



**Congressional
Research Service**

Informing the legislative debate since 1914

FBI Director: Appointment and Tenure

Henry B. Hogue

Specialist in American National Government

May 10, 2017

Congressional Research Service

7-5700

www.crs.gov

R44842

Summary

The Director of the Federal Bureau of Investigation (FBI) is appointed by the President by and with the advice and consent of the Senate. The statutory basis for the present nomination and confirmation process was developed in 1968 and 1976, and has been used since the death of J. Edgar Hoover in 1972. Over this time, seven nominations have been confirmed and two have been withdrawn by the President before confirmation. The position of FBI Director has a fixed 10-year term, and the officeholder cannot be reappointed, unless Congress acts to allow a second appointment of the incumbent.

There are no statutory conditions on the President's authority to remove the FBI Director. Since 1972, two Directors have been removed by the President. President William J. Clinton removed William S. Sessions from office on July 19, 1993, and President Donald J. Trump removed James B. Comey from office on May 9, 2017.

Robert S. Mueller III was the first FBI Director to be appointed to a second term, and this was done under special statutory arrangements. He was first confirmed by the Senate on August 2, 2001, with a term of office that expired in September 2011. In May 2011, President Barack Obama announced his intention to seek legislation that would extend Mueller's term of office for two years. Legislation that would allow Mueller to be nominated to an additional, two-year term was considered and passed in the Senate and the House, and President Obama signed the bill into law (P.L. 112-24) on July 26, 2011. Mueller subsequently was nominated and confirmed to the two-year term, and he served until September 4, 2013.

This report provides an overview of the development of the process for appointing the FBI Director, briefly discusses the history of nominations to this position, and identifies related congressional hearing records and reports.

This report will be updated as developments warrant

Contents

Introduction	1
Overview	1
FBI Nominations and Confirmations, 1973–2013	3
Hearings.....	5
Reports.....	6

Tables

Table 1. FBI Director Nominations and Confirmations, 1973-2016	2
--	---

Contacts

Author Contact Information	6
----------------------------------	---

Introduction

This report provides an overview of the development of the process for appointing the Director of the Federal Bureau of Investigation (FBI), briefly discusses the history of nominations to this position, and identifies related congressional hearing records and reports.

Overview

Federal statute provides that the Director of the FBI is to be appointed by the President by and with the advice and consent of the Senate.¹ When there is a vacancy or an anticipated vacancy, the President begins the appointment process by selecting and vetting his preferred candidate for the position. The vetting process for presidential appointments includes an FBI background check and financial disclosure. The President then submits the nomination to the Senate, where it is referred to the Committee on the Judiciary. The Committee on the Judiciary usually holds hearings on a nomination for the FBI Director. The committee may then vote to report the nomination back to the Senate favorably, unfavorably, or without recommendation. Once reported, the nomination is available for Senate consideration. If the Senate confirms the nomination, the individual is formally appointed to the position by the President.²

Prior to the implementation of the current nomination and confirmation process, J. Edgar Hoover was Director of the FBI for nearly 48 years.³ He held the position from May 10, 1924, until his death on May 2, 1972.⁴ The current process dates from 1968, when the FBI Director was first established as a presidentially appointed position requiring Senate confirmation in an amendment to the Omnibus Crime Control and Safe Streets Act of 1968.⁵ The proposal for a presidentially appointed Director had been introduced and passed in the Senate twice previously,⁶ but had never made it through the House. Floor debate in the Senate focused on the inevitable end of Hoover's tenure (due to his advanced age), the vast expansion of the FBI's size and role under his direction, and the need for Congress to strengthen its oversight role in the wake of his departure.⁷ In 1976, the 10-year limit for any one incumbent was added as part of the Crime Control Act of 1976.⁸ This provision also prohibits the reappointment of an incumbent. As with the previous measure, the Senate had introduced and passed this provision twice previously,⁹ but it had failed to pass the House.

¹ 28 U.S.C. §532 note.

² See also CRS Report RL31980, *Senate Consideration of Presidential Nominations: Committee and Floor Procedure*, by Elizabeth Rybicki; CRS Report R44083, *Appointment and Confirmation of Executive Branch Leadership: An Overview*, by Henry B. Hogue and Maev P. Carey.

³ At its beginning in 1908, the FBI was headed by a single individual known as the "Chief." During the term of William Flynn in the 1920s, the title to the position was changed to the "Director." The Director of the FBI had been appointed by the Attorney General. This was codified in statute in 1966. See 28 U.S.C. §532; P.L. 89-554 §4(c) (1966) ("The Attorney General may appoint a Director of the Federal Bureau of Investigation. The Director ... is the head of the Federal Bureau of Investigation.").

⁴ For further information on the history and development on the FBI, see <https://www.fbi.gov/history/brief-history>.

⁵ P.L. 90-351, §101; 82 Stat. 197, 236 (1968). The statute did not apply to Hoover, the incumbent at that time, but was worded to apply to future Directors, beginning with his successor.

⁶ S. 603, 88th Cong., 1st sess. (1963) and S. 313, 89th Cong., 1st sess. (1965).

⁷ See *Congressional Record*, vol. 114, May 14, 1968, at 13181-13184.

⁸ P.L. 94-503, §203; 90 Stat. 2407, 2427 (1976).

⁹ S. 2106, 93rd Cong., 1st sess. (1974) and S. 1172, 94th Cong., 1st sess. (1975).

Since 1972, seven nominations for FBI Director have been confirmed, and two other nominations have been withdrawn. Due to a 2011 statute allowing for the reappointment of a specific incumbent, two of the seven confirmed nominations were of the same person, Robert S. Mueller III. Each of these nominations is shown in **Table 1** and discussed below.¹⁰

Table 1. FBI Director Nominations and Confirmations, 1973-2016

Nominee	Nominating President	Date of Nomination ^a	Committee Action ^b	Final Disposition ^c	Elapsed Time ^d
L. Patrick Gray III	Richard Nixon	Feb. 21, 1973	Hearings: Feb. 28, 1973; Mar. 1, 6, 7, 8, 9, 12, 20, 21, 22, 1973. Executive session: April 5, 1973.	Nomination withdrawn by the President. Message received Apr. 17, 1973.	
Clarence M. Kelley	Richard Nixon	June 8, 1973	Hearings: June 19, 20, 25, 1973. Approval and favorable report to the Senate on June 26, 1973.	Confirmed (96-0): June 27, 1973. Sworn-in: July 9, 1973.	19 days
Frank M. Johnson	Jimmy Carter	Sept. 30, 1977		Nomination withdrawn by the President. Message received Dec. 15, 1977.	
William H. Webster	Jimmy Carter	Jan. 20, 1978	Hearings: Jan. 30, 31, 1978. Approval and favorable report to the Senate on Feb. 7, 1978.	Confirmed (without objection): Feb. 9, 1978. Sworn-in: Feb. 23, 1978.	20 days
William S. Sessions	Ronald Reagan	Sept. 9, 1987	Hearing: Sept. 9, 1987. Approval and favorable report to the Senate: Sept. 15, 1987.	Confirmed (90-0): Sept. 25, 1987. Sworn-in: Nov. 2, 1987.	16 days
Louis J. Freeh	William Clinton	July 20, 1993	Hearing: July 29, 1993. Approval and favorable report to the Senate on Aug. 3, 1993.	Confirmed (unanimous consent): Aug. 6, 1993. Sworn-in: Sept. 1, 1993.	17 days
Robert S. Mueller III	George W. Bush	July 18, 2001	Hearing: July 30, 31, 2001. Unanimous approval and favorable report to the Senate on Aug. 2, 2001.	Confirmed (98-0): Aug. 2, 2001.	15 days
Robert S. Mueller III	Barack Obama	July 26, 2011	Nomination was placed on the Executive Calendar upon its receipt pursuant to a unanimous consent agreement of July 21, 2011.	Confirmed (100-0): July 27, 2011.	1 day
James B. Comey Jr.	Barack Obama	June 21, 2013	Hearing: July 9, 2013. Unanimous approval and favorable report to the Senate: July 18, 2013.	Confirmed (93-1): July 29, 2013.	38 days

¹⁰ This information does not include acting Directors. The FBI's list of its Directors and acting Directors can be found at <https://www.fbi.gov/history/directors>.

Source: Table created by CRS using data from the *Journal of Executive Proceedings of the Senate*, the nominations database of the Legislative Information System, the *Congressional Record*, nomination hearing records, the *Weekly Compilation of Presidential Documents*, and contemporaneous news reports.

- a. Date nomination was received by the Senate as indicated in the *Journal of Executive Proceedings of the Senate* or the *Congressional Record*.
- b. Some hearings information provided in this column was obtained from the respective hearings documents listed in this report. Additional committee action information is taken from committee reports, the *Journal of Executive Proceedings of the Senate*, the *Congressional Record*, and news reports from CQ.com.
- c. Information provided in this column was obtained from the *Journal of Executive Proceedings of the Senate*, the *Congressional Record*, and the *Weekly Compilation of Presidential Documents*.
- d. Includes all days from nomination to confirmation.

FBI Nominations and Confirmations, 1973–2013

L. Patrick Gray III. On the day after the death of long-time Director J. Edgar Hoover, L. Patrick Gray was appointed acting Director.¹¹ President Richard M. Nixon nominated Gray to be Director on February 21, 1973. Over the course of nine days, the Senate Committee on the Judiciary held hearings on the nomination. Although Gray’s nomination was supported by some in the Senate,¹² his nomination ran into trouble during the hearings as other Senators expressed concern about partisanship, lack of independence from the White House, and poor handling of the Watergate investigation.¹³ The President withdrew the nomination on April 17, and Gray resigned as acting Director on April 27, 1973.

Clarence M. Kelley. Clarence M. Kelley was the first individual to become FBI Director through the nomination and confirmation process. A native of Missouri, Kelley was a 21-year veteran of the FBI, becoming chief of the Memphis field office. He was serving as Kansas City police chief when President Nixon nominated him on June 8, 1973. During the three days of confirmation hearings, Senators appeared satisfied that Kelley would maintain nonpartisan independence from the White House and be responsive to their concerns.¹⁴ The Senate Committee on the Judiciary approved the nomination unanimously the following day. He was sworn in by the President on July 9, 1973.¹⁵ Kelly remained FBI Director until his retirement on February 23, 1978.

Frank M. Johnson Jr. With the anticipated retirement of Clarence Kelley, President Jimmy Carter nominated U.S. District Court Judge Frank M. Johnson Jr. of Alabama, on September 30, 1977. Johnson faced serious health problems around the time of his nomination, however, and the President withdrew the nomination on December 15, 1977.¹⁶

¹¹ U.S. President Nixon, “Acting Director of the Federal Bureau of Investigation,” *Weekly Compilation of Presidential Documents*, vol. 8, May 8, 1972, at 819-820.

¹² See, e.g., Sen. Roman L. Hruska, “The Nomination of L. Patrick Gray to be Director of the FBI,” remarks in the Senate, *Congressional Record*, vol. 119, February 21, 1973, at 4863; Sen. Lowell P. Weicker Jr., “The Nomination of L. Patrick Gray III,” remarks in the Senate, *Congressional Record*, vol. 119, March 20, 1973, at 8685.

¹³ See, e.g., Sen. Robert C. Byrd, “Political Partisanship Should Have No Place in the FBI,” remarks in the Senate, *Congressional Record*, vol. 119, February 19, 1973, at 4349; Sen. Robert C. Byrd, “Executive Privilege and Mr. Gray,” remarks in the Senate, *Congressional Record*, vol. 119, March 19, 1973, at 8352.

¹⁴ See Mary Wilson Cohn, ed., *Cong. Quarterly Almanac: 95th Cong., 1st sess. ... 1977* (Washington: Congressional Quarterly, 1977) at 376-77.

¹⁵ U.S. President Nixon, “Director of the Federal Bureau of Investigation,” *Weekly Compilation of Presidential Documents*, vol. 9, July 16, 1973, at 893-894.

¹⁶ Carolyn Mathiasen, ed., *Cong. Quarterly Almanac: 95th Cong., 1st sess. ... 1977* (Washington: Congressional Quarterly, 1977) at 568.

William H. Webster. In the aftermath of the withdrawn Johnson nomination, President Carter nominated U.S. Court of Appeals Judge William H. Webster to be Director on January 20, 1978. Prior to his service on the U.S. Court of Appeals for the Eighth Circuit, Webster had been U.S. Attorney and then U.S. District Court Judge for the Eastern District of Missouri. After two days of hearings, the Senate Committee on the Judiciary unanimously approved the nomination and reported it to the Senate. The Senate confirmed the nomination on February 9, 1978, and Webster was sworn in on February 23, 1978.¹⁷ He served as Director of the FBI until he was appointed as Director of the Central Intelligence Agency (CIA) in May 1987.

William S. Sessions. On September 9, 1987, President Ronald W. Reagan nominated William S. Sessions, Chief Judge of the U.S. District Court of Western Texas, to replace Webster. Prior to his service on the bench, Sessions had worked as chief of the Government Operations Section of the Criminal Division of the Department of Justice and as U.S. Attorney for the Western District of Texas. Following a one-day hearing, the Senate Committee on the Judiciary unanimously recommended confirmation. The Senate confirmed the nomination, without opposition, on September 25, and Sessions was sworn in on November 2, 1987.¹⁸

Sessions was the first of two FBI Directors to be removed from office. President William J. Clinton removed Sessions from office on July 19, 1993, citing “serious questions ... about the conduct and the leadership of the Director,” and a report on “certain conduct” issued by the Office of Professional Responsibility at the Department of Justice.¹⁹ Some Members of Congress questioned the dismissal,²⁰ but they did not prevent the immediate confirmation of Sessions’s successor.

Louis J. Freeh. President Clinton nominated former FBI agent, federal prosecutor, and U.S. District Court Judge Louis J. Freeh of New York as FBI Director on July 20, 1993, the day following Sessions’s removal. The Senate Committee on the Judiciary held one day of hearings and approved the nomination. The nomination was reported to the full Senate on August 3, and Freeh was confirmed on August 6, 1993. He was sworn in on September 1, 1993,²¹ and served until his voluntary resignation, which became effective June 25, 2001.

Robert S. Mueller III. On July 18, 2001, President George W. Bush nominated Robert S. Mueller III to succeed Freeh. The Senate Committee on the Judiciary held two days of hearings, and the nomination was reported on August 2, 2001. The nomination was confirmed by the Senate on the same day by a vote of 98-0.²² Mueller had served as the U.S. Attorney for the Northern District of California in San Francisco, and as the Acting Deputy U.S. Attorney General from January through May 2001. The former marine had also been U.S. Attorney for

¹⁷ U.S. President Carter, “Director of the Federal Bureau of Investigation,” *Weekly Compilation of Presidential Documents*, vol. 14, February 27, 1978, at 396-97.

¹⁸ U.S. President Reagan, “Federal Bureau of Investigation,” *Weekly Compilation of Presidential Documents*, vol. 23, November 9, 1987, at 1261-1263.

¹⁹ U.S. President Clinton, “Remarks on the Dismissal of FBI Director William Sessions and an Exchange with Reporters,” *Weekly Compilation of Presidential Documents*, vol. 29, July 26, 1993, at 1373-1374.

²⁰ On the floor of the Senate, Senator Orrin G. Hatch praised Sessions’s service and characterized the Administration’s reasons for removing the Director as “vague.” Sen. Orrin G. Hatch, remarks in the Senate, *Congressional Record Quarterly Almanac: 103rd Cong., 1st sess. ... 1993* (Washington: Congressional Quarterly, 1994) at 309.

²¹ U.S. President Clinton, “Remarks on the Swearing-In of Federal Bureau of Investigation Director Louis Freeh,” *Weekly Compilation of Presidential Documents*, vol. 29, September 6, 1993, at 1680-1862.

²² “Robert S. Mueller III to be Director of the Federal Bureau of Investigation,” *Congressional Record*, daily edition, vol. 147, August 2, 2001, at S8680-S8691.

Massachusetts and served as a homicide prosecutor for the District of Columbia.²³ Under President George Bush, Mueller was in charge of the Department of Justice’s criminal division during the investigation of the bombing of Pan Am Flight 103 and the prosecution of Panamanian leader Manuel Noriega.²⁴

From 1973 through 2016, Mueller was the only FBI Director to be appointed to more than one term. P.L. 112-24, enacted on July 26, 2011, allowed the incumbent Director to be nominated for, and appointed to, an additional two-year term.²⁵ After the bill was signed, Mueller was nominated for this second term by President Barack Obama, and he was confirmed the following day by a vote of 100-0. Mueller’s two-year term expired on September 4, 2013.

James B. Comey Jr. As Mueller’s unique two-year term drew to a close, President Obama nominated James B. Comey Jr. to succeed him. Comey had previously served as United States Attorney for the Southern District of New York, from January 2002 to December 2003, and as Deputy Attorney General, from December 2003 to August 2005. The President submitted Comey’s nomination on June 21, 2013. The Senate Committee on the Judiciary held a hearing on the nomination on July 9 and voted unanimously to report the nomination favorably to the full Senate on July 18. The Senate confirmed the nomination by a vote of 93-1 on July 29. Comey began his term of office on September 4, 2013. Comey was removed from office by President Donald J. Trump on May 9, 2017.

Hearings

- U.S. Congress. Senate Committee on the Judiciary. *Nomination of Louis Patrick Gray III, of Connecticut, to be Director, Federal Bureau of Investigation*. Hearings. 93rd Cong., 1st sess., February 28, 1973; March 1, 6, 7, 8, 9, 12, 20, 21, and 22, 1973. Washington: GPO, 1973.
- .— *Executive Session, Nomination of L. Patrick Gray, III to be Director, Federal Bureau of Investigation*. Hearing. 93rd Cong., 1st sess., April 5, 1973. Unpublished.
- .— *Nomination of Clarence M. Kelley to be Director of the Federal Bureau of Investigation*. Hearings. 93rd Cong., 1st sess., June 19, 20, and 25, 1973. Washington: GPO, 1973.
- .— *Nomination of William H. Webster, of Missouri, to be Director of the Federal Bureau of Investigation*. Hearings. 95th Cong., 2nd sess., January 30 and 31, 1978; February 7, 1978. Washington: GPO, 1978.
- .— *Nomination of William S. Sessions, of Texas, to be Director of the Federal Bureau of Investigation*. Hearings. 100th Cong., 1st sess., September 9, 1987. S.Hrg. 100-1080. Washington: GPO, 1990.
- .— *Nomination of Louis J. Freeh, of New York, to be Director of the Federal Bureau of Investigation*. Hearings. 103rd Cong., 1st sess., July 29, 1993. S.Hrg. 103-1021. Washington: GPO, 1995.
- .— *Confirmation Hearing on the Nomination of Robert S. Mueller, III to be Director of the Federal Bureau of Investigation*. Hearings. 107th Cong., 1st sess., July 30-31, 2001. S.Hrg. 107-514. Washington: GPO, 2002.

²³ U.S. President G. W. Bush, “Remarks on the Nomination of Robert S. Mueller to be Director of the Federal Bureau of Investigation,” *Weekly Compilation of Presidential Documents*, vol. 37, July 9, 2001, at 1012-1013.

²⁴ Peter Slevin, “Nominee Vows to Restore Faith in FBI,” *Washington Post*, July 31, 2001, at A4.

²⁵ P.L. 112-24 (2011).

- .—. *Confirmation Hearing on the Nomination of James B. Comey, Jr., to be Director of the Federal Bureau of Investigation*. Hearings. 113th Cong., 1st sess., July 9, 2013. S.Hrg. 113-850. Washington: GPO, 2017.
- .—. Subcommittee on FBI Oversight. *Ten-Year Term for FBI Director*. Hearing. 93rd Cong., 2nd sess., March 18, 1974. Washington: GPO, 1974.

Reports

- U.S. Congress. Senate Committee on the Judiciary. *Ten-Year Term for FBI Director*. Report to accompany S. 2106. 93rd Cong., 2nd sess. S.Rept. 93-1213. Washington: GPO, 1974.
- .—. *William H. Webster to be Director of the Federal Bureau of Investigation*. Report to accompany the nomination of William H. Webster to be Director of the Federal Bureau of Investigation. 95th Cong., 2nd sess., February 7, 1978. Exec. Rept. 95-14. Washington: GPO, 1978.
- .—. *William S. Sessions to be Director of the Federal Bureau of Investigation*. Report to accompany the nomination of William Sessions to be Director of the Federal Bureau of Investigation. 100th Cong., 1st sess., September 15, 1987. Exec. Rept. 100-6. Washington: GPO, 1987.
- .—. *A Bill to Extend the Term of the Incumbent Director of the Federal Bureau of Investigation*. Report to accompany S. 1103. 112th Cong., 1st sess., June 21, 2011. S.Rept. 112-23. Washington: GPO, 2011.

Author Contact Information

Henry B. Hogue
Specialist in American National Government
hhogue@crs.loc.gov, 7-0642

Acknowledgments

Earlier versions of this report were coauthored with Vivian S. Chu, formerly a CRS legislative attorney. She made substantive contributions to the text provided here.