Crime – Racial Profiling/Conyers Bill

PHOTOCOPY
PRESERVATION

Law Enforcement Trust and Integrity Act of 2000
H.R. 3981
Section by Section Description

Section 1: Short Title – This section sets forth the short title of the Act, the "Law Enforcement Trust and Integrity Act of 2000."

Title I: Law Enforcement Accreditation – Requires Attorney General to perform an initial analysis of existing law enforcement accreditation standards and to recommend areas for the development of additional national standards for accreditation of law enforcement agencies in conjunction with law enforcement accreditation organizations, law enforcement associations, labor and community-based organizations; Authorizes the Attorney General to make grants to law enforcement agencies for the purpose of obtaining accreditation from certified professional law enforcement accreditation organizations.

Title II: Law Enforcement Development Programs – Authorizes the Attorney General to make grants to States, units of local government, Indian Tribal Governments, or other public and private entities, and multi-jurisdictional or regional consortia to study law enforcement agency operations and to develop pilot programs focused on effective training, recruitment, hiring, management and oversight of law enforcement officers which would provide focused data for the development of additional accreditation standards.

Title III: Administrative Due Process Procedures – Requires the Attorney General to study the prevalence and impact of any law, rule or procedure that allows a law enforcement officer to delay for an unreasonable or arbitrary period of time the answer to questions posed by a local internal affairs officer, prosecutor, or review board on the investigative integrity and prosecution of law enforcement misconduct.

Title IV: Enhanced Funding To Combat Police Misconduct – Authorizes appropriations for expenses related to criminal and civil enforcement activities by the Civil Rights Division of the Justice Department, specifying the enforcement against pattern and practice discrimination described in section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C.A. 14141); Authorizes appropriations for expenses related to programs managed by the DOJ Community Relations Service.

Title V: Enhanced Authority in Pattern and Practice Investigations – Amends section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. A. 14141) to create a private cause of action for declaratory and injunctive relief relating to police pattern and practice discrimination.

Title VI: Deprivation of Rights Under Color of Law – Amends section 242 of Title 18 of the United States Code to expressly define excessive use of force and sexual assault as deprivations of rights under color of law; Makes expert witness fees available to the prevailing party in actions brought under section 1983.

Title VII: Study of Deaths in Custody – Amends section 20104(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C.A.) to require assurances that States will follow guidelines established by the Attorney General for reporting deaths of persons in custody and medical care given or withheld for persons in custody.

Title VIII: National Task Force on Law Enforcement Oversight – Requires Department of Justice to establish a task force to coordinate the investigation, prosecution and enforcement efforts of federal, state and local governments in cases related to law enforcement misconduct; Authorizes appropriations to support task force efforts.

Title IX: Immigration Enforcement Review Commission – Creates Commission to investigate civil rights complaints against the INS and Customs Services, with authority to make policy and disciplinary recommendations; Commission is also required to develop outreach office to educate and improve the relationship between the Services and local community groups.

Title X: Federal Data Collection on Racial Profiling – Requires Justice, Treasury and Interior Departments to collect data concerning the personal characteristics (race, ethnicity and gender) of individuals targeted for investigation (e.g., detention, traffic stop or warrantless search) by federal law enforcement agencies; requires each department to prepare a report concerning the data collected under this title, with the Justice Department preparing a "master report" analyzing the findings made by the other departments and recommending improved policies and procedures.

Title XI: Whistleblower Protection – Prohibits retaliation against law enforcement officers who in good faith disclose, initiate or advocate on behalf of a civilian complainant in actions alleging police misconduct; creates private cause of action for retaliation; establishes civil and criminal penalties for violations of this title.

Title XII: Sexual Abuse in Correctional Facilities – Amends chapter 109A of Title 18 to increase penalties and expand jurisdiction for sexual abuse offenses in correctional facilities.

SECTION BY SECTION ANALYSIS
H.R. 3981

SECTION 1. SHORT TITLE

This act may be cited as the "Law Enforcement Trust and Integrity Act of 2000"

TITLE 1 -- LAW ENFORCEMENT ACCREDITATION

SECTION 101. ACCREDITATION OF LAW ENFORCEMENT AGENCIES

(a) STANDARDS --

(1) IN GENERAL -- The Attorney General shall develop national standards for the accreditation of law enforcement agencies.

(2) INITIAL ANALYSIS -- The Attorney General shall perform an initial analysis of existing standards and accreditation methodology.

(3) PROMULGATION OF STANDARDS -- The Attorney General, in consultation with professional law enforcement organizations, labor and community-based organizations develop additional standards, including early warning programs, civilian review procedures, traffic stop documentation and procedures, administrative due process requirements and training standards.

(4) CONTINUING ACCREDITATION PROCESS -- The Attorney General shall adopt policies in partner with other law enforcement accreditation agencies, professional law enforcement organizations, labor and community based organizations to develop further accreditation standards and to encourage the pursuit of accreditation by Federal, State and local law enforcement agencies.

(b) ACCREDITATION GRANTS -- The Attorney General may make grants available to assist in gaining or maintaining accreditation.

TITLE II -- LAW ENFORCEMENT DEVELOPMENT PROGRAMS

SECTION 201. LAW ENFORCEMENT GRANTS.

(a) GRANT AUTHORIZATION -- The Attorney General may make grants to study and implement effective management, training, recruitment, hiring and oversight policies and programs.

(b) PROJECT GRANTS TO STUDY LAW ENFORCEMENT AGENCY MANAGEMENT -- Grants shall be used for the study of law enforcement agency mismanagement an operations standards and for research into the effectiveness of existing programs, projects or other activities

(c) PROJECT GRANTS TO DEVELOP PILOT PROGRAMS -- Grants shall also be used to develop pilot programs and implement effective programs in the areas of training, hiring and recruitment, and oversights to address misconduct by law enforcement officers. These programs shall include:

(1) TRAINING -- The areas of (a) lethal and non-lethal force; (b) reporting and responding to instances of law enforcement misconduct; (c) tactical and defensive strategy; (d) arrests, searches, and handcuffing; (e) communications with civilians; (f) interactions with youth, the mentally ill, and monolingual multi cultural communities; (g) proper enforcement stops; and (h)community relations.

(2) RECRUITMENT, HIRING, RETENTION AND PROMOTION OF DIVERSE LAW ENFORCEMENT OFFICERS -- to establish policies to encourage the hiring of a diverse force, develop educational and psychological standards, encourage residency and continue education.

(3) OVERSIGHT -- establish civilian review boards

(d) AMOUNTS -- Establishes how authorized amounts will be distributed.

(e) TECHNICAL ASSISTANCE --
e

(1) IN GENERAL -- The Attorney General may provide assistance in furtherance of this section

(2) MODEL -- Technical Assistance may be provided in the form of a model to reduce law enforcement misconduct.

(f) USE OF COMPONENTS -- Any component of the Department of Justice may be used in carrying out this title.

(g) MATCHING FUNDS --

(1) IN GENERAL -- The portion of the costs of an activity provided by a grant under subsection (a) may not exceed 75%.

(2) WAIVERS -- The Attorney General may waive the non-Federal contribution requirement.

(h) APPLICATIONS --

(1) APPLICATION -- The Attorney General may prescribe guidelines for applications for grants.

(2) APPROVAL -- All grants must be approved by the Attorney General

(i) PERFORMANCE EVALUATIONS --

(1) MONITORING COMPONENTS -- Each activity funded under this title shall contain a monitoring component.

(2) EVALUATIONS COMPONENT -- Selected grants shall be evaluated pursuant to guidelines established by the Attorney General.

(3) PERIODIC REVIEW AND REPORTS -- The Attorney General may require grant recipients to submit the results of monitoring and evaluations.

(j) REVOCATION OR SUSPENSION OF FUNDING -- The Attorney General may revoke or suspend funding of any entity (s)he determines to not be in compliance.

(k) DEFINITIONS --

(1) "career law enforcement officer" is one who is authorized to engage in the prevention, detection or investigation of violations of criminal law

(2) "law enforcement agency" is an entity engaged in the prevention, detection or investigation of violations of criminal law

(3) "Indian tribe" is an organized group that is recognized as eligible for the special programs and services provided by the United States to Indians

(4) "Community based organization" is a grassroots organization that monitors the issue of police misconduct and that has a national presence and membership

(5) "federal law enforcement" is a federal public agency engaged in the prevention, detection or investigation of violations of criminal law

(6) "professional law enforcement associations" are law enforcement membership associations that work for the needs of law enforcement groups and with the civilian community on matters of common interest

(7) "law enforcement accreditation agency" is a law enforcement association involved in the development of standards of accreditation for law enforcement agencies

(8) "private entity" is a private security organization engaged in the prevention, detection or investigation of violations of criminal law and/or organizational policy

(9)"civilian review boards" are entities that include the following characteristics: independent, investigatory authority and staff, subpoena power, adequate funding, representative diversity, policy making authority, provide advocates for civilian complaints, mandatory police, power to conduct hearings, conduct statistical studies on prevailing trends of unusual complaints, and have a disciplinary role

TITLE III -- ADMINISTRATIVE DUE PROCESS PROCEDURES

SEC. 301. ATTORNEY GENERAL TO CONDUCT STUDY

(a) STUDY --

(1) IN GENERAL -- The Attorney General shall conduct a national study of the prevalence and impact of any law, rule or procedure that allows a law enforcement officer to delay the answer to questions posed on law enforcement misconduct

(2) INITIAL ANALYSIS -- The Attorney General shall conduct an analysis of New York city's 48-hour rule

(3) DATA COLLECTION -- The Attorney General shall then collect national data on rules similar to the 48-hour rule

(b) REPORTING -- No later than 120 days after enactment, the Attorney General shall report his/her findings

TITLE IV -- ENHANCED FUNDING TO COMBAT POLICE MISCONDUCT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

In fiscal year 2001, $5,000,000 for additional expenses related to the enforcement of section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 and the Department of Justice's Office of Civil Rights, and $3,000,000 for the Department of Justice, Community Relations Service

TITLE V -- ENHANCED AUTHORITY IN PATTERN A ND PRACTICE INVESTIGATIONS

SEC. 501. UNLAWFUL CONDUCT.

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended by inserting "criminal or" before ",juvenile justice" and inserting "adults or" before "Juveniles"

SEC. 502. ENSURING ACCESS TO DOCUMENTATION

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to add that the Attorney General shall have the right to require all information necessary to carry out this Act.

SEC. 503. PRIVATE CAUSE OF ACTION RELATING TO POLICE PATTERN OR PRACTICE

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to add that a person who is aggrieved by a violation of this section may obtain declaratory and injunctive relief with respect to the violation

TITLE VI -- DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

SEC. 601. CRIMINAL ENFORCEMENT

(b) Section 242 of title 18, United States Code, is amended to include whoever, acting under color of any law, intentionally subjects or attempts to subject any person to force that

(A) exceeds that which is necessary, or

(B) engage in any unwanted sexual act

(b)(2) PUNISHMENT --

Shall be punished with a fine, imprisonment, or both.

(B)

(i) If death results from acts committed in violation of this section, imprisonment for any term of years of for life.

(ii) If bodily injury results, or if such act is sexual in nature, or if it involves the use or threatened use of a firearm, not more than ten years

(iii)In any case, imprisonment not to exceed two years.

(b)(3) DEFINITIONS --

(A) "sexual act" is defined as set forth in 18 U.S.C. 2246 (2) (A) - (C)
(B) "sexual contact" is defined as set forth in 18 U.S.C. 2246 (3)

(C) "bodily injury" is defined as set forth in 18 U.S.C. 1515 (a) (5)

(b)(4) CERTIFICATION --

No prosecution shall be undertaken except upon the notification of the Assistant Attorney General for the Civil Rights Division that in his judgement a prosecution by the United States is in the public interest

SEC. 602. PRIVATE AND CIVIL ENFORCEMENT

Section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 is amended to say

(c) The Court may include expert fees as part of the attorney's fees

TITLE VII -- STUDY OF DEATHS IN CUSTODY

SEC. 701 -- STUDY

(4) Section 210401(a) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to require that states shall report, on a quarterly basis, information regarding the death of any person who is in the process of arrest, has been arrested, has been incarcerated or is en route to be incarcerated. Such information shall include:

(A) name, gender, ethnicity and age of the deceased;

(B) date, time and location of death, and

(C) a brief description of the circumstances surrounding the death

TITLE VIII -- NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT

SEC. 801. NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT

(a) ESTABLISHMENT -- Within the Department of Justice there shall be a "Task Force on Law Enforcement Oversight"

(b)COMPOSITION -- The Task Force shall be comprised of at least one individual from each of the following:

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

(2) the Criminal Section of the Civil Rights Division;

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

(4) the Employment Litigation Section of the civil Rights Division;

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

(6) the Office of Justice Programs;

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

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

(9) the Community Relations Service, and

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

(k) POWERS AND DUTIES -- The Task Force Shall

(1) coordinate investigative, prosecutorial and enforcement efforts in cases related to law enforcement misconduct; and

(2) coordinate the process of the detection and referral of complaints regarding alleged law enforcement abuse.

(l) AUTHORIZATION OF APPROPRIATIONS -- $5,000,000 is authorized for each fiscal year to carry out the provisions in this section.

TITLE IX -- IMMIGRATION ENFORCEMENT REVIEW COMMISSION

SEC. 901. CREATION OF IMMIGRATION ENFORCEMENT REVIEW COMMISSION.

Establishes the Immigration Enforcement Review Commission, to be comprised of a Board of Commissioners, the Investigations Office and a Community Outreach Office. The Immigration and Naturalization Service and the customs Service shal cooperate fully with the Review Commission.

SEC. 902. DUTIES OF REVIEW COMMISSION

Responsible for investigating complaints of civil rights abuses against the services. The Commission shall make disciplinary and policy recommendations.

SEC. 903. REVIEW COMMISSION

(a) COMPOSITION OF THE BOARD OF COMMISSIONERS -- The Board of Commissioners shall be composed of 7 members, appointed by the President in consultation with community-based groups and with the consent of the Senate. The President shall designate a Director. No more than 4 members may be of the same political party.

(b) APPOINTMENTS AND TERMS OF OFFICE --

(1) except as provided in paragraph (2), the term of each Commissioner shall be 6 years

(2) Of the Members first appointed, 4 shall be appointed for terms of 3 years. Not more than 2 members appointed under this paragraph may be of the same political party.

(3) A member appointed to fill a vacancy shall be appointed only for the remainder of the term

(4) No person shall serve more than 2 consecutive terms.

(c) COMPENSATION -- Each Member of the Board shall receive compensation for level V of the Executive Schedule.

(d) ELIGIBILITY -- A member of the Board may not have been employed by the Services within the preceding 5 years, nor by any other law enforcement agency for the preceding 1 year.

SEC. 904. ADMINISTRATIVE POSITIONS

(a) INVESTIGATIONS OFFICE -- The Review Commission shall employ such investigative personnel as the Board considers advisable

(b) COMMUNITY OUTREACH OFFICE -- the Board shall appoint a Director of Community Outreach

(c) REVIEW COMMISSION FACILITIES -- The Review Commission shall establish a headquarters and 3 regional offices.

(d) PERSONNEL LIMITATION -- An employee of the Review Commission may not have been employed by the Services within the preceding 5 years, nor by any other law enforcement agency for the preceding 1 year.

(e) REGULATIONS -- The Review Commission is authorized to promulgate such rule as necessary to carry out its mission

SEC. 905. OPERATIONS OF REVIEW COMMISSION

(a) COMPLAINT FORMS --

(1) Shall be made available at all Service Facilities

(2) Shall be written in languages reflecting the languages of the immigrant populations

(c) FILING OF COMPLAINTS --

(1) Complaints may be filed in person or by any other reasonable means, by any person, anonymously, and on behalf of a third party. Complaints need not be on official forms.

(2) Establish and operate a multilingual, 24-hour toll free hotline to receive complaints

(3) Complainants shall receive information describing the review process.

(d) PUBLIC OUTREACH --

(1) The Review Commission shall serve to educate the public and shall seek out public input on improving the commission

(2) The Review Commission shall develop outreach materials,

(3) The Review Commission shall oversee the dissemination of such materials

(d) SERVICE EMPLOYEES' DUTY TO INFORM COMMISSION --

(1) Any Service employees shall inform all complainants about the Review Commission

(2) Any Service employee who witnesses or is made aware of abuse shall inform the Review Commission;

(3) The Review Commission may require Service Employees to report other violations.

(d) INVESTIGATION OF COMPLAINTS --

Each complaint shall be investigated and a report shall be issued to the Board within 60 days.

(e) DISPOSITION OF COMPLAINTS --

(1) Upon receiving each report, the Board shall establish a panel of 3 of its members to review the report

(2) The Panel shall conduct hearing if

(A) the alleged abuse is serious, or

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

(3) The Panel shall issue a written finding based on the hearing

(4) The Panel shall forward its finding to both the complainant and the Service employee. Both shall have 30 days to review the finding. During this time, either may:

(A) If no hearing was held, request a hearing. A hearing shall be held at the approval of one Panel member

(B) Request an en banc review of the Panel's decision

(3) If neither party makes a request for further action, the Board shall report its findings to the appropriate service.

(4) All finding shall be reported directly to the appropriate service

(e) HEARINGS --

(1) Both the complainant and the Service employee shall have the right to represented by counsel, present witnesses, and cross-examine witnesses.

(2) Any violation by the service employee must be established by a preponderance of the evidence

(3) (A) Except as provided in subparagraph (B), hearings shall be public

(B)The Board may close hearings to the public

(4) A hearing shall be conducted in a location convenient to all concerned

(e) DISCIPLINARY RECOMMENDATIONS --

(1) A finding of a criminal offense shall result in the Board contacting the appropriate authorities

(2) The Board shall recommend disciplinary action when appropriate

(3) Nothing in this Act shall affect the Services' authority to discipline their employees.

(d) EARLY WARNING PROGRAM -- The Review Commission shall conduct periodic reviews of all complaints to establish any patters or individuals who are repeat offenders

(e) RECORDS OF COMPLAINTS AND STATISTICAL SUMMARIES -- Records shall be maintained of all complaints and summaries as developed in subsection (i)

SEC. 906. RETALIATION

(a) RETALIATION PROHIBITED

(b) DEFINITION -- "Retaliation" is any action or threat because a complaint was filed

SEC. 907. LIMITATION OF USE OF TESTIMONY

No testimony may be used in any proceeding under the Immigration and Nationality Act

SEC. 908. FUNDING

Authorizes funds to carry out this Act.

TITLE X -- FEDERAL DATA COLLECTION ON RACIAL PROFILING

SEC. 1001. DATA COLLECTION.

The U.S. Departments of Justice, Treasury and Interior shall

(a) collect data on actions by federal agencies by race, ethnicity and gender of the individual against whom action was taken

(b) After one year, report to the Attorney General on the findings. The Attorney General shall report to the President, in consultation with relevant agency heads.

TITLE XI -- WHISTLEBLOWER PROTECTION

SEC. 1101. PROHIBITION AGAINST DISCRIMINATION OR RETALIATION

(a) No person shall retaliate or discriminate against any law enforcement officer because the officer, acting in good faith,

(1) disclosed information regarding the unlawful behavior of other fellow officers

(2) advocated on behalf of a civilian

(3) cooperated in the investigation of a fellow officer

(d) ATTEMPTS -- No person shall even attempt to retaliate or discriminate as described above.

(e) RESTRICTIONS ON REPORTING PROHIBITED -- No person shall restrict a law enforcement officer from participating in any activity as described in subsection (a), above.

(f) CONFIDENTIAL INFORMATION -- Is protected

(g) GOOD FAITH ACTION -- A law enforcement officer shall be considered acting in good faith if the officer believes that

(1) the information is true; and

(2) the information

(A) shows a violation of the law; or

(B) relates to a potential danger of officers or civilians

SEC. 1102. CONFIDENTIALITY OF COMPLAINTS TO GOVERNMENT AGENCIES.

Protect any law enforcement officer who complains in good faith to a government agency or department

SEC. 1103. ENFORCEMENT

(a) PRIVATE CAUSE OF ACTION --

(1) Any law enforcement officer who believes he or she has been retaliated against may file a federal or state civil action

(2) If the court determines that a violation has occurred, it may award damages

(3) The court may issue injunctive relief

(4) An action may be brought not later than 2 years after the date of the last event

(e) CIVIL PENALTY -- Any person who violates this provision shall be subject to a civil penalty not to exceed $10,000 for each violation. This amount may be

(1) deducted from any sums owing by the US to the person charged; or

(2) ordered by the court.

(c) CRIMINAL PENALTY -- Any person who repeatedly violates a provision of section 2 is related to --
(1) a pattern and practice

(2) quality of services which would likely lead to serious injury or death

(3) retaliation against a law enforcement officer

SEC. 1105. BURDEN OF PROOF

(a) ON COMPLAINT -- The complainant shall have the initial burden of proof. This may be done by showing that --

(1) the respondent knew of the complainant's protected activities

(2) the discriminatory action occurred within a period of time such that a reasonable person could conclude a cause and result.

(c) ON RESPONDENT -- Once a complainant establishes a prima facie case, the burden shifts to the respondent

SEC. 1105. DEFINITIONS

(1) "Discrimination or Retaliation" includes a threat or intimidation against a law enforcement officer or his employer.

(2) "Person" includes an institution, Federal, State or tribal or local government entity

(3) "Attorney General" means the Attorney General of the United States

SEC. 1107. NOTICE

(a) IN GENERAL -- Each law enforcement agency shall post a notice of the provisions in section 2 of this Act

(b) PENALTY -- Any employer who violates this section may be assessed a civil penalty not to exceed $100 for each offense

SEC. 1107. NONPREEMPTION

Nothing in this act preempts any other law

SEC. 1108. EFFECTIVE DATE.

This Act shall be effective on the first day of the first month after enactment of this Act.

TITLE XII -- Sexual Abuse in Correctional Facilities

SEC. 1201. Increased penalties and expanded jurisdiction for sexual abuse offenses in correctional facilities.

(a) Amends 18 U.S.C.A. 2242 to expand jurisdiction beyond federal prisons to include the custody of the Attorney General, the Bureau of Prisons or in any institution or facility by direction of the Attorney General;

(b) Increase the penalty for sexual abuse from one to three years;

(c) Increases the penalty for abusive sexual contact from six months to two years.

END

106TH CONGRESS
2D SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. CONYERS introduced the following bill; which was referred to the Committee on _____

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Law Enforcement Trust and Integrity Act of 2000".

TITLE I—LAW ENFORCEMENT ACCREDITATION

SEC. 101. ACCREDITATION OF LAW ENFORCEMENT AGENCIES.

(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-

ian review procedures, traffic stop documentation and procedures, administrative due process requirements, and training.

(4) CONTINUING ACCREDITATION PROCESS.—The Attorney General shall adopt policies and procedures to partner with law enforcement accreditation organizations, professional law enforcement associations, labor organizations, community-based organizations, and professional civilian oversight organizations to continue the development of further accreditation standards consistent with paragraph (2) and to encourage the pursuit of accreditation of Federal, State, local, and tribal law enforcement agencies by certified law enforcement accreditation organizations.

(b) ACCREDITATION GRANTS.—The Attorney General may make funds available to Federal, State, local, and tribal law enforcement agencies under this title to assist in gaining or maintaining accreditation from certified law enforcement accreditation organizations.

SEC. 102. DEFINITIONS.

In this title:

(1) The term "law enforcement accreditation organization" means a professional law enforcement 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

Asian Pacific Officers Association (NAPOA), National Black Police Association (NBPA), National Latino Peace Officers Association (NLPOA), National Organization of Black Law Enforcement Executives (NOBLE), Native American Law Enforcement Association (NALEA), International Association of Chiefs of Police (IACP), and Fraternal Order of Police (FOP)).

(5) The term "professional civilian oversight organization" means a membership organization formed to address and advance the cause of civilian oversight of law enforcement and whose members are from Federal, State, regional, local, or tribal organizations that review issues or complaints against law enforcement entities or individuals (such as the National Association for Civilian Oversight of Law Enforcement (NACOLE)).

TITLE II—LAW ENFORCEMENT DEVELOPMENT PROGRAMS

SEC. 201. LAW ENFORCEMENT GRANTS.

(a) GRANT AUTHORIZATION.—The Attorney General may make grants to States, units of local government, Indian tribal governments, or other public and private entities, or to any multijurisdictional or regional consortia of such entities, to study and implement effective manage-

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

(b) PROJECT GRANTS TO STUDY LAW ENFORCEMENT AGENCY MANAGEMENT.—Grants made under subsection (a) shall be used for the study of management and operations standards for law enforcement agencies, including standards relating to administrative due process, residency requirements, compensation and benefits, use of force, racial profiling, early warning programs, civilian review boards or analogous procedures, or research into the effectiveness of existing programs, projects, or other activities designed to address misconduct by law enforcement officers.

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

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

(A) the use of lethal and nonlethal force;

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

(C) tactical and defensive strategy;

(D) arrests, searches, and handcuffing;

(E) professional verbal communications with civilians;

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

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

(H) community relations.

(2) RECRUITMENT, HIRING, RETENTION, AND PROMOTION OF DIVERSE LAW ENFORCEMENT OFFICERS.—Policies, procedures, and practices for—

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

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

(C) initiatives to encourage residency and continuing education.

(3) OVERSIGHT.—Complaint procedures, including the establishment of civilian review boards or analogous procedures for jurisdictions across a range of sizes and agency configurations, complaint procedures by community-based organizations, early warning programs, and administrative due process requirements inherent to complaint procedures for members of the public and law enforcement.

(4) VICTIM SERVICES.—Counseling services, including psychological counseling, for individuals and communities traumatized by law enforcement misconduct.

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

(1) 4 percent shall be available for grants to Indian tribal governments;

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

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

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

(e) TECHNICAL ASSISTANCE.—

(1) The Attorney General may provide technical assistance to States, units of local government, Indian tribal governments, and to other public and private entities, in furtherance of the purposes of this section.

(2) The technical assistance provided by the Attorney General may include the development of models for State, local, and Indian tribal governments, and other public and private entities, to reduce law enforcement misconduct. Any development of such models shall be in consultation with community-based organizations.

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

(g) MATCHING FUNDS.—

(1) IN GENERAL.—Except in the case of an Indian tribal government or nonprofit community-based organization, the portion of the costs of a program, project, or activity provided by a grant under subsection (a) may not exceed 75 percent.

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

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

(h) APPLICATIONS.—

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

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

(i) PERFORMANCE EVALUATION.—

(1) MONITORING COMPONENTS.—Each program, project, or activity funded under this title shall contain a monitoring component, which shall be developed pursuant to guidelines established by the Attorney General. Such monitoring component shall include systematic identification and collection of data about activities, accomplishments, and programs throughout the life of the program, project, or activity and presentation of such data in a usable form.

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

tions may include independent audits of police behavior and other assessments of individual program implementations. In selected jurisdictions that are able to support outcome evaluations, the effectiveness of funded programs, projects, and activities may be required.

(3) PERIODIC REVIEW AND REPORTS.—The Attorney General may require a grant recipient to submit biannually to the Attorney General the results of the monitoring and evaluations required under paragraphs (1) and (2) and such other data and information as the Attorney General deems reasonably necessary.

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

(k) DEFINITIONS.—In this title:

(1) The terms "law enforcement accreditation organization", "law enforcement agency", "community-based organization", and "professional law en-

forcement association" have the meaning given such terms in section 102 of this Act.

(2) The term "private entity" means a private security organization engaged in the prevention, detection, or investigation of violations of criminal laws and/or organizational policy (such as airport security or department store security).

(3) The term "civilian review board" means an administrative entity that—

(A) is independent and adequately funded;

(B) has investigatory authority and staff subpoena power;

(C) has representative diversity;

(D) has policymaking authority;

(E) provides advocates for civilian complainants;

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

(G) conducts statistical studies on prevailing trends of unusual complaints.

TITLE III—ADMINISTRATIVE DUE PROCESS PROCEDURES

SEC. 301. ATTORNEY GENERAL TO CONDUCT STUDY.

(a) STUDY.—

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

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

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

(b) REPORTING.—

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

(2) DATA COLLECTED.—Not later than 2 years after the date of the enactment of this title, the Attorney General shall submit to Congress a report containing the results of the data collected under this title and cause a copy of such report to be published in the Federal Register.

TITLE IV—ENHANCED FUNDING TO COMBAT POLICE MISCONDUCT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for fiscal year 2001, in addition to any other sums authorized to be appropriated for this purpose, $5,000,000 for additional expenses related to the enforcement of section 210401 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14141), criminal enforcement (18 U.S.C. 242 and 245), and administrative enforcement by the Department of Justice's Office of Civil Rights, and $3,300,000 for additional expenses related to

conflict resolution by the Department of Justice's Community Relations Service.

TITLE V—ENHANCED AUTHORITY IN PATTERN AND PRACTICE INVESTIGATIONS

SEC. 501. UNLAWFUL CONDUCT.

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

(1) by inserting "criminal or" before "juvenile justice"; and

(2) by inserting "adults or" before "juveniles".

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

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

(1) in subsection (b) by striking "paragraph (1)" and inserting "subsection (a)"; and

(2) by adding at the end the following:

"(c) CIVIL ACTION BY AGGRIEVED PERSON.—A person who is aggrieved by a violation of subsection (a) may, in a civil action, obtain declaratory and injunctive relief with respect to the violation. The court in an action under this subsection may award the prevailing party (other than

the United States) a reasonable attorney's fee, including litigation expenses and expert witness fees, as part of the costs. Fees may be awarded to a prevailing defendant only when a plaintiff's civil action is shown to be frivolous, unreasonable, or without foundation. The Attorney General may intervene as a party in a civil action brought under this subsection.".

TITLE VI—DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

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

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

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b)(1) Whoever, under color of any law, statute, ordinance, regulation, custom, or tribal law, in any State, territory, commonwealth, possession, district, or Indian country, intentionally—

"(A) subjects, or attempts to subject, any person to force exceeding that which is reasonably necessary to carry out a legitimate law enforcement duty; or

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

"shall be punished as prescribed under paragraph (2).

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

"(B) The imprisonment for an offense under this subsection shall be—

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

"(ii) if bodily injury results from the act committed in violation of this subsection, or if such act involves a sexual act, or such act includes the use, threatened use, or attempted use of a firearm or dangerous weapon, imprisonment for not more than 10 years; and

"(iii) in any other case, imprisonment not to exceed 2 years.

"(3) As used in this subsection—

"(A) the term 'sexual act' has the meaning set forth in subparagraphs (A) through (C) of section 2246(2);

"(B) the term 'sexual contact' has the meaning given such term in section 2246(3); and

"(C) the term 'bodily injury' has the meaning given such term in section 1515(a)(5).

"(4) No prosecution of a case described in this subsection shall be undertaken, except upon notification in writing by the Assistant Attorney General for Civil Rights that, in that official's judgment, a prosecution by the United States is in the public interest and necessary to secure substantial justice.".

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

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

TITLE VII—STUDY OF DEATHS IN CUSTODY

SEC. 701. STUDY.

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

(1) in paragraph (2), by striking "or" after the semicolon;

(2) in paragraph (3)(B), by striking the period and inserting "; or"; and

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

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

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

"(A) the name, gender, ethnicity, immigration status, and age of the deceased;

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

"(C) a brief description of the circumstances surrounding the death.

"(5) such State has provided an assurance that it shall follow guidelines that may be established by the Attorney General in reporting, on a quarterly basis, information regarding the medical treatment given to or withheld from any person who was injured while in the process of arrest, incarceration, or en route to be incarcerated at any municipal or county jail, State prison, or other State or local correctional facility (including any juvenile facility).".

TITLE VIII—NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT

SEC. 801. NATIONAL TASK FORCE ON LAW ENFORCEMENT OVERSIGHT.

(a) ESTABLISHMENT.—There is established within the Department of Justice a task force to be known as the Task Force on Law Enforcement Oversight (hereinafter in this title referred to as the "Task Force").

(b) COMPOSITION.—The Task Force shall be composed of individuals appointed by the Attorney General, who shall appoint at least 1 individual from each of the following:

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

(2) the Criminal Section of the Civil Rights Division;

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

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

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

(6) the Office of Justice Programs;

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

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

(9) the Community Relations Service; and

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

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

(1) coordinate investigative, prosecutorial, and enforcement efforts of Federal, State, local, and Indian tribal governments in cases related to law enforcement misconduct; and

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

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

TITLE IX—IMMIGRATION ENFORCEMENT REVIEW COMMISSION

SEC. 901. CREATION OF IMMIGRATION ENFORCEMENT REVIEW COMMISSION.

There is established a commission to be known as the Immigration Enforcement Review Commission (hereinafter in this title referred to as the "Review Commission"). The Review Commission shall be comprised of a Board of Commissioners, an Investigations Office, and a Community Outreach Office. In the execution of its duties, the Review Commission shall comply with the requirements established in this title. The Immigration and Naturalization Service and the Customs Service (hereinafter in this title referred to as the "Services") shall cooperate fully with the Review Commission and its employees in carrying out the duties of the Review Commission under this title, and shall provide to the Commission such records as the Commission considers appropriate.

SEC. 902. DUTIES OF REVIEW COMMISSION.

The Review Commission shall be responsible for investigating complaints of civil rights abuses against any of the Services, employees of any of the Services, divisions of any of the Services, or any facilities where detainees are held in custody of any of the Services. Based upon

its findings, the Review Commission shall make recommendations to the Services to discipline employees of any of the Services responsible for committing abuses. The Review Commission shall also make policy recommendations to the Services as appropriate.

SEC. 903. BOARD OF COMMISSIONERS.

(a) COMPOSITION OF THE BOARD OF COMMISSIONERS.—The Board of Commissioners (hereinafter in this title referred to as the "Board") shall be composed of 7 members who shall be appointed by the President, in consultation with community-based organizations and professional law enforcement associations, by and with the advice and consent of the Senate. The President shall designate 1 member to serve as Director of the Board. Not more than 4 members may be of the same political party. The members of the Board shall be full-time employees.

(b) APPOINTMENTS AND TERMS OF OFFICE.—

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

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

(3) A member appointed to fill a vacancy occurring before the expiration of the term for which that

member's predecessor was appointed shall be appointed only for the remainder of that term.

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

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

(d) ELIGIBILITY.—A member of the Board may not have been employed by any of the Services within the period beginning 5 years before appointment, or employed by any law enforcement agency within the period beginning 1 year before appointment.

SEC. 904. ADMINISTRATIVE PROVISIONS.

(a) INVESTIGATIONS OFFICE.—The Review Commission shall employ such investigative personnel as the Board considers advisable, in accordance with the civil service and classification laws. Investigators shall be charged with the responsibility of investigating all complaints brought to the Review Commission's attention.

(b) COMMUNITY OUTREACH OFFICE.—The Board shall appoint a Director of Community Outreach. The Director of Community Outreach shall establish local community task forces to improve the working relationship between the Services and local community groups and organizations.

(c) REVIEW COMMISSION FACILITIES.—The Review Commission shall establish a headquarters and 3 regional offices. The Review Commission may not maintain offices in a facility under the control or operation of any of the Services, or any facility in which any of the Services occupies space.

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

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

SEC. 905. OPERATIONS OF REVIEW COMMISSION.

(a) COMPLAINT FORMS.—

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

(2) The complaint forms shall be written in languages reflecting the languages of the immigrant population.

(b) FILING OF COMPLAINTS.—

(1) Complaints may be filed in person, by mail, by telephone, by facsimile, or by any other reasonable means. Complaints may be filed by any person, including anonymously, and may be filed on behalf of third parties. Complaints need not be filed on the official complaint forms.

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

(3) Whenever possible, upon receipt of a complaint, the Review Commission shall provide to the complainant information which describes the review procedures of the Review Commission. Such information shall be available in languages reflecting the languages of the immigrant population.

(c) PUBLIC OUTREACH.—

(1) The Review Commission shall educate members of the public about its functions and shall receive and actively seek out suggestions from the public to improve the functioning of the Review Commission.

(2) The Review Commission shall develop outreach materials, which shall include a description of the Review Commission, its duties, and its complaint procedures. Such materials shall be made available

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

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

(d) SERVICE EMPLOYEES' DUTY TO INFORM COMMISSION.—

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

(2) An employee of any of the Services who witnesses or otherwise obtains actual knowledge of the use of force that is unreasonable in light of the facts and circumstances and involves another employee of any of the Services, shall report such incident to the Review Commission within 24 hours of the acquisition of knowledge of such incident.

(3) The Review Commission may promulgate regulations requiring employees of any of the Services to report to the Commission other violations of the Services' operating procedures.

(e) INVESTIGATION OF COMPLAINTS.—Each complaint shall be investigated by an investigator who shall

complete and submit a written report to the Board of Commissioners within 60 days of the assignment, unless the Board authorizes an extension. The Services shall grant investigators access to information, documents, or other items relevant to the matter under investigation. The Board may issue subpoenas. Each employee of any of the Services shall cooperate fully with Review Commission investigations, subject to the protections afforded by the Constitution. Employees of the Services shall be advised of their constitutional rights and the procedural rights afforded under this title.

(f) DISPOSITION OF COMPLAINTS.—

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

(2) A Panel shall conduct hearings on the complaint if—

(A) the alleged abuse is of a serious nature, as defined by the regulations prescribed under authority of this title; or

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

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

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

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

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

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

(6) All findings made by the Board of Commissioners sitting en banc shall be reported directly to

the appropriate Service with copies to the complainant and the employee.

(g) HEARINGS.—

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

(2) Any finding of a violation on the part of an employee by the Board must be established by a preponderance of the evidence.

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

(B) For good cause the Board of Commissioners may close to the public all or any part of a hearing and may seal all or any part of the transcript of a hearing.

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

(h) DISCIPLINARY RECOMMENDATIONS.—

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

propriate prosecutorial action may be considered. Prosecutorial action shall not relieve the Board of its duties under this title.

(2) When a complaint has been substantiated, the Board shall recommend disciplinary action against the subject employee. The Board's recommendations shall be based on a schedule of sanctions determined by the Commission. If the Service does not adopt the recommendations of the Board, it shall provide a written explanation of the grounds for refusal to do so within 30 days of the Board's recommendation. The Commission's recommendations and the Service's explanation shall be made public.

(3) Nothing in this title shall affect the authority of the Services to discipline their employees.

(i) EARLY WARNING PROGRAM.—The Review Commission shall conduct a periodic review of all complaints in order to determine whether particular Service employees have been the subject of repeated complaints or have otherwise demonstrated they may be having difficulty dealing appropriately with members of the public. The results of this review shall be presented to the Services. The Review Commission shall make recommendations to the 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.

SEC. 908. FUNDING.

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

TITLE X—FEDERAL DATA COLLECTION ON RACIAL PROFILING

SEC. 1001. DATA COLLECTION.

(a) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the Secretary of the Interior shall collect data that is sufficiently detailed to permit an analysis of investigatory actions carried out by Federal law enforcement agencies including, but not limited to, the Immigration and Naturalization Service, the Drug Enforcement Agency, the Customs Service, and the National Park Service by race, ethnicity, and gender.

(b) INVESTIGATORY ACTIONS INCLUDED.—For purposes of subsection (a), investigatory actions include traffic stops, pedestrian stops, inspections and interviews of entrants into the United States that are more extensive than those customarily carried out, requests for consent to search, and warrantless searches. Data shall also be collected on the type of search conducted and on the results of the searches included in the data collection.

(c) REPORTS.—

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

(A) each official referred to in subsection (a) shall prepare a report on the data collected pursuant to that subsection, including a description of any civilian complaints received alleging bias based on the race, ethnicity, or gender of the complainant in law enforcement activities, the process for investigating and resolving such complaints, and the outcomes of any such investigations; and

(B) each official referred to in subsection (a) other than the Attorney General shall transmit such report to the Attorney General.

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

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

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

forcement activities of those agencies and the recommendations of the Attorney General for improving those programs, policies, and practices; and

(C) transmit such master report to the President.

(3) PROTECTION OF INDIVIDUAL IDENTITIES.—The reports prepared under paragraph (1) and the master report prepared under paragraph (2) shall not include any information likely to reveal the identity of any individual.

TITLE XI—WHISTLEBLOWER PROTECTION

SEC. 1101. PROHIBITION AGAINST DISCRIMINATION OR RETALIATION.

(a) IN GENERAL.—No person shall retaliate or discriminate in any manner against any local, State, tribal, or Federal law enforcement officer because the officer acting in good faith—

(1) engaged in any disclosure of information relating to the unlawful behavior of any fellow officer in the line of duty;

(2) advocated on behalf of a civilian with respect to the treatment received from a law enforcement officer; or

(3) initiated, cooperated, or otherwise participated in any investigation or proceeding of any law enforcement agency relating to a pattern and practice of officer misconduct.

(b) ATTEMPTS.—No person shall retaliate or discriminate in any manner against any law enforcement officer because the officer has attempted or has an intention to engage in an action for which a protection against discrimination or retaliation is provided under subsection (a).

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

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

(e) GOOD FAITH ACTION.—A law enforcement officer with respect to the conduct described in paragraph (1) of subsection (a) shall be considered to be acting in good faith for purposes of that subsection if the officer reasonably believes that—

(1) the information is true; and

(2) the information disclosed by the law enforcement officer—

(A) evidences a violation of any law, rule, or regulation, or of a generally recognized professional or legal standard; or

(B) relates to services or conditions which potentially endangers 1 or more officers or civilians.

SEC. 1102. CONFIDENTIALITY OF COMPLAINTS TO GOVERNMENT AGENCIES.

The identity of a law enforcement officer who complains in good faith to a government agency or department about the unlawful practices of a law enforcement agency shall remain confidential and shall not be disclosed by any person except upon the knowing written consent of the law enforcement officer. This section shall not preempt any right of confrontation protected by the Constitution or by Federal, State, or tribal law.

SEC. 1103. ENFORCEMENT.

(a) PRIVATE CAUSE OF ACTION.—

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

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

(2) If the court determines that a violation of section 1101 has occurred, the court shall award such damages which result from that violation, including compensatory damages, reinstatement, reimbursement of any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation, as well as punitive damages, attorneys' fees, and costs (including expert witness fees). The court shall award interest on the amount of damages awarded at the prevailing rate.

(3) The court may issue temporary, preliminary, and permanent injunctive relief restraining violations of section 1101, including the restraint of any withholding of the payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due and the restraint of any other change in the terms and conditions of employment, and may award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(4) An action may be brought under this subsection not later than 2 years after the date of the

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

(b) CIVIL PENALTY.—Any person who violates a provision of section 1101 shall be subject to a civil penalty of not to exceed $10,000 for each violation. In determining the amount of any penalty under this subsection, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of any penalty under this subsection, when finally determined, may be—

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

(2) ordered by the court, in an action brought for a violation of section 1101 brought by the law enforcement officer who suffered retaliation or discrimination.

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

(1) a pattern or practice of such violations;

(2) a quality of services that would likely lead to serious injury or death to civilians or law enforcement officers; or

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

shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both.

SEC. 1104. BURDEN OF PROOF.

(a) ON COMPLAINANT.—In any civil action brought under this title, the complainant shall have the initial burden of making a prima facie showing that behavior described in subsections (a) through (c) of section 1101 was a contributing factor in the adverse action or inaction alleged in the complaint. A prima facie case shall be established if the complainant can show that—

(1) the respondent knew of the complainant's protected activities at the time that the alleged unfavorable action or inaction was taken; and

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

(b) ON RESPONDENT.—Once the complainant establishes a prima facie case, the burden shifts to the respondent to demonstrate, by clear and convincing evidence, that it would have taken the same adverse action or inaction in the absence of such behavior.

SEC. 1105. DEFINITIONS.

For purposes of this title:

(1) The term "discrimination or retaliation" includes a threat, intimidation, or any adverse change in a law enforcement officer's wages, benefits, or terms or conditions of employment. In the case of a law enforcement officer who is not an employee of the law enforcement agency, such term includes any adverse action taken against the worker or the worker's employer, including the cancellation of or refusal to renew a contract with the law enforcement officer or the employer.

(2) The term "person" includes an institution, Federal, State, tribal, or local governmental entity, or any other public or private entity.

SEC. 1106. NOTICE.

(a) IN GENERAL.—Each law enforcement agency shall post and keep posted, in conspicuous places on the premises of the law enforcement agency where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Attorney General, setting forth excerpts from, or summaries of, the pertinent provisions of this title and information pertaining to the filing of a charge under section 1101.

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

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

SEC. 1107. NONPREEMPTION.

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

SEC. 1108. EFFECTIVE DATE.

This title shall apply to acts of retaliation or discrimination occurring on or after the first day of the first month that begins after the date of the enactment of this title.