

117TH CONGRESS
1ST SESSION

S. 540

To require Federal, State, and local law enforcement agencies to report information related to allegations of misconduct of law enforcement officers to the Attorney General, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mr. KAINE introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require Federal, State, and local law enforcement agencies to report information related to allegations of misconduct of law enforcement officers to the Attorney General, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cost of Police Mis-
5 conduct Act of 2021”.

6 **SEC. 2. REPORTING REQUIREMENT.**

7 (a) IDENTIFICATION REQUIREMENT.—

1 (1) IN GENERAL.—Not later than 90 days after
2 the date of the enactment of this Act, the Attorney
3 General shall identify—

4 (A) the total number of Federal law en-
5 forcement agencies in the Federal Government;
6 and

7 (B) the name of each Federal law enforce-
8 ment agency in the Federal Government.

9 (2) PUBLICATION.—The Attorney General shall
10 make publicly available on the internet website of
11 the Department of Justice the information under
12 paragraph (1), and update such identification infor-
13 mation on an annual basis.

14 (b) FEDERAL LAW ENFORCEMENT REQUIRE-
15 MENTS.—

16 (1) DATA COLLECTION.—On and after the date
17 that is 120 days after the date of the enactment of
18 this Act, a Federal law enforcement agency identi-
19 fied under subsection (a)(1) shall collect the infor-
20 mation described in paragraph (3) of this subsection
21 relating to allegations of misconduct by any Federal
22 law enforcement officer employed by the agency and
23 any judgments or settlements with respect to such
24 allegations of misconduct.

25 (2) DATA REPORTING.—

1 (A) IN GENERAL.—Not later than 60 days
2 after the last day of each year that begins after
3 the date of the enactment of this Act, a Federal
4 law enforcement agency identified under sub-
5 section (a)(1) shall report to the Attorney Gen-
6 eral, pursuant to guidelines established by the
7 Attorney General, for the preceding year and
8 with respect to the Federal law enforcement
9 agency, the information described in paragraph
10 (3).

11 (B) EXTENSION.—The Attorney General
12 may extend the deadline under subparagraph
13 (A) by 60 days for a Federal law enforcement
14 agency that is making good faith efforts to
15 comply with the requirement under that sub-
16 paragraph.

17 (C) SCOPE OF INITIAL REPORT.—The first
18 report submitted by a Federal law enforcement
19 agency under subparagraph (A) shall include
20 data collected prior to the year covered by the
21 report, if the data collection requirement under
22 paragraph (1) applies to any period prior to
23 that year.

24 (3) INFORMATION REQUIRED.—The information
25 described in this paragraph, for a particular year

1 and with respect to a Federal law enforcement agency,
2 is the following:

3 (A) The total number of allegations of misconduct
4 by a Federal law enforcement officer
5 made during the year.

6 (B) The total number of judgments entered or settlements
7 entered into during the year with respect to allegations of
8 misconduct by a Federal law enforcement officer.

9 (C) For each allegation of misconduct
10 identified in subparagraph (A) or judgment or
11 settlement with respect to allegations of misconduct
12 identified in subparagraph (B):

13 (i) The race, ethnicity, sex, and age of
14 each officer and civilian involved.

15 (ii) The year in which the alleged misconduct
16 took place.

17 (iii) The year in which the allegation
18 was reported.

19 (iv) The type of allegation, which may
20 include a body camera violation (whether a
21 failure to wear or record), use of force (including
22 the type of force), a collision, racial profiling,
23 negligence, property damage, sexual harassment or
24 assault, false testimony,
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1 wrongful death, failure of a duty to inter-
2 vene, or wrongful imprisonment.

3 (v) Any personnel action taken by the
4 officer involved, which may include res-
5 ignation or retirement.

6 (vi) Any personnel action taken by the
7 Federal law enforcement agency involved,
8 which may include termination, demotion,
9 or relocation of the officer involved.

10 (vii) In the case of a judgment or set-
11 tlement, the total amount paid to satisfy
12 the judgment or settlement (and related
13 court fees), regardless of the source of the
14 payment.

15 (viii) In the case of a judgment or set-
16 tlement, the source of money used to pay
17 the judgment or settlement (and related
18 court fees), including whether the money
19 came from amounts appropriated under
20 section 1304 of title 31, United States
21 Code (commonly known as the “Judgment
22 Fund”), amounts appropriated to the Fed-
23 eral law enforcement agency, or another
24 source.

1 (D) The total amount paid pursuant to
2 such judgments and settlements (and related
3 court fees) by the Federal law enforcement
4 agency.

5 (c) STATE AND LOCAL LAW ENFORCEMENT RE-
6 QUIREMENTS.—

7 (1) DEFINITION.—In this subsection, the term
8 “Byrne JAG program” means any grant program
9 under subpart 1 of part E of title I of the Omnibus
10 Crime Control and Safe Streets Act of 1968 (34
11 U.S.C. 10151 et seq.).

12 (2) REQUIREMENTS.—

13 (A) DATA COLLECTION.—On and after the
14 date that is 120 days after the date of the en-
15 actment of this Act, a State or unit of local
16 government that receives funds under the
17 Byrne JAG program shall collect information
18 relating to allegations of misconduct by any law
19 enforcement officer employed by a law enforce-
20 ment agency of the State or unit of local gov-
21 ernment, respectively, and any judgments or
22 settlements with respect to such allegations of
23 misconduct that is substantially similar to the
24 information described in subsection (b)(3).

25 (B) DATA REPORTING.—

1 (i) IN GENERAL.—Not later than 60
2 days after the last day of each year that
3 begins after the date of the enactment of
4 this Act, a State or unit of local govern-
5 ment that receives funds under the Byrne
6 JAG program shall submit to the Attorney
7 General, pursuant to guidelines established
8 by the Attorney General, for the preceding
9 year and with respect to each law enforce-
10 ment agency of the State or unit of local
11 government, respectively, the information
12 collected under subparagraph (A).

13 (ii) EXTENSION.—The Attorney Gen-
14 eral may extend the deadline under clause
15 (i) by 60 days for a State or local govern-
16 ment that is making good faith efforts to
17 comply with the requirement under that
18 clause.

19 (iii) SOURCE OF MONEY FOR JUDG-
20 MENTS AND SETTLEMENTS.—For purposes
21 of clause (i), in reporting the source of
22 money used to pay a judgment or settle-
23 ment (and related court fees), as described
24 in subsection (b)(3)(C)(viii), a State or
25 unit of local government shall disclose

1 whether the money came from a general
 2 operating budget, State or local law en-
 3 forcement agency budget, bonds, liability
 4 insurance, a central risk management fund
 5 or pool, or other source.

6 (iv) SCOPE OF INITIAL REPORT.—The
 7 first report submitted by a State or local
 8 government under clause (i) shall include
 9 data collected prior to the year covered by
 10 the report, if the data collection require-
 11 ment under subparagraph (A) applies to
 12 any period prior to that year.

13 (3) INELIGIBILITY FOR FUNDS.—

14 (A) IN GENERAL.—A State or unit of local
 15 government that fails to comply with the re-
 16 quirements under paragraph (2) shall be sub-
 17 ject to not more than a 10-percent reduction of
 18 the funds that would otherwise be allocated to
 19 the State or unit of local government under the
 20 Byrne JAG program for—

21 (i) the fiscal year in which the failure
 22 to comply occurs; or

23 (ii) the subsequent fiscal year.

24 (B) REALLOCATION.—Amounts not allo-
 25 cated under the Byrne JAG program to a State

1 or unit of local government for failure to fully
2 comply with paragraph (2) shall be reallocated
3 under that program to States or units of local
4 government that have complied with such para-
5 graph.

6 (4) OPEN-SOURCE DATA.—Not later than 30
7 days after each date on which the Attorney General
8 receives information reported under paragraph (2)
9 from a State or unit of local government, the Attor-
10 ney General shall verify such information reported
11 using open-source data, as practicable, including
12 using data from newspaper and court records.

13 (d) STUDY AND REPORTS REQUIRED.—

14 (1) GAO STUDY AND REPORT.—

15 (A) STUDY.—After data has been collected
16 under subsections (b) and (c) for 2 full years,
17 the Comptroller General of the United States
18 shall carry out a study on such data, includ-
19 ing—

20 (i) the number of Federal, State, and
21 local law enforcement agencies reporting
22 such data to the Attorney General;

23 (ii) a determination of the leading
24 cause of judgments and settlements

1 against Federal, State, and local law en-
2 forcement agencies;

3 (iii) an analysis of any relationship
4 between the number of judgments and set-
5 tlements and the actions taken by Federal,
6 State, or local law enforcement agencies,
7 including the agency's process of enforcing
8 the law, such agency's culture, and any
9 new programs established by the agency to
10 enforce the law;

11 (iv) recommendations with respect to
12 how a Federal, State, or local law enforce-
13 ment agency may reduce misconduct lead-
14 ing to judgments or settlements;

15 (v) identification of Federal, State,
16 local law enforcement agencies that have
17 spent the most money with respect to judg-
18 ments and settlements (and related court
19 fees);

20 (vi) the total amount of money spent
21 by Federal, State, and local law enforce-
22 ment agencies on judgments or settlements
23 (and related court fees), disaggregated by
24 State; and

1 (vii) the average amount of money
2 spent on judgments or settlements (and re-
3 lated court fees) by—

4 (I) Federal law enforcement
5 agencies;

6 (II) State law enforcement agen-
7 cies; and

8 (III) local law enforcement agen-
9 cies.

10 (B) REPORT AND PRESS RELEASE.—Not
11 later than 120 days after the last day of the
12 third year that begins after the date of the en-
13 actment of this Act, the Comptroller General, in
14 consultation with the Attorney General, shall—

15 (i) prepare and submit to Congress a
16 report that contains the findings of the
17 study under subparagraph (A);

18 (ii) make the report described in
19 clause (i) publicly available through the
20 internet website of the Government Ac-
21 countability Office; and

22 (iii) release a press release with re-
23 spect to the study under paragraph (A).

24 (2) DOJ PRESS RELEASE.—Not later than 180
25 days after the last day of the first year that begins

1 after the date of the enactment of this Act, and an-
2 nually thereafter, the Attorney General shall issue a
3 press release summarizing the data collected under
4 subsections (b) and (c) for the year prior to the re-
5 lease of such press release.

6 (3) DATABASE.—

7 (A) IN GENERAL.—Not later than 1 year
8 after the date of the enactment of this Act, the
9 Attorney General shall create and maintain on-
10 line a public, searchable database containing all
11 data reported under subsections (b) and (c),
12 subject to any otherwise applicable confiden-
13 tiality requirements. Such publication shall not
14 include any personally identifiable information
15 of any law enforcement officer.

16 (B) DATABASE UPDATES.—The Attorney
17 General shall update the database created
18 under subparagraph (A) on an annual basis
19 with data reported under subsections (b) and
20 (c).

21 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion shall be construed to supersede the requirements or
23 limitations under section 552a of title 5, United States
24 Code (commonly known as the “Privacy Act of 1974”).

25 (f) DEFINITIONS.—In this section:

1 (1) ALLEGATION OF MISCONDUCT.—The term
2 “allegation of misconduct” means an allegation by a
3 member of the community or other individual that a
4 law enforcement officer took illegal, tortious, or oth-
5 erwise inappropriate action in connection with the
6 official duties of the officer.

7 (2) JUDGMENT.—The term “judgment” means
8 the final court order in a civil action that resolves
9 all issues in dispute and settles the parties’ rights
10 with respect to those issues.

11 (3) LAW ENFORCEMENT AGENCY.—The term
12 “law enforcement agency” means a Federal, State,
13 or local agency engaged in the prevention, detection,
14 investigation, prosecution, or adjudication of viola-
15 tions of the law in the United States.

16 (4) SETTLEMENT.—The term “settlement”
17 means an agreement that resolves—

18 (A) a civil action prior to the entry of
19 judgment; or

20 (B) a legal dispute prior to the filing of a
21 complaint or petition.

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