22 with respect to the violation. The court in an action under
23 this subsection may award the prevailing party (other than
24 the United States) a reasonable attorney’s fee, including
25 litigation expenses and expert witness fees, as part of the

1 costs. Fees may be awarded to a prevailing defendant only
 2 when a plaintiff's civil action is shown to be frivolous, un-
 3 reasonable, or without foundation. The Attorney General
 4 may intervene as a party in a civil action brought under
 5 this subsection.”.

6 **TITLE VI—DEPRIVATION OF** 7 **RIGHTS UNDER COLOR OF LAW**

8 **SEC. 601. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.**

9 Section 242 of title 18, United States Code, is
 10 amended—

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

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

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

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

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

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

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

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

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

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

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

17 “(3) As used in this subsection—

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

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

23 “(C) the term ‘bodily injury’ has the meaning
24 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 certification 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, race, ethnicity, im-
9 migration status, national origin, and age of the
10 deceased;

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

12 and

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

15 “(5) such State has provided an assurance that
16 it shall follow guidelines that may be established by
17 the Attorney General in reporting, on a quarterly
18 basis, information regarding the medical treatment
19 given to or withheld from any person who was in-
20 jured while in the process of arrest, incarceration, or
21 en route to be incarcerated at any municipal or
22 county jail, State prison, or other State or local cor-
23 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, Indian
18 tribal, or Federal law enforcement officer because the offi-
19 cer acting 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 Indian tribal law or diminish or impair the rights
18 of any person to the continued protection of confidentiality
19 of communications provided by State, Indian tribal or
20 Federal 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 Indian 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 Indian tribal court

1 of competent jurisdiction against the person believed
2 to 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, Indian tribal, or local governmental
13 entity, 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.

15 **TITLE XII—SEXUAL ABUSE IN**
 16 **CORRECTIONAL FACILITIES**

17 **SEC. 1201. INCREASED PENALTIES AND EXPANDED JURIS-**

18 **DICTION FOR SEXUAL ABUSE OFFENSES IN**

19 **CORRECTIONAL FACILITIES.**

20 Chapter 109A of title 18, United States Code, is
 21 amended—

22 (1) by inserting after “in a Federal prison,”
 23 each place it appears the following: “or in the cus-
 24 tody of the Attorney General or the Bureau of Pris-

1 ons, or in confinement in any institution or facility
2 by direction of the Attorney General,”;

3 (2) in section 2243(b), by striking “one year”
4 and inserting “three years”;

5 (3) in section 2244(a)(4), by striking “six
6 months” and inserting “two years”; and

7 (4) in section 2244(b), by striking “six months”
8 and inserting “two years”.

○