

107TH CONGRESS  
1ST SESSION

# S. 1074

To establish a commission to review the Federal Bureau of Investigation.

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IN THE SENATE OF THE UNITED STATES

JUNE 20, 2001

Mr. SCHUMER (for himself and Mr. HATCH) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To establish a commission to review the Federal Bureau  
of Investigation.

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 “FBI Reform Commis-  
5 sion Act of 2001”.

6 **SEC. 2. CREATION OF THE FBI REVIEW COMMISSION.**

7 (a) ESTABLISHMENT.—There is established the FBI  
8 Review Commission (in this Act referred to as the “Com-  
9 mission”).

10 (b) MISSION STATEMENT.—

1           (1) IN GENERAL.—The mission of the Commis-  
2           sion shall be to conduct a thorough, independent,  
3           and comprehensive examination of the Federal Bu-  
4           reau of Investigation (in this Act referred to as the  
5           “FBI”).

6           (2) FOCUS.—The Commission shall focus its  
7           examination on—

8                   (A) systemic and structural aspects of the  
9                   FBI;

10                   (B) the FBI’s relationship with other law  
11                   enforcement entities; and

12                   (C) recommendations for improving the  
13                   performance of the FBI.

14           (c) MEMBERSHIP AND ADMINISTRATIVE PROVI-  
15           SIONS.—

16           (1) NUMBER AND APPOINTMENT.—The Com-  
17           mission shall be composed of 12 members of  
18           whom—

19                   (A) 2 members shall be appointed by the  
20                   Majority Leader of the Senate;

21                   (B) 2 members shall be appointed by the  
22                   Minority Leader of the Senate;

23                   (C) 2 members shall be appointed by the  
24                   Speaker of the House of Representatives;

1 (D) 2 members shall be appointed by the  
2 Minority Leader of the House of Representa-  
3 tives; and

4 (E) 4 members shall be appointed by the  
5 President, including 1 who shall serve as the  
6 Chair of the Commission.

7 (2) QUALIFICATIONS.—Members of the Com-  
8 mission shall be—

9 (A) chosen on the basis of expertise in law  
10 enforcement and management, integrity, impar-  
11 tiality, and good judgment; and

12 (B) individuals who are not, at the time  
13 appointed to the Commission, elected or ap-  
14 pointed officers or employees of the Federal  
15 Government.

16 (3) BALANCE.—The Commission shall reflect,  
17 to the maximum extent possible, fair and equitable  
18 representation of various points of view with respect  
19 to the matters to be studied by the Commission  
20 under subsection (d)(1).

21 (4) TERMS OF APPOINTMENT.—

22 (A) DATE.—Members of the Commission  
23 shall be appointed not later than 30 days after  
24 the date of enactment of this Act.

1 (B) TERMS.—Each member of the Com-  
2 mission shall be appointed for the life of the  
3 Commission.

4 (C) VACANCIES.—A vacancy in the Com-  
5 mission shall not affect its powers, but shall be  
6 filled in the same manner as the original mem-  
7 ber was appointed.

8 (5) MEETINGS.—

9 (A) IN GENERAL.—The Commission shall  
10 meet at the call of the Chair.

11 (B) INITIAL MEETING.—Not later than 30  
12 days after the date on which all of the members  
13 of the Commission have been appointed, the  
14 Commission shall hold its first meeting.

15 (C) QUORUM.—A majority of the members  
16 of the Commission shall constitute a quorum,  
17 but a lesser number of members may hold  
18 meetings.

19 (d) DUTIES.—

20 (1) STUDY.—The Commission shall complete a  
21 thorough study and review of—

22 (A) the methods used by the FBI to store  
23 and securely maintain information, including—

24 (i) any methods of securing informa-  
25 tion from theft and inadvertent release;

1           (ii) the efficacy of information sys-  
2           tems used to gather and maintain informa-  
3           tion; and

4           (iii) any practices and procedures gov-  
5           erning the classification and declassifica-  
6           tion of information;

7           (B) the manner in which the FBI trains  
8           and monitors personnel, including—

9           (i) any methods of ensuring compli-  
10          ance with relevant laws, regulations, and  
11          FBI procedures;

12          (ii) any methods of holding FBI  
13          agents accountable for wrongdoing;

14          (iii) the treatment of FBI agents and  
15          employees who report wrongdoing in the  
16          FBI;

17          (iv) any training and monitoring re-  
18          garding the handling of information; and

19          (v) any training and monitoring re-  
20          garding the use of deadly force;

21          (C) the manner in which the FBI initiates,  
22          organizes, coordinates, and conducts investiga-  
23          tions;

1 (D) the allocation of the FBI's resources  
2 and the manner in which resource allocation de-  
3 cisions are made and reviewed;

4 (E) the FBI's interaction with State and  
5 other Federal law enforcement agencies;

6 (F) the efficacy of external and internal  
7 FBI oversight mechanisms;

8 (G) the advisability of altering the FBI's  
9 current structure and organization; and

10 (H) such other matters as the Commission  
11 determines appropriate.

12 (2) RECOMMENDATIONS.—After completing the  
13 study under paragraph (1), the Commission shall de-  
14 velop recommendations regarding each matter stud-  
15 ied, including recommendations—

16 (A) of any actions Congress should take to  
17 address the Commission's findings;

18 (B) of any actions the FBI should take to  
19 address the Commission's findings; and

20 (C) for further study, examination, or ac-  
21 tion by Congress, the FBI, or any other rel-  
22 evant entity.

23 (3) ADVICE, ASSISTANCE, AND TESTIMONY.—To  
24 carry out the study under paragraph (1) and to de-  
25 velop the recommendations under paragraph (2), the

1 Commission shall solicit advice, assistance, and ex-  
2 perts in the areas of—

3 (A) information security;

4 (B) business management and organiza-  
5 tion;

6 (C) Federal law enforcement agencies;

7 (D) State and local law enforcement;

8 (E) foreign and domestic intelligence; and

9 (F) any other areas determined relevant by  
10 the Commission.

11 (4) REPORT.—

12 (A) FINAL REPORT.—

13 (i) IN GENERAL.—Not later than 9  
14 months after the date on which all of the  
15 members of the Commission have been ap-  
16 pointed, the Commission shall submit a  
17 final report to Congress, the FBI, and the  
18 Attorney General.

19 (ii) CONTENTS.—The report under  
20 clause (i) shall contain—

21 (I) a detailed statement of the  
22 findings and conclusions of the Com-  
23 mission regarding the matters studied  
24 under paragraph (1);

1 (II) a detailed statement of the  
2 recommendations developed under  
3 paragraph (2); and

4 (III) any dissenting or minority  
5 opinions of the members of the Com-  
6 mission.

7 (B) INTERIM REPORTS.—

8 (i) IN GENERAL.—The Commission  
9 may determine whether any matter to be  
10 studied under paragraph (1) or any rec-  
11 ommendation developed under paragraph  
12 (2), shall be the subject of an interim re-  
13 port to be submitted before the submission  
14 of the final report required under subpara-  
15 graph (A).

16 (ii) SUBMISSION OF INTERIM RE-  
17 PORTS.—Any interim reports prepared  
18 under clause (i) shall be submitted to—

19 (I) Congress;

20 (II) the FBI;

21 (III) the Attorney General; and

22 (IV) any other individual or orga-  
23 nization determined relevant by the  
24 Commission.

25 (C) ACCESSIBILITY.—



1 (i) IN GENERAL.—Both the final re-  
2 port required under subparagraph (A) and  
3 any interim reports prepared under sub-  
4 paragraph (B), shall be accessible to mem-  
5 bers of the general public and to govern-  
6 ment officials to the greatest extent pos-  
7 sible without compromising national secu-  
8 rity, the health or safety of an individual,  
9 or the integrity of an ongoing investiga-  
10 tion.

11 (ii) CONFIDENTIALITY.—The Com-  
12 mission may designate portions of any re-  
13 port prepared under this paragraph con-  
14 fidential to ensure national security, the  
15 health or safety of an individual, or the in-  
16 tegrity of an ongoing investigation.

17 (e) POWERS OF THE COMMISSION.—

18 (1) HEARINGS.—

19 (A) IN GENERAL.—The Commission may  
20 hold hearings, sit and act at times and places,  
21 take testimony, and receive evidence as the  
22 Commission considers appropriate to carry out  
23 this Act.

1 (B) OATHS AND AFFIRMATIONS.—The  
2 Commission may administer oaths or affirma-  
3 tions to witnesses appearing before it.

4 (C) RULES AND PROCEDURES.—The Com-  
5 mission may establish rules and procedures gov-  
6 erning its proceedings as consistent with this  
7 Act.

8 (D) ACCESSIBILITY.—

9 (i) IN GENERAL.—Any hearing held  
10 by the Commission shall be open to the  
11 public.

12 (ii) CLOSED HEARINGS.—The Com-  
13 mission may decide to close to the public  
14 any hearing when necessary to protect na-  
15 tional security, the health and safety of an  
16 individual, or the integrity of an ongoing  
17 investigation.

18 (2) POWERS OF MEMBERS AND AGENTS.—Any  
19 member or agent of the Commission may, if author-  
20 ized by the Commission, take any action this Act au-  
21 thORIZES the Commission to take.

22 (3) INFORMATION FROM FEDERAL AGENCIES.—

23 (A) IN GENERAL.—The Commission may  
24 secure directly from any Federal department or

1 agency such information as the Commission  
2 considers necessary to carry out this Act.

3 (B) FURNISHING INFORMATION.—Upon  
4 request of the Chair of the Commission, the  
5 head of that department or agency shall furnish  
6 the information under subparagraph (A) to the  
7 Commission, unless so doing would threaten na-  
8 tional security, the health or safety of an indi-  
9 vidual, or the integrity of an ongoing investiga-  
10 tion.

11 (f) COMMISSION PERSONNEL MATTERS.—

12 (1) COMPENSATION OF MEMBERS.—Each mem-  
13 ber of the Commission shall be compensated at a  
14 rate equal to the daily equivalent of the annual rate  
15 of basic pay prescribed for level IV of the Executive  
16 Schedule under section 5315 of title 5, United  
17 States Code, for each day (including travel time)  
18 during which such member is engaged in the per-  
19 formance of the duties of the Commission.

20 (2) TRAVEL EXPENSES.—The members of the  
21 Commission shall be allowed travel expenses, includ-  
22 ing per diem in lieu of subsistence, at rates author-  
23 ized for employees of agencies under subchapter I of  
24 chapter 57 of title 5, United States Code, while

1 away from their homes or regular places of business  
2 in the performance of services for the Commission.

3 (3) ADMINISTRATIVE SUPPORT SERVICES.—

4 Upon request of the Commission, the Administrator  
5 of General Services shall provide to the Commission,  
6 on a reimbursable basis, the administrative support  
7 services necessary for the Commission to carry out  
8 its responsibilities under this Act.

9 (4) STAFF.—

10 (A) IN GENERAL.—The Commission may,  
11 without regard to the provisions of title 5,  
12 United States Code, governing appointments in  
13 the competitive service, appoint and terminate  
14 an executive director and such other additional  
15 personnel as may be necessary to enable the  
16 Commission to perform its duties. The employ-  
17 ment of an executive director shall be subject to  
18 confirmation by the Commission.

19 (B) COMPENSATION.—The Commission  
20 may fix the compensation of the executive direc-  
21 tor and other personnel without regard to chap-  
22 ter 51, and subchapter III of chapter 53 of title  
23 5, United States Code, relating to classification  
24 of positions and General Schedule pay rates, ex-  
25 cept that the rate of pay for the executive direc-

1           tor and other personnel may not exceed the rate  
2           payable for level V of the Executive Schedule  
3           under section 5316 of title 5, United States  
4           Code.

5           (5) DETAIL OF GOVERNMENT EMPLOYEES.—  
6           Any Federal Government employee may be detailed  
7           to the Commission without reimbursement, and such  
8           detail shall be without interruption or loss of civil  
9           service status or privilege.

10           (6) PROCUREMENT OF TEMPORARY AND INTER-  
11           MITTENT SERVICES.—The Commission may procure  
12           temporary and intermittent services under section  
13           3109(b) of title 5, United States Code, at rates for  
14           individuals which do not exceed the daily equivalent  
15           of the annual rate of basic pay prescribed for level  
16           V of the Executive Schedule under section 5316 of  
17           title 5, United States Code.

18           (g) TERMINATION.—The Commission shall terminate  
19           30 days after submitting the final report required under  
20           subsection (d)(4)(A).

21           (h) AUTHORIZATION OF APPROPRIATIONS.—

22           (1) AUTHORIZATION.—There are authorized to  
23           be appropriated such sums as may be necessary to  
24           carry out this Act.

1           (2) APPROPRIATED FUNDS TO REMAIN AVAIL-  
2     ABLE.—Any funds appropriated to carry out this  
3     Act shall remain available, without fiscal year limita-  
4     tion, until expended.

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