

# **UNIFORM REPORTING LAW ENFORCEMENT IMPROVEMENT ACT (URLEIA)**

**June 4, 2015**

**“Change is on us!”**

This legislative proposal is provided by ONUS, Inc., and Black Communities United for Progress (BCUP) for presentation to members of the United States Congress and the President of the United States.

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# GENERAL INTRODUCTION

The pattern or practice investigation is one of the primary tools used by the United States Department of Justice (DOJ) Civil Rights Division (Special Litigation Section) to discourage the use of unconstitutional policing practices such as racial profiling and excessive use of force.

At the onset of a pattern or practice investigation, DOJ gathers information about a law enforcement entity: It hosts meetings and listening sessions, reviews documented evidence, and gleans information from conversations and anecdotal accounts. DOJ's preliminary investigations can and often do point to the need for an in-depth examination of a law enforcement agency's interactions with the public.

On September 4, 2014, DOJ reported that it had opened more than 20 pattern or practice investigations within the last five years and during that time period had prosecuted more than 300 individual officers for misconduct. DOJ also reported it was overseeing 14 agreements with small and large law enforcement agencies to reform their law enforcement practices. DOJ reported that the agreements, which include changes meant to address bias in policing, have led to dramatic decreases in excessive use of force, more community-friendly policing, and greater equity in the delivery of police services.

Thus the aim of the Uniform Reporting Law Enforcement Improvement Act (URLEIA) is to create a national data bank that makes available ongoing pattern or practice data on every law enforcement agent and agency in the nation. URLEIA is a sensible and cost-effective method of ensuring that the patterns and practices of law enforcement agencies and agents nationwide are transparent and readily discernible. Once URLEIA is fully implemented, DOJ will seldom need to descend upon a law enforcement agency and sift through piles of records to determine if a pattern or practice investigation is warranted. Also, DOJ, management at law enforcement agencies, licensing bodies, civilian review boards, and oversight entities can use data bank metrics and reports to help detect unfit law enforcement agents before they do irreparable harm to members of the public.

Another aim of URLEIA is to alter the policing culture in the United States. Policing in America has reached an untenable state, especially as it pertains to African Americans. A pattern of failing to indict and convict law enforcement agents who kill unarmed African-American children, teens, adults and other citizens without cause, is contributing to national unrest.

The circumstances surrounding a use-of-force incident are almost always the subject of dispute, with the law enforcement agent alleging one set of facts and the victim's family or bystanders alleging another set of facts. Thus, reliable fact-finding at every stage of the investigative process is essential to resolving facts in dispute and determining who is responsible for events that culminated in the use of force. The reliability of law enforcement use-of-force investigations is often called into question, since the people conducting the investigation are either law enforcement agents or work closely with law enforcement agents daily to solve crimes.

When a law enforcement-involved killing occurs, the law enforcement agent responsible for the killing is soon joined at the scene by other law enforcement agents and crime scene investigators. The crime scene investigators are usually specially trained law enforcement agents. The article *First Responding Officer Gives Direction to Crime Scene* by Dick Warrington characterizes the "make-or-break role" of officers who arrive at the crime scene immediately following a use-of-force incident:

Arguably, the most important person at a crime scene is the first officer to arrive. The first responding officer often makes or breaks a crime scene. The manner in which he initially handles a crime scene can dictate how things go in the overall investigation. The journey from crime to conviction begins when the first officer arrives. . . .

*Crime Scene Investigation.* A crime scene investigator (CSI) documents and interprets observations, reconstructs the crime scene, sketches, diagrams, measures the crime scene, takes crime scene photographs, documents evidence taken from the scene (location, nature, etc.), packages and labels evidence, and prepares the victim's remains for transport, using established protocols and strict chain-of-evidence procedures. The CSI also writes reports and attends autopsies to take additional photos and, in some instances, collects tissue samples from the deceased.

*Forensic Autopsy.* A forensic pathologist from the medical examiner's or coroner's office performs an autopsy on the deceased to determine the *cause of death*, *mechanism of death* and *manner of death*. The medical examiner or coroner works with law enforcement agents on a daily basis to solve crimes. The pathologist inspects the deceased person's body and collects evidence from the body surface and clothing. The pathologist also inspects body orifices, probes to identify entry and exit wounds, injuries, bruises, needle marks, gun powder residue, fibers

fragments, etc. Additionally, the pathologist removes and dissects the brain, kidneys, lungs, and heart, and extracts blood and tissue samples, which are sent to a laboratory for testing.

*Independent Pathologists.* In most high-profile incidents involving use of force by a law enforcement agent, the family of the deceased commissions a second autopsy by an independent forensic pathologist. The second autopsy is not as exhaustive as the first autopsy, since the organs of the deceased were removed and dissected during the first autopsy, and body fluids and tissue removed during the first autopsy are often no longer available for examination.

According to a well-known pathologist who asked not to be named, the importance of the first autopsy in determining true facts cannot be overemphasized. He explained that the forensic pathologist who performs the first autopsy does a lot of probing and disturbing of tissue and can, if he or she desires, alter an exit wound to look like an entrance wound and an entrance wound to look like an exit wound. The pathologist said alterations of the wounds would likely go undetected by the forensic pathologist performing the second autopsy.

*Testimony of Law Enforcement Agents Involved in the Incident.* Interviewing the officer is a vital aspect of the fact-finding process when investigating a law enforcement incident involving use of force. In many states, a Law Enforcement Officer's Bill of Rights (LEOBOR) bars questioning of law enforcement agents accused of misconduct for 10 days after the incident. Stephen Tabeling, former Chief of Police in Salisbury, MD, challenges the wisdom of the 10-day rule in an article titled *Does Maryland's Police Bill of Rights Protect Bad Cops?*:

My experience, when you get the officer shortly after the shooting you get a story and you get a true story. If you wait ten days, the mind doesn't work that way. People are going to talk to that officer. He's going to be confused. The public is confused about why do you wait ten days. You can't give them any information. And, frankly, as the chief of police or police commissioner, that would bother me, too, because I couldn't give anyone any answers, because you can't talk to them. If you are investigating homicides and you get beyond 72 hours, the case really gets cold. So, you know, people's minds are, like I say, not like old wine. They don't get better with time. As time goes on, you go further away from what actually happened.

In states where the 10-day rule is not in effect, law enforcement agents and supervisor sometimes delay preparing an official incident report or use-of-force report. The delay can afford a law enforcement agent and his comrades the time and information needed to develop an iron-clad explanation to justify use of force and thereby avoid prosecution. Some law enforcement

training actually coaxes law enforcement agents on how to tailor a use-of-force statement so their actions will be deemed justified by the prosecutor and/or jurors.<sup>1</sup>

*Prosecuting Attorney/District Attorney/Judges.* The prosecutor is responsible for determining if there is probable cause to indict a law enforcement officer for excessive use of force. The prosecutor can review the evidence and make the determination himself or herself, or leave the decision to a grand jury. A grand jury is not a judicial proceeding—thus, there is no judge. The only person overseeing the grand jury, presenting information to the grand jurors, and questioning witnesses is the prosecutor or district attorney who works with law enforcement agents on a daily basis to prosecute criminals.

*Juror Bias.* The preconceived notions of jurors also make it nearly impossible to hold law enforcement agents accountable for violating a citizen’s constitutional rights by using excessive force. Most state laws grant law enforcement agents broad discretion to use whatever force they deem is *reasonably necessary* to make an arrest or protect themselves or a third party. Eugene O’Donnell, a former prosecutor who teaches at John Jay College of Criminal Justice in New York, says: “The whole process is really reluctant to criminalize police behavior,” adding, “[t]he grand jurors are, the jurors are, the judges are, the appellate courts are.” Similar sentiments are echoed by Geoffrey P. Alpert, a criminologist at the University of South Carolina who studies the use of force. Alpert says police officers are rarely indicted when they express remorse to jurors, admit they made a mistake, and stress they were following their training.

*DOJ Criminal Investigations.* DOJ often intervenes in high-profile incidents involving use of force by law enforcement agents and usually opts to conduct a pattern or practice investigation. A pattern or practice investigation can result in both civil and criminal charges. Civil charges are filed against the agency and criminal charges are filed against individual law enforcement agents acting in their official capacity (also known as acting “under color of law”). Prosecuting a law enforcement agent criminally is very difficult because the statute that allows DOJ to prosecute officers requires that DOJ prove the officer “willfully” deprived a person of his or her constitutional rights. Specifically, Statute 18 U.S.C. § 242—Deprivation of Rights Under Color of Law—states:

Whoever, under color of any law, statute, ordinance, regulation, or custom, *willfully* subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation

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<sup>1</sup> See <https://www.fletc.gov/learn-about-fletc>.

of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, . . . shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.

Proving an officer acted *willfully* is extremely difficult, since a prosecutor must prove what was in the law enforcement agent's mind during the use-of-force incident. While recently deliberating a case before the U.S. Supreme Court, U.S. Supreme Court Justice Ruth Bader Ginsburg asked, "How does one prove what's in somebody else's mind?"

### **Obligation to Preserve Life and Prevent Injury**

In addition to creating the pattern or practice (POP) data bank, URLEIA gives rise to a national policing approach predicated on the "obligation to preserve life and prevent injury." The obligation to preserve life and prevent injury approach to policing is already in effect in communities and domains of affluence throughout the United States where law enforcement agents exhibit respect and restraint when interacting with the public. This approach to policing is far more consistent with the law enforcement agent's oath to *serve and protect* than it is with the current approach to policing that involves reckless use of force in African-American communities. The obligation to preserve life also promotes *smart policing*, which requires law enforcement agents to make smart decisions during their initial encounters with members of the public in order to avoid the need for use of force as an encounter progresses.

## STATUTORY PARALLELS

In the past, Congress has intervened to address nationwide problems that warrant greater efforts than can be undertaken by an individual state, especially when the problem pertains to the potential for loss of human life. The following examples represent three such occasions:

**Federal Health Care Quality Improvement Act of 1986 (HCQIA), as amended, Title IV of Public Law 99-660 (42 U.S.C. 11101 et seq.).** Prior to the enactment of the Federal Health Care Quality Improvement Act of 1986 (HCQIA), states were responsible for regulating healthcare facilities and medical practitioners within their states. Congress enacted HCQIA, finding that “[T]he increasing occurrence of medical malpractice and the need to improve the quality of medical care have become nationwide problems that warrant greater efforts than those that can be undertaken by any individual State. . . .” A key aspect of HCQIA was the creation of the National Practitioner Data Bank (NPDB), which was designed to track adverse actions taken against medical practitioners. The data bank tracks all payments made on behalf of physicians in connection with medical liability settlements and judgments as well as actions taken against a practitioner pertaining to the practitioner’s license, clinical privileges or professional society memberships. As required by HCQIA, NPDB makes information in its data bank available to hospitals, state licensure boards, and other healthcare entities so as to help prevent unfit medical practitioners from moving from hospital to hospital and state to state without any record of their previous misdeeds.

**The Domestic Violence Amendment to the Gun Control Act of 1968 (Section 922, Title 18, United States Code [18 USC 922]), known as the Lautenberg Amendment.** The 1994 Amendment to the Gun Control Act is another example of Congress extending its reach to enact legislation that would otherwise fall solely within a state’s jurisdiction to regulate. In this instance, Congress relied upon the “Commerce Clause” (Article 1, Section 8, Clause 3 of the U.S. Constitution<sup>2</sup>) to assert jurisdiction. The earlier version of the legislation—the Gun Control Act of 1968—prohibited persons convicted of *felony* domestic abuse from owning a firearm. The 1994 Lautenberg Amendment expanded the Gun Control Act by criminalizing firearm possession not only for perpetrators of felonies but also for perpetrators of domestic violence

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<sup>2</sup> Grants Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

*misdemeanors*.<sup>3</sup> The Lautenberg Amendment states that “[I]t shall be unlawful for any person . . . who has been convicted in any court of a *misdemeanor crime of domestic violence*, to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.”

The Lautenberg Amendment holds persons convicted of domestic violence misdemeanors to the same standards imposed upon person convicted of domestic felony abuse. No longer could perpetrators of domestic abuse escape restrictions of the 1968 Gun Control Act by managing to have a felony domestic abuse conviction reduced to a misdemeanor conviction. The Amendment also removed the *public interest exception* that allowed government police, military and government personnel to own a gun even though they had a domestic violence conviction.

**The State’s Interest in Universal Education versus Individual and Religious Beliefs.** In the U.S. Supreme Court Decision *Wisconsin v. Yoder* (No. 70-110, May 15, 1972), Chief Justice Burger wrote that the “State’s interest . . . is not totally free from a balancing process when it impinges on other fundamental rights. . . .” With respect to the state’s right to enact legislation governing its militia, the state’s interests must be balanced against a citizen’s fundamental right to be free from unwarranted searches and seizures, as granted by the Fourth Amendment of the U.S. Constitution.

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<sup>3</sup> Senator Lautenberg reported that two-thirds of domestic violence murders involved firearms and that a gun was present in 150,000 cases of abuse. Senator Lautenberg added that “all too often, the only difference between a battered woman and a dead woman is the presence of a gun.”



# STATUTORY IMPACT

## Obligation to Preserve Life and Prevent Injury

***Tennessee v. Garner* (471 U.S. 1105 S. Ct. 1694, 85 L. Ed. 2d 1, 1985 U.S.)**. The “[o]bligation to preserve life and prevent injury” approach to policing is the constitutional standard set forth by the U.S. Supreme Court in *Tennessee v. Garner*. In the Tennessee case, the Supreme Court ruled that a law enforcement agent is not permitted to shoot a fleeing felon who poses no [actual] threat to the officer or the general public.

The court concluded that where there is no threat of immediate violence, force or danger from the suspect that is attempting to flee, the intrusion of taking their life is too great. The court states that “the intrusiveness of a seizure by means of deadly force is unmatched,” and that “the suspect’s fundamental interest in his own life need not be elaborated upon.” The court also noted that “the use of deadly force frustrates the interest of the individual, and of society, in judicial determination of guilt and punishment.” The court refuted the argument that capturing a suspect is the first step in the judicial process and then countered that taking a suspect’s life ends the judicial process before it begins, thereby nullifying the argument that deadly force in capture is in any way reasonable. The court overruled the use of deadly force on non-dangerous felons.

**Graham v. Connor (*Graham v. Conner* (490 U.S. 386 (1989))**. The *Objective reasonableness* test espoused by the United States Supreme Court in *Graham v. Connor* requires a jury to consider the following when determining if a law enforcement agent’s use of force was reasonable:

- Facts *reasonably known* to the law enforcement agent *at the moment and time of the incident* and not based upon 20/20 hindsight; and
- An examination of the totality of facts and circumstances, which must determine if a “reasonable officer” on the scene at the time of the incident would have believed the force used was reasonable.

The *obligation to preserve life and prevent injury* standard changes the *objective reasonableness* standard from “facts reasonably known” to “facts known,” and requires a law enforcement agent to engage in extraordinary efforts to establish *actual* facts before using force.

***Scott v. Harris*, 550 U.S. 372 (2007)**. The *obligation to preserve life and prevent injury* standard does not invalidate the countervailing government interest standard set forth in *Scott v. Harris*, which requires jurors and prosecutors to consider:

- The actions the law enforcement agent was compelled to take in order to offset the *fact-based* harmful act(s) of another person; and
- Whether a law enforcement agent's actions were excessive, in proportion to the government's countervailing interest to stop the person from injuring another person or the law enforcement agent.

*Other factors.* The courts previously established that factors such as the number of suspects versus the number of officers, suspect's size, suspect's age, condition of the suspect, and certain other factors can be used to justify use of force. The *obligation to preserve life and prevent injury* requires a law enforcement agent to engage in smart policing. As such:

- An officer shall not use force to equalize a "natural," "physical," or other difference if the law enforcement agent had the option of waiting for backup and there was no immediate risk to another person before the officer engaged the suspect; and
- A law enforcement agent shall not precipitate an incident by violating a person's constitutional right and then use force to suppress the person's reaction.

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To require the Attorney General of the United States to **1)** Establish a national data bank that allows for the accumulation of ongoing pattern or practice data on law enforcement agents; **2)** Foster a national policing policy that embraces the obligation to preserve life and prevent injury; **3)** Establish protocols for investigating use of force by law enforcement agents; and **4)** Institute other practices, policies and laws that ensure transparency and accountability in policing at the local, state, and federal levels.

## IN THE HOUSE OF REPRESENTATIVES

May \_\_, 2015

*Mr. \_\_\_\_\_ of \_\_\_\_\_ (for himself, Mr. \_\_\_\_\_ of \_\_\_\_\_, Ms. \_\_\_\_\_ of \_\_\_\_\_), introduced the following bill, which was referred to the Committee on the \_\_\_\_\_, and in addition, to the Committee on \_\_\_\_\_ for a period to subsequently be determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

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## A BILL

To require the Attorney General of the United States to **1)** Establish a national data bank that allows for the accumulation of ongoing pattern or practice data on law enforcement agents; **2)** Foster a national policing policy that embraces the obligation to preserve life and prevent injury; **3)** Establish protocols for investigating use of force by law enforcement agents; and **4)** Institute other practices, policies, and laws that ensure transparency and accountability in policing at the local, state, and federal levels.

# TITLE 1—SHORT TITLE

## SECTION 1. Short Title.

This Act may be cited as the “Uniform Reporting Law Enforcement Improvement Act” (URLEIA).

# TITLE 2—GENERAL PROVISIONS

## SEC. 1. Uniform Reporting Law Enforcement Improvement Act (URLEIA)

To require the Attorney General of the United States to 1) Implement POP (Pattern or Practice Data Bank) to capture incident data characterizing the manner in which law enforcement agents are interacting with the public; 2) Standardize policing policies and tactics throughout the United States; 3) Establish an *Office of Civilian Accountability* to elicit and involve citizens in helping to refine policing processes; 4) Establish crime-scene management and protocols for investigating law enforcement-involved use-of-force incidents; and 5) Ensure broad citizen involvement in helping to ensure non-discriminatory policing throughout the United States.

## SEC. 2. Applicability

This Act establishes the following:

- (1) Attorney General’s responsibilities to create and maintain pattern or practice (POP) data bank.
- (2) Incident reporting requirements for local, state and federal law enforcement agents.
- (3) Adverse action reporting requirements applicable to any official body, person or government entity that takes an “adversely affecting action” or “adverse action” against a law enforcement agent or law enforcement agency.
- (4) A procedure in POP that allows a member of the public who is involved in a law enforcement action (event) to access POP from a local computer and comment on the accuracy of the incident report.
- (5) A procedure in POP that allows members of the public to register a complaint against a law enforcement agent or agency.

- (6) A procedure in POP that allows members of the public to obtain data about the patterns and practices of a law enforcement agent or law enforcement agency.
- (7) Data analysis routines that analyze POP data to identify agencies or agents that are engaging in troubling patterns or practices.
- (8) A policing approach that focuses on the *obligation to preserve life and prevent injury* during the policing process.
- (9) A policy approach that mandates humane conditions and treatment of all persons.
- (10) Attorney General’s responsibility to create and maintain the *Office of Civilian Accountability*.
- (11) Attorney General’s responsibility to work closely with members of the public nationwide via the Office of Civilian Accountability to establish policing standards for the United States and its territories.
- (12) Attorney General’s responsibility, via the Office of Civilian Accountability, to hold four regional conferences and one national conference to afford members of the public an opportunity to provide input on policing standards.
- (13) A state’s and the federal government’s responsibility to ensure an incident involving use of force by a law enforcement agent is investigated by an independent investigative team selected by the victim or victim’s representative, when possible.
- (14) A state’s and the federal government’s responsibility to allow a private prosecutor to criminally prosecute a law enforcement agent indicted for excessive use of force or a related crime.

**SEC. 3. Exclusions.** This Act does not apply to military law enforcement personnel serving abroad.

## **TITLE 3—DEFINITIONS**

### **SEC. 1. DEFINITIONS.**

In this Act:

- (1) *Adversely affecting* refers to any act that reflects negatively on a law enforcement agent or a law enforcement agency. An act that is “adversely affecting” includes:

- (i) Any voluntary agreement or court-related agreement between DOJ and a law enforcement agency to rectify a negative investigative or other finding against a law enforcement agent or agency; and
  - (ii) Any action taken against a law enforcement agent to rectify a negative investigative or other finding, including a conviction, reprimand, revocation of license, censor, demotion, civil judgment or criminal conviction, decertification, or other similar negative act taken against a law enforcement agent.
- (2) *Civil judgment* means a court-ordered action rendered in a federal or state court proceeding on a civil matter.
- (3) *Child* means any person who has not reached age eighteen.
- (4) *Color of law* means a person is using or acting upon authority given to him or her by a local, state, or federal government agency. Persons acting under color of law within the meaning of this statute include police officers, prison guards, and other law enforcement officials who are on-duty. A private-duty security guard who is not a law enforcement agent at the time of incident shall not be deemed to be acting under the color of law.
- (5) *Complaint* means any allegation of wrongdoing against a law enforcement agent or any claim that a law enforcement agent's actions failed to rise to the expected standard.
- (6) *Crime scene investigator (CSI)* refers to a person charged with managing and processing (extracting evidence from) a crime scene.
- (7) *Criminal conviction* means a conviction by a court of competent jurisdiction on a criminal matter before the court. The term court of competent jurisdiction includes:
- (A) Any court of the United States (including a magistrate judge of such a court) or any United States court of appeals that has jurisdiction over the matter being investigated; and
  - (B) Any court of general criminal jurisdiction of a state authorized by the law of that state.
- (8) *Custody and control* of a deceased person's remains means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment.

- (9) *Criminal negligence* means failing to act as required or acting recklessly without reasonable caution, thereby putting another person at risk of injury or death.
- (10) *Data bank* means a large repository of data on a particular topic that is generally accessible by many users.
- (11) *Dead body* or *dead human body* means a body or fetus for which it reasonably can be determined that death occurred.
- (12) *Extraordinary care* means the minimum level of care a law enforcement agent is obligated to take while policing in order to fulfill his or her obligation to preserve life and prevent injury during policing.
- (13) *Formal proceeding* means a “due process” proceeding held before a federal or state licensing or certification authority or private accreditation entity that maintains defined rules, policies, or procedures for such a proceeding.
- (14) *Forensic pathologist* is a medical doctor who performs autopsies. The results of an autopsy, like other medical evaluations, are based upon the personal assessment and professional opinion of the forensic pathologist conducting the autopsy. A forensic pathologist generally performs an autopsy to determine the cause of death, mechanism of death and manner of death. The *cause of death* explains how the death occurred, e.g., from a gunshot, knife wound, blunt force trauma, hanging, etc. The *manner of death* is listed as natural cause, accidental, homicide, suicide, or undetermined. The *mechanism of death* refers to the agent that brought about the death, e.g., a gun, a knife, etc. Generally, the forensic pathologist who performs the autopsy on a person killed by a law enforcement agent works for a local, state or federal body. .
- (15) *Formally activated* means using an established law enforcement department personnel procedure to call a law enforcement agent into work.
- (16) *Incident* means any act a law enforcement agent is required to document, by law or policy, during the course of carrying out his or her duties. Such acts include, but are not limited to:
- (i) A stop, discharge of a weapon, use of an object on a person during an arrest, use-of-force incident, traffic related event, arrest, property seizure, vehicle tow, or any other action that results in a consequence to a member of the public; and

- (ii) Any action taken by a law enforcement agent that requires a written or electronic record pursuant to the jurisdiction's law enforcement policies and procedures or generally accepted policing policies or procedures.
- (17) *Incident reporting* means the act of reporting an incident as prescribed by the policies of a law enforcement agent, oversight entity, or statute.
- (18) *Implicit bias* is a discriminatory bias based on attitudes and stereotypes a person is not aware he or she harbors.
- (19) *Other adjudicated actions or decisions* mean formal or official final actions taken against a law enforcement agent based on acts or omissions. A "due process" mechanism is required in order for a decision to be considered final. The result of a fully "adjudicated action" or "decision" is deemed final, since the decision resulted from the agency's established administrative procedure, which includes the exercise of appeal options within stated time frames.
- (20) *Negative action or finding* by a law enforcement entity, federal or state licensing body, certification authority or private accreditation entity means:
  - (i) Final determination or termination of an accreditation or certification status by a federal, state, or local entity or accreditation entity that indicates a risk to the safety of citizens or quality of law enforcement activities;
  - (ii) Any recommendation from an investigative or oversight body to sanction a law enforcement agent;
  - (iii) Any negative action or finding that, under federal, state, or local law, is publicly available information rendered by a licensing or certification authority or civilian review board, including, but not limited to, limitations on the scope of allowed duties such as the use of weapons or injunctions. Such adverse findings or negative actions include exclusions, revocations, and suspension of license or certification that occur in conjunction with settlements in which no finding of liability has been made. This definition excludes administrative fines or citations and corrective action plans and other personnel actions, unless they exceed the allowed frequency or are taken in conjunction with other adverse licensure or certification actions such as revocation, suspension, censor, reprimand, probation or surrender of weapon, and other similar actions.
- (21) *Law enforcement agency* refers to:

- (A) Any local, state, or federal entity that performs law enforcement activities, including contract and security firms that are legally authorized to engage in activities involving the detention, arrest, or incarceration of juveniles or adults. Law enforcement agencies include:
- (i) Local police entity, which derives its authority from a local governing body;
  - (ii) State police/highway patrol, which is a law enforcement agency charged with patrolling highways and assisting with investigations and emergencies that extend beyond the jurisdictional boundaries of local police entities;
  - (iii) Special jurisdiction police, which generally provide police services for defined entities or areas such as military compounds, parks, schools, transportation facilities (e.g., subways, buses, etc.), hospitals, universities and colleges, housing authorities, and government buildings. They generally provide the full array of services provided by local police;
  - (iv) National guard members;
  - (v) Deputy sheriff's office, which generally enforces state law at the local level; and
  - (vi) Other entities that perform policing functions.
- (22) *Law enforcement agent* is a person authorized to detain and arrest and carry out policing functions on behalf of a law enforcement agent or security firm.
- (23) *Law enforcement event or law enforcement action* means any act that involves a law enforcement agent and member of the public that has consequences to either the member of the public or the law enforcement agent. A law enforcement action/event *includes*, but is not limited to, the removal of a child from a home by child protective services or the custody of an adult, citations, vehicle tows, use of force by a law enforcement agent, etc.
- (24) *Law Enforcement Officers' Bill of Rights (LEOBOR)* provides law enforcement agents with special privileges not afforded other people accused of crimes. Most states have enacted their own version of an officer's bill of rights in response to the lobbying efforts of law enforcement fraternal orders and unions representing law enforcement agencies.
- (25) *Licensing body* means any local, state, federal, independent entity, or other body charged with licensing a law enforcement agent or private-duty security officer to perform law enforcement duties.
- (26) *Mandatory reporting* means an entity that is required to report specific information.

- (27) *Minimum mandatory information* means the minimum information that must be supplied when completing an incident report or other POP electronic form or record.
- (28) *National data bank or data base* is a large repository of data stored in a computer that is accessible by many users.
- (29) *Negligent homicide* refers to a criminal charge brought against a person who, due to criminal negligence, allows another person to die.
- (30) *Pattern or Practice (POP) Data Bank* refers to a national repository created by United States Department of Justice pursuant to this Act.
- (31) *Smart Policing* is an approach to law enforcement that requires law enforcement agents to engage in practices that de-escalate volatile situations, demonstrate respect for members of the public, avoid abusive tactics during apprehension or transport of a person, maintain public order, reduce crime and uphold the obligation to preserve life and prevent injury.
- (32) *State* means one of the fifty states, plus the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.
- (33) *Transaction category* identifies types of law enforcement actions that have an economic consequence to the person who is the subject of the action or an economic benefit to a law enforcement agency or a local, state, or federal entity. Transaction categories include court fees, court judgments, fines, asset seizures, civil forfeitures, net and gross proceeds from assets seized and sold, payments to reclaim property seized or forfeited, vehicle tows, bonds posted, citations, and other funds citizens pay or deposit with a law enforcement agency or judicial or administrative body in conjunction with a law enforcement event.
- (34) *Unfit indicator* means an indicator in the POP Data Bank that identifies a law enforcement agent as being unfit to serve as a law enforcement agent.
- (35) *Unfit history* shows the number of times a law enforcement agent was declared to be unfit and succeeded in having his/her unfit status reversed on appeal or through another formal proceeding.
- (36) *Use of force* means the use of physical force by a law enforcement agent. There are different levels of force on the use-of-force continuum ranging from mild physical restraint, less lethal force such as a taser, and lethal force that results in death.



- (37) *Voluntary surrender* of license means a surrender made after a notification of investigation or a formal official request by a law enforcement agent. The definition also includes those instances where a law enforcement agent voluntarily surrenders a license in exchange for a decision by the licensing authority or disciplining body to cease an investigation or similar proceeding, or in return for not conducting an investigation or proceeding or in lieu of a disciplinary or other adverse action. A voluntary surrender is deemed an adverse action.
- (38) *Threat (actual)* means a law enforcement agent views a person as posing a risk based upon facts and evidence.
- (39) *Threat (perceived)* means a law enforcement agent views a person as posing a risk, but the law enforcement agent has no fact or evidence to support his or her conjecture or supposition. Perceived threat does not meet the constitutional standard for use of force as a mechanism for self defense or defense of a third party.
- (40) *Precipitate* means an initial act that leads to or results in another act such as the death of a person.
- (41) *Private prosecutor* refers to an attorney who criminally prosecutes a person on behalf of another person.
- (42) *Prosecuting attorney* refers to the chief legal representative of a government who is responsible for presenting a criminal case against an individual accused of breaking the law.
- (43) *Reportable action* means actions URLEIA requires law enforcement agencies, law enforcement agents, oversight entities, and licensing entities to document in POP.
- (44) *Routine or spontaneous investigatory activities* means the following activities by a law enforcement agent:
- (A) Interviews;
  - (B) Traffic stops;
  - (C) Pedestrian stops; and
  - (D) Frisks and other types of body searches.
- (45) *Qualified immunity* means a state or government enacted a statute that protects law enforcement agents and other government workers from lawsuits brought for acts they

may have committed while working (under the color of law). Qualified immunity allows law enforcement agents and other government employees to perform their duties without fear of repeated lawsuits. It also gives persons who are damaged, injured, or killed by public workers the right to sue and recover damages.

- (46) *Sovereign immunity* means a state- or government-enacted a statute that deems the entity to be immune from civil suit or criminal prosecution except for circumstances under which the sovereign consents (allows itself) to be sued.
- (47) *Seizure*, as defined by the U.S. Supreme Court, means an action by a law enforcement agent intended to restrict a free person's movement. An officer may seize a person by terminating the person's movement during a traffic stop, investigative detention, arrest, or by simply yelling "Stop!"
- (48) *Stop & Frisk* means a quick pat-down of the person's outer clothing.
- (49) *Terry stop* means a brief detention of a person by a law enforcement agent based upon reasonable suspicion of involvement in criminal activity but short of probable cause to arrest.

## TITLE 4—PREAMBLE

### SEC. 1. Preamble

- (1) A law enforcement agent is among this nation’s many first responders.
- (2) A first responder’s duties include an inherent risk of injury or death.
- (3) A law enforcement agent takes an oath to serve and protect and thus is expected to execute his or her duties with restraint and care.
- (4) A law enforcement agent *is not* permitted to kill or injure in order to mitigate a perceived threat when no actual threat exists.
- (5) A law enforcement agent is expected to know the law and respect a citizen’s constitutional rights.
- (6) The Fourth Amendment to the U.S. Constitution grants a person the right to be free from unwarranted search and seizure.
- (7) The unwarranted or unjustified injury or killing of a person constitutes an unwarranted seizure and violates the victim’s Fourth Amendment right.
- (8) The Second Amendment to the U.S. Constitution grants every person—including law enforcement agents and members of the public—the right to self defense.
- (9) There exists a *compelling public interest* to quickly identify unfit law enforcement agents and accomplish their agent’s swift removal from law enforcement.

## TITLE 5—STATUTORY AUTHORITY

### SEC. 1. Statutory Authority for DOJ Oversight

- (a) *The Violent Crime Control and Law Enforcement Act of 1994*, 42 U.S.C. § 14141 (“Section 14141”). Section 14141 makes it unlawful for law enforcement officers to engage in a pattern of conduct that deprives individuals of rights, privileges, or immunities secured by the Constitution or laws of the United States. A DOJ pattern or practice investigation involves an in-depth investigation of the practices of law enforcement agents within a department, agency, or political body, including the use of excessive force.

- (b) *Omnibus Crime Control and Safe Streets Act of 1968* ([Public Law 90–351; 82 Stat. 197).<sup>4</sup> The *Omnibus Crime Control and Safe Streets Act of 1968* Act 1) Encourages states and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of state and local problems of law enforcement; 2) Authorizes grants to states and units of local government in order to improve and strengthen law enforcement; and 3) Encourages research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals. The Act also forbids discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds.
- (c) *Title VI of the Civil Rights Act of 1964*. This act also forbids discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds.

## **SEC. 2. Retrospective Data Collection: Too Little, Too Late**

- (a) A POP investigation is one of the primary methods DOJ uses to identify law enforcement agencies that routinely violate citizens’ constitutional rights during the policing process. The catalyst for a POP investigation is generally a highly-publicized event of alleged abuse involving one or more law enforcement agents or a highly publicized allegation of systemic abuse by a law enforcement agency. Absent a high-profile event, an agency can continue violating citizens’ constitutional rights for decades undetected. In the interim, the lives of citizens subject to the abusive and discriminatory policies are forever changed. Thus, the current method of amassing pattern or practice data amounts to *too little, too late*.

Once implemented, POP will amass information about every law enforcement agency and every law enforcement agent in the nation on an ongoing basis and immediately make the information available to DOJ citizen review members, law enforcement agencies, licensing bodies, and other official entities that have investigative, certification or law enforcement oversight responsibilities.

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<sup>4</sup> An act to assist state and local governments in reducing the incidence of crime and to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice activities at all levels of government, and for other purposes.

# TRANSPARENCY IN LAW ENFORCEMENT

## TITLE 6—BENEFIT OF ONGOING POP DATA

### SEC. 1. Compelling Need for Ongoing POP Data

- (a) Currently, there is no national data bank that provides ongoing POP data on all law enforcement agents or law enforcement agencies in the United States. A properly structured and designed incident reporting data bank that contains victim and law enforcement accounts of events, a complaint mechanism, history of the adverse actions taken against a law enforcement agent, and other data DOJ routinely gathers during pattern or practice investigations can help communities continuously improve the quality of their law enforcement activities.
- (b) The proposed POP data bank created by URLEIA provides ongoing pattern and practice information on every law enforcement agent, every law enforcement agency in the United States and its territories.

### SEC. 2. Protects Public from Unfit Law Enforcement Agents

- (a) URLEIA, like the *Medicare and Medicaid Patient and Program Protection Act of 1987*, helps protect members of the public from people who have the ability to do great harm. Congress enacted the *Medicare and Medicaid Patient and Program Protection Act of 1987* to protect the public from unfit medical practitioners. The act called for the creation of a National Practitioner Data Bank (NPDB) to track all adverse actions taken against medical practitioners and dentists by hospitals, licensing entities, and professional associations pertaining to the quality of care. In addition to maintaining a data bank of all adverse actions taken against medical practitioners, NPDB also tracks malpractice payments made on behalf of healthcare practitioners.
- (b) URLEIA subjects law enforcement agents to the same type of oversight imposed upon medical practitioners by the *Medicare and Medicaid Patient and Program Protection Act*. URLEIA requires any entity, body, board, or government entity that has authority to license, investigate, or discipline a law enforcement agent to make a record of the action in the POP data bank. The record shall detail the reason(s) for such action(s) and a

determination as to whether the law enforcement agent is deemed fit for continued service.

- (c) URLEIA grants authority to the applicable bodies, entities, and persons to label a law enforcement agent unfit for continued service. A person labeled unfit in POP shall not be hired by a law enforcement agency or security firm performing law enforcement activities.
- (d) The body or entity that determines an agent to be unfit is required to activate the “under review” indicator identifying the agent as unfit for service.
- (e) Upon conclusion of formal proceedings, the “unfit” indicator shall be activated for a law enforcement agent deemed to be unfit.<sup>5</sup>
- (f) DOJ shall have sole authority to deactivate the “unfit” indicator only if the indicator was set in error.

Penalty—Any person who deactivates the “Unfit indicator” for a reason other than reasons permitted in this act shall be fined under this title \$100,000 and imprisoned at least three (3) years but not more than ten (10) years.

### **SEC. 3. Simplifies Pattern or Practice Investigations**

- (a) The POP data bank simplifies pattern or practice investigations by making available incident data, victim statements, and other information in an organized and easily retrievable format.
- (b) The POP data bank allows DOJ to query POP data and identify law enforcement agencies and law enforcement agents who warrant an in-depth pattern or practice investigation before violations become epidemic.

### **SEC. 4. Provides Immediacy Necessary for Transparency and Accountability**

- (a) A national pattern or practice data bank that provides a law enforcement agent’s account of events as well as the subject’s account of events is essential to ensuring transparency in law enforcement. POP makes the actions of law enforcement agents immediately available on a real-time basis, since agents are required to enter incident data into POP within hours after a law enforcement event occurs.

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<sup>5</sup> The entity charged with conducting formal proceeding to determine the “fitness” of a law enforcement agent shall establish an action plan and timeline for concluding the appeal.

## **SEC. 5. Saves Taxpayers Millions of Dollars**

- (a) DOJ spends tens of millions of taxpayer dollars when conducting a pattern or practice investigation. Taxpayers shoulder the cost of lodging, airfare, automobile rental, consulting fees, and other costs incurred by DOJ personnel and consultants who descend upon communities to amass data and information. While DOJ may continue to require some on-the-ground efforts following the enactment of URLEIA and implementation of POP, the availability of incident data in POP is sure to greatly diminish the scope of DOJ's on-the-ground efforts, thereby resulting in huge savings to taxpayers.

## **TITLE 7—PATTERN OR PRACTICE DATA BANK**

### **SEC. 1. Create and Maintain Pattern or Practice (POP) Data Bank**

- (a) The U.S. Attorney General (AG) of the Department of Justice (DOJ) shall establish POP, maintain POP, regulate user access to POP, analyze POP data, and generate standard and custom POP reports and furnish them to Congress and other appropriate bodies, citizens and officials. The AG shall also publicize POP data and statistics monthly to characterize the state of law enforcement in the United States. The Attorney General shall ensure the following:

#### **(1) Minimum POP Functionality**

- (A) POP maintains and preserves the integrity of the original record by providing an audit log that date stamps and time stamps each entry, including additions, changes, edits, and deletions.
- (B) POP date stamps and time stamps any photo or video uploaded to POP.
- (C) Users have the ability to access POP from a local computer via the Internet, using a password, user ID and other necessary safeguards.

#### **(2) Electronic Data Input Forms**

The AG shall oversee the creation of a set of POP data input forms tailored to the specific needs of POP users, including:

(A) Universal incident reporting forms for law enforcement agents (local, county, state, marshals, federal, prison entities, juvenile facilities, etc.).

(i) The form(s) shall allow a law enforcement agent to provide a complete Primary Incident Report on every type of action the agent might be required to take on behalf of the agency.

(ii) The form(s) shall also allow other law enforcement agents involved in an incident to complete an associated incident report.

(iii) An incident form shall require a law enforcement agent to provide demographic information about the person who is the subject of the law enforcement action. At minimum, the required demographic information shall include:

(I) Age

(II) Race/ethnicity

(III) Gender (male, female, or other)

(iv) An incident form shall contain an affidavit stating that the law enforcement agent completing the form testifies to its accuracy and completeness. The agent shall be required to check a box agreeing with the statement. The form shall also contain a message notifying the law enforcement agent that a misrepresentation of material facts constitutes perjury and shall be deemed evidence of the officer's "unfitness" to serve as a law enforcement agent.

(B) *Adverse Action Form* shall be used by DOJ, licensing, oversight, disciplinary, or investigatory bodies or personnel to report adverse, punitive, or disciplinary actions taken against a law enforcement agent or agency. The form shall also be used to document:

(i) Civil payouts for acts committed by a law enforcement agent;

(ii) Civil payouts related to acts involving a law enforcement agency;



- (iii) Settlement agreements between law enforcement agencies and DOJ or agreements between law enforcement agencies and other federal, state, or local judicial or oversight bodies; and
  - (iv) Other adverse actions.
- (C) *Incident Response Form* shall allow subjects of a police action to enter into POP comments, photos, video, or other information disputing information on an incident report prepared by a law enforcement agent. POP shall not allow a law enforcement agency or agent to alter, delete, or edit incident response data. The Incident Response Form shall contain a drop-down menu with options identifying the nature of the dispute, i.e., misrepresentation of facts, incomplete characterization of facts, planting of contraband, important additional information omitted, etc.
- (D) *Complaint Form* shall enable citizens to login to POP and prepare a complaint against a law enforcement agent or agency. The law enforcement agent's supervisor or another superior is required to investigate the complaint and list the investigative steps taken, findings, outcome, and final disposition of the complaint. Attorneys working for DOJ shall also have the ability to review citizen complaints and seek corrective actions on behalf of the citizen and DOJ. A citizen shall have the ability to comment on the complaint findings or rulings online from his or her home computer.
- (E) *Law Enforcement Complaint Form* shall enable a law enforcement agent to report on activities that are deemed illegal or unconstitutional. The drop-down menu shall allow a law enforcement agent to file a complaint that is viewable by DOJ, oversight bodies, and licensing bodies. DOJ shall investigate the complaints thoroughly and provide a detailed explanation of the investigative process and the outcome.
- (F) *Disposition Form* shall be used by the attorney prosecuting a matter (district attorney, prosecuting attorney, U.S. attorney, etc.), law enforcement agents, and contractors of law enforcement agencies to log the economic and punitive consequences of every action taken (law enforcement event) pertaining to an incident. The Disposition Form in POP shall allow a person to run a query and

identify all actions taken against a person who is the subject of a law enforcement event and identify the economic consequence of each action (the value of an asset lost, amount a subject is forced to invest for a bond, return of bond proceeds, costs associated with retrieving a towed or impounded vehicle, etc.). The prosecuting attorney shall also enter on the POP Disposition Form the final outcome of an incident, e.g., conviction, exoneration, plea bargain, sentence assigned as well as the name of the attorney, prosecuting attorney, and judge overseeing the matter. The form shall also require the prosecuting attorney to enter the identification number assigned to persons incarcerated or detained.

(G) *Training Form*. The agent or agency shall enter the training taken and date completed. The law enforcement agency shall sign electronically to verify the accuracy of his or her training record.

### **(3) Data Entry**

The AG shall ensure that POP uses, to the fullest extent possible, drop-down menus, radio buttons, and other functionality to allow for speedy completion of POP forms, data entry, data analysis, and reporting.

### **(4) Data Analysis**

The AG shall allow users to enter parameters into POP that POP can use to generate reports and electronically analyze the patterns and practices of law enforcement agents and law enforcement agencies.

### **(5) Law Enforcement Entity Record**

The AG shall require a law enforcement agency to create an entity record in POP for the law enforcement agency. The entity record shall include:

- (i) A unique agency identifier assigned by POP. POP shall use an agency identifier once and for only one agency.
  - (I) If an agency closes or consolidates with another agency or other agencies, POP shall close each agency involved by invalidating the agency's or agencies' identifier(s). The data associated with the

closed agency or agencies shall remain available for queries, data analysis, and reporting. An identifier associated with a closed or consolidated agency shall not be assigned to another law enforcement agency.

(II) The agency resulting from a consolidation shall be established as a new agency. The summary record for the new agency must list the identifiers associated with all agencies closed in order to accomplish the consolidation.

(III) The AG shall ensure data records for law enforcement agents who worked for the closed or consolidated agency or agencies remain available for queries and analysis. Law enforcement agents' summary records showing all past incident-related data for the closed agency(ies) shall be transferred to the new agency resulting from the consolidation.

(ii) Data fields that show population statistics for the community (jurisdiction) the law enforcement agency serves. The law enforcement agency shall enter the most recent demographic statistics on the community, as published by the U.S. Census Bureau in POP for the area(s) it serves and patrols. The record shall provide a population breakdown by race, age, and gender.

(iii) Data fields that show a breakdown of law enforcement personnel working for the agency by rank or level, race, gender, and age.

(iv) Data fields that show a breakdown on the jurisdiction's elected and appointed officials, along with the official's age, race, and gender.

(v) Contact information, including the name and contact telephone number for each entity or person overseeing law enforcement activities, including members of the police board, oversight board, licensing agencies, civilian accountability boards, and a person at DOJ who can commission a review of the entity's policing practices. The review may be conducted by an attorney acting on DOJ's behalf.

(vi) Data fields that display a summary of the law enforcement agency's activities for current month, year-to-date and cumulative-to-date, broken down by type of incident and then by demographic information.

(vii) Data fields summarizing the law enforcement agent's activities. The fields shall appear on the agent summary record. The agent summary record shall include:

(I) Current month, year-to-date and cumulative-to-date data on the law enforcement agent's activities by type of incident and then by demographic breakdown within each incident category;

(II) Current month, year-to-date and cumulative-to-date summary of financial proceeds resulting from the law enforcement agent's activities, by transaction category and then by demographic breakdown within each transaction category. Transaction categories include court fees, judgments, fines, value of items seized, value of items obtained via civil forfeiture, net and gross proceeds from assets seized and sold, payments from citizens to reclaim property seized or forfeited, bonds posted, citations, amounts paid due to judgments or actions by judicial or administrative bodies, vehicle tows, or other actions that have a monetary consequence to any person who is the subject of a law enforcement action/event; and

(III) Other information the AG determines should appear on the summary record.

(B) The POP agency summary record published for an agency shall be viewable by members of the public.

## **(6) Agent Detail Record**

An agent detail record shall consist of all entries made into POP by the agent or related to the agent by persons authorized to enter such data. As such, the detail record shall include each incident report entered into POP by the law enforcement agent; records entered into POP to document the agent's accomplishments; performance, patterns, and practices; actions taken against a law enforcement agent; and civil payouts by the agency or another body due to the actions of the law enforcement agent.

(A) The agent record shall also show the POP citizen incident response(s) associated with each incident report entered by the law enforcement agent.

(B) The agent record shall also present a summary of complaints against a law enforcement agent. Complaints shall be summarized by type of incident and shall show the status of the complaint (pending, concluded, no action taken, disciplinary action taken, etc).

(C) The agent record shall also contain an ongoing record of required training, training completed by the law enforcement agent, the date the training was completed, the score the agent received, and the law enforcement agent's signature confirming the training record is accurate.

## **(7) Agent Summary Record**

An agent summary record shall be established in POP for every law enforcement agent covered by this Act. A law enforcement agency and law enforcement agent shall be deemed to have violated this act if a law enforcement agent who is not in POP performs law enforcement functions on behalf of a law enforcement agency or private security firm.

(A) The law enforcement agent's Social Security Number shall function as the agent's unique identifier but shall not be viewable to POP users once entered.

(B) POP shall present a series of questions that must be answered by a law enforcement agent when the agent is being added to an agency in POP. Certain

responses shall cause POP to activate the “Unfit” indicator. POP shall not allow an agent to be added once the “Unfit” indicator is activated.

(C) POP shall perform a search for the agent’s identifier (Social Security Number) before commencing to add an agent to POP. The search shall reveal if the agent was previously established in POP.

(i) If the agent identifier already exists in POP, POP shall commence another search to determine if the “Unfit” indicator is activated for the agent identifier. If the “Unfit” indicator is activated, the law enforcement agent was previously determined to be unfit by a law enforcement body, licensing entity, oversight board, trainer, or other person or entity authorized to determine a law enforcement agent’s preparedness to serve. POP shall not allow an agent record to be added for a new law enforcement agent if the “Unfit” indicator is activated for the agent’s identifier (Social Security Number).

(ii) If an “Unfit” indicator is activated in error, the agent can seek to have the “unfit” indicator deactivated by contacting the appropriate Attorney General’s representative at DOJ and completing procedures outlined by DOJ for requesting the deactivation of an “Unfit” indicator.

(iii) Deactivating the “Unfit” indicator: DOJ shall deactivate the “Unfit” indicator if a tribunal such as a court of law or other official body finds the “Unfit” indicator was activated in error. DOJ shall not deactivate the “Unfit” indicator for any other reason.

(D) If the law enforcement agent was previously established in POP and the “Unfit” indicator is not activated, the Agent Transfer Function shall be used to add the law enforcement agent to a new agency.

(E) POP shall not permit an agent to be transferred if the “Unfit” indicator is activated.

(F) POP shall maintain a listing (log) of each instance in which an “Unfit” indicator was deactivated. The log shall contain the reason for deactivating the “Unfit”

indicator and the name of the person or official who authorized the deactivation, the date of the change, and the user ID of the person at DOJ who deactivated the “Unfit” indicator.

(G) If the agent identifier is not found during the search and the “Unfit” indicator is not activated, POP shall proceed with edits to determine if the agent meets conditions set forth by a law enforcement agency, state licensing authority, or other entity with the authority to determine a law enforcement agent’s preparedness to serve.

(i) ULEIA shall require a law enforcement agency to perform a current background check on every law enforcement agent or prospective law enforcement agent before he or she can be added to the POP data bank or transferred to a new agency using the POP Agent Transfer Function. (The background check shall determine if a law enforcement agent has a misdemeanor domestic abuse or felony domestic abuse conviction, or other status that would prevent the agency from hiring the law enforcement agent. A law enforcement agent shall not prohibit the hiring of a law enforcement agent because he or she has an unfavorable credit status.)

(ii) When a law enforcement agent passes the edits established in POP, POP shall append the agent summary record to the summary record of the law enforcement agency hiring the agent. (If a law enforcement agent works for multiple law enforcement agencies and private-duty security firms, the agent summary record shall have multiple segments—one for each law enforcement agency or security firm that employs the agent.)

(H) POP shall generate a report that displays a summary of a law enforcement agent’s activities by incident category and by transaction category and in any other format needed to determine a law enforcement agent’s patterns and practices.

POP shall generate detailed reports of a law enforcement agent’s patterns and practices in an organized, easy-to-read format. The combining (concatenation) of the law enforcement agency identifier with the law enforcement agent identifier

allows POP to present a history of an agent's actions organized by agency and then by race, age, and gender.

**(8) Family Members Working for Law Enforcement Agency**

(A) Law enforcement agents shall identify family members working for the law enforcement agency. The agent identifier of family members shall be added in the appropriate field of the law enforcement agent's summary record. This feature shall allow an authorized user to query POP and identify all family members working for the same law enforcement agency.

**(9) Responding to Law Enforcement Actions**

(A) A person who is the subject of a law enforcement action shall have the ability to access POP and prepare an Incident Response Form commenting on the accuracy of the incident report. (Every action involving a member of the public shall require a law enforcement agent to prepare an incident report.)

- (i) A person must have the incident number associated with a law enforcement incident in order to prepare a POP Incident Response Form.
- (ii) The incident response function shall allow a person to upload photos or videos to support his or her characterization of events.
- (iii) The incident response function shall include a series of indicators that allow a person to attest to the accuracy of the associated incident report as completed by the law enforcement agent or dispute information the law enforcement agent provided on the incident report.

**(10) Complaint Process**

(A) POP shall contain a complaint function that permits members of the public to use a local computer to enter a complaint against a law enforcement agent. The complaint function shall include:

- (i) An option that allows a complainant to upload video or photographs as support for the complaint.



(ii) A drop-down menu that affords a complainant the option of filing an anonymous complaint. A person can use the complaint function to allege that a law enforcement agent acted inappropriately, deprived a person of his or her constitutional rights, planted contraband, or engaged in other acts that are deemed “unfriendly,” illegal, unconstitutional or improper. Law enforcement agencies shall allow members of the public to submit a complaint in writing. A law enforcement agency shall promptly enter into POP all complaints submitted in writing.

(B) POP shall include indicators that indicate the disposition of a complaint filed against a law enforcement agent. The indicator shall identify the status of a complaint as pending, closed, or action taken. The action-taken indicator shall include options that can be selected from a drop-down menu and a comment field that allows the person disposing of the complaint to explain the actions taken.

#### **(11) Inputting Test Results**

(A) The AG shall provide a function in POP that allows testing facilities to access POP via computer from their testing facility and enter a law enforcement agent’s test results.

(B) AG shall allow DOJ and law enforcement agencies to establish parameters in POP that can be used to detect test results that fall outside the acceptable range.

#### **(12) Notice of Favorable Action**

The AG shall provide a mechanism for the public to provide positive feedback on law enforcement agents. Favorable feedback shall not be used to exonerate or ameliorate any law enforcement agent who violates this Act. Favorable actions shall be used to reward law enforcement agents who comply with law and policy and demonstrate exceptional commitment to service and the obligation to prevent injury and preserve life.

#### **(13) User Access and Safeguarding Data**

The AG shall ensure the confidentiality of POP data by providing user access levels appropriate to a user’s information needs. AG shall safeguard, protect, and preserve

the integrity of data stored in POP and archival systems. The AG shall also ensure the Social Security Numbers that function as agent identifiers remain confidential and are not viewable by POP users except for the limited number of persons authorized to view such data.

**(14) Backup and Archiving Data**

The AG shall establish a format for archiving the detail pertaining to a law enforcement agent's activities. The format must allow oversight bodies and other POP users authorized to take action against a law enforcement agent to query a law enforcement agent's archived data.

**(15) Safeguarding Data**

The AG shall also ensure offsite storage of POP data files to safeguard data and allow data recovery in the event of a disaster.

**(16) Unscheduled Inspection**

The AG shall include a routine in POP that allows for the random selection of a law enforcement agent for an unscheduled in-the-field inspection that shall occur as follows:

- i. The inspection team shall gather immediately before the inspection and collectively launch the POP Field Inspection option.
- ii. The POP Field Inspection option reviews an agency's Complaint Forms and Incident Response Forms to identify the names of law enforcement agents accused of planting contraband.
- iii. The POP Field Inspection option identifies law enforcement agents on the list that are currently on duty.
- iv. The POP Field Inspection option randomly selects one of the law enforcement agents from the list for an in-the-field inspection.
- v. The inspection team uses the law enforcement agency's GPS tracking system to locate the vehicle carrying the law enforcement agent to be inspected.

- vi. The inspection team announces to the law enforcement agents via loud speaker that an inspection is underway.
- vii. The inspection team advises the law enforcement agent's supervisor that an inspection is underway.
- viii. The law enforcement agents shall remain in their vehicle until directed to do otherwise by the inspection team.
- ix. The inspection team searches the person of law enforcement agents in the vehicle and the law enforcement vehicle.

## **TITLE 8—INCIDENT REPORTING**

### **SEC. 1. Who Must Report**

- (a) Law enforcement agents nationwide (local, state, and federal) shall use POP for all incident reporting as required by prevailing law and the applicable law enforcement agency's policies and practices.
  - (1) Incident Report—A law enforcement agent involved in an incident shall access POP and prepare an incident report. If additional officers are at the scene, they shall prepare a Supplemental Incident Report. POP shall link the incident report prepared by the lead law enforcement agent to the supplemental reports prepared by other law enforcement agents at the scene.
  - (2) The Supplemental Incident Report function shall pull information from the primary incident report prepared in POP by the law enforcement agent who took the lead during the incident.

### **SEC. 2. What Must Be Reported**

- (a) A law enforcement agent shall complete an incident report in POP for any law enforcement action a law enforcement agent is required to document by law or policy.
- (b) A law enforcement agent shall provide any person who is the subject of a law enforcement event an incident number the person can use to access POP and prepare an Incident Response Form in POP to dispute the information a law enforcement agent provides about an incident.

(c) A local, state, or federal entity that pursues an action against a subject involved in a law enforcement incident shall document in POP the initial incident as well as each law enforcement event arising from the incident that has a punitive or economic consequence. Economic or punitive consequences include, but are not limited to:

- (i) Fees and other monetary penalties;
- (ii) Value of items confiscated;
- (iii) Bonds, bail, and other forms of surety;
- (iv) Sentences; and
- (v) Mandates such as community service.
- (vi) Information related to vehicle tows, including:
  - (I) Incident number associated with the tow;
  - (II) Reason for the tow (illegally parked, civil forfeiture, etc.);
  - (III) Scan of the signed form from the owner or driver of the vehicle authorizing the tow if the driver was present during the tow. (A person shall have the right to decline a tow in any and all circumstances if the person can move the vehicle to a safe space that is not on public property);
  - (IV) Blue book value of the vehicle;
  - (V) Days the vehicle remained in storage;
  - (VI) Amount the owner paid to reclaim the vehicle with separate line items showing storage and other costs charged for the vehicle;
  - (VII) Manner of disposal if the vehicle was not returned to the owner (auction, sold, etc.); and
  - (VIII) Amount obtained for the vehicle at auction, sale, etc.
- (vii) Information related to other assets seized, forfeited, or abandoned.

(d) A local, state, or federal entity that prosecutes a subject involved in a law enforcement incident or action shall enter the disposition of the matter into POP. If a court orders the subject incarcerated or detained, the prosecuting attorney shall complete a Disposition Form in POP to record the decision rendered by the judicial body as well as the identifier used to track the person while incarcerated.

### **SEC. 3. Subject Inspection Report**

- (a) A law enforcement agency shall question persons arrested by a law agent to determine if the person has injuries or bruising or needs medical attention. A designated person at the law enforcement agency shall examine a person for bruising or injury if the person claims he or she was injured by a law enforcement agent. With the person's permission, a representative of the law enforcement agency shall photograph injuries or bruising suffered by the person and upload the photograph(s) into POP, along with narrative describing the injuries or bruising.

#### **SEC. 4. Reporting Time Frames**

- (a) A law enforcement agent shall complete a POP incident report within 24 hours of an incident.<sup>6</sup>
- (b) A law enforcement agent involved in a use-of-force incident shall complete a POP incident report within four (4) hours of the incident.
  - (1) A law enforcement agent who witnesses a law enforcement incident involving use of force shall complete a POP Supplemental Incident Report within four (4) hours of the incident.
  - (2) A law enforcement agent involved in a use-of-force incident shall not confer with another law enforcement agent about facts, matters, or events related to the incident before completing a POP Primary Incident Report, Supplemental Incident Report or Use-of-Force Form.

Penalty—Any law enforcement agent involved in a use-of-force incident who confers with another law enforcement agent about facts, matters, or events related to the incident before completing a POP Incident Report or Use-of-Force Form shall be fined \$100,000 under this title and imprisoned at least five (5) years but not more than ten (10) years.

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<sup>6</sup> Many states have their own version of a law enforcement officer's bill of rights. The state laws state that any officer under investigation in a matter that could lead to disciplinary action cannot be interviewed by his or her supervisors for 10 days. URLEIA would nullify the ten-day rule contained in state legislation and require law enforcement agents to be treated like other suspects who are questioned immediately following use of force. The ten-day rule violates a law enforcement agent's right to free speech.

- (3) If a law enforcement agent is unable to make a report due to severe *physical* injury as confirmed by a licensed medical physician, an official of the law enforcement agency shall record the law enforcement agent's account of events within eight (8) hours after the agent is deemed medically capable of providing such a statement.
- (4) The agent who recorded the statement shall upload the statement into POP within four (4) hours after the statement is recorded.
- (5) An attorney acting on behalf of DOJ shall have authority to challenge an act rescinding an adverse action report.
- (6) The law enforcement agency shall also ensure:
  - (A) Dash cam and/or body cam video footage is uploaded into POP within two (2) hours following a use-of-force event;
  - (B) Other information collected that is related to the use-of-force incident shall be uploaded into POP within 24 hours after the incident.

#### **SEC. 5. Prior Period Reporting**

- (a) When implementing POP for the first time, a law enforcement agency shall enter intermediate and lethal use-of-force incident reporting data from the three years that precede enactment of this legislation.

## **TITLE 9—ADVERSE ACTION REPORTING**

#### **SEC. 1. Adverse Action Reporting**

- (a) Any person, body, or entity that possesses the authority to discipline, license, certify, penalize, terminate, or take other adverse actions against a law enforcement agent shall complete the POP Adverse Action Reporting Form to document adverse actions taken. Such actions include revocation of license, voluntary surrender of license, restriction or denial of a privilege while under investigation or in lieu of investigation, decision by a judicial or administrative tribunal, and determination by an official trainer or civilian review or accountability board.

- (b) A law enforcement agency shall complete an Adverse Action Reporting Form to document civil payouts related to a civil settlement resulting from the actions of a law enforcement agent.
- (c) DOJ shall use the Adverse Action Reporting Form to document negative findings resulting from pattern or practice investigations.
- (d) DOJ shall use the Adverse Action Reporting Form to document the criminal prosecution of a law enforcement agent.

## **SEC. 2.       Disputing a POP Adverse Action Report**

- (a) IN GENERAL: A law enforcement agent or agency that is the subject of a POP adverse action report may dispute the accuracy or filing of the report concerning himself, herself, or itself as set forth in this Act, law, or applicable policies.
  - (1) The person or entity disputing an adverse action report shall request that the person or entity that submitted the adverse action report place the report in “disputed” status.
  - (2) Upon request, the person or entity that prepared the POP Adverse Action Reporting Form shall activate the “disputed status” indicator next to the form to show that the report is being disputed.
  - (3) The law enforcement agent or agency (subject) that seeks to dispute the adverse action report shall enter into discussions with the person or entity that prepared the Adverse Action Reporting Form in POP.
  - (4) If the person that filed the Adverse Action Reporting Form in POP agrees to change or rescind the Adverse Action Reporting Form, that same person shall deactivate the *disputed status* indicator and edit or rescind the Adverse Action Reporting Form in POP. The person who entered the change shall also provide an explanation for the change (edit or rescission).
  - (5) An attorney acting on behalf of DOJ shall have authority to challenge an act rescinding an adverse action report.
  - (6) If the law enforcement agent does not accept the decision of the entity or person that filed the adverse action report, the law enforcement agent can pursue additional avenues of appeal if additional avenues exist. If an appeal is instituted, the “disputed status” indicator shall remain in active status until all appeals are exhausted.

- (7) If an Adverse Action Report Form entered into POP is not disputed within 60 days by the person who is the subject of the action, the adverse action report shall remain and display as uncontested.

### **SEC. 3. “Unfit” Indicator**

(a) IN GENERAL: The “unfit” indicator” may be set by the U.S. Department of Justice, a trainer, law enforcement supervisor, certification body, or by any person who has the authority to determine a law enforcement agent or security officer unfit to serve. A law enforcement agent shall not serve as a law enforcement agent or security officer in the United States or its territories while the “unfit” indicator is activated in POP.

- (1) A law enforcement agent may challenge the setting of the “Unfit” indicator by pursuing appeal remedies available to the law enforcement agent within 60 days following the setting of the “Unfit” indicator.
- (2) If the decision to activate the “Unfit” indicator is not disputed within 60 days, the “Unfit” indicator will remain uncontested and require immediate firing of the officer while also preventing the law enforcement agent from being hired in the United States and or any of its territories.
- (3) The AG shall possess sole authority to deactivate an “Unfit” indicator in POP as allowed by this Act.

## **TITLE 10—QUERYING POP**

### **SEC. 1. Querying**

- (a) The AG shall allow a person to access POP and determine the disposition of a complaint filed by the person.
- (b) The AG shall make POP query features available to a user group based upon the access level the AG assigned to the user group.

## **TITLE 11—TRAINING REQUIREMENTS**

### **SEC. 1. Training Requirements**



- (a) The AG shall include a training tracking function in POP. A law enforcement agency shall list in POP the local and national training requirements for each law enforcement agent as well as the time frame allotted for completing each training module or program.
- (b) POP shall generate an exception report identifying law enforcement agents who have not successfully completed required training.

## **TITLE 12—MARKETING POP**

### **SEC. 1. Ongoing Marketing**

- (a) IN GENERAL: Data collected during a pattern or practice investigation is woefully incomplete without feedback from community members who are the subject of law enforcement actions. To improve the effectiveness of the POP Data Bank, the AG shall conduct an ongoing public relations campaign to educate the public about POP’s Incident Response Form, Complaint Form, query functions, and other POP features.

## **TITLE 13—DATA ANALYSIS AND REPORTING**

### **SEC. 1. Data Analysis**

- (a) POP shall analyze incident and other data to reveal the pattern and practices of law enforcement agents and law enforcement agencies.
  - (1) The AG, members of the public, and statisticians shall jointly determine the parameters used to evaluate the status of law enforcement in the United States and its territories.
  - (2) The AG shall enter parameters in POP. POP shall analyze incident and other data to identify law enforcement agents whose metrics fall outside the “acceptable range” as defined by the AG.
  - (3) The AG shall publish on its website the parameters used for data analysis purposes.
  - (4) The AG shall allow users, based upon their access level, to enter parameters and search criteria into POP in order to generate custom reports.
  - (5) Other information the AG deems warranted.

### **SEC. 2. Reports**

- (a) POP shall automatically generate a host of reports, including:
- (1) The AG shall quarterly scorecard, which shall prepare statistic for the current quarter to prior quarters. The scorecard shall reveal:
    - (i) The demographic composition of a community, based upon the most recent census data.
    - (ii) The number of law enforcement incidents that occurred in each state by demographic breakdown.
    - (iii) The number and nature of use of law enforcement incidents involving use of force by county and state.
    - (iv) A state-by-state summary of the economic impact of law enforcement actions by transaction type and race.
    - (v) Other information the AG deems warranted.
  - (2) *Agency Summary Report*, which provides a summary of each law enforcement agency's activity, summarized by transaction category and then by demographic breakdown within each transaction category.
  - (3) *Law Enforcement Agency Revenue Report*, which displays by transaction category the amount of revenue generated by the law enforcement agency year-to-date and cumulative-to-date. Transaction categories shall display a revenue breakdown by demographic group and age.
  - (4) *Year-to-date Law Enforcement Agent Report* that shows the agent's year-to-date and cumulative-to-date activity. The report (*Law Enforcement Agent Activity Report*) shall show a summary of the law enforcement agent's patterns and practices based upon incident reporting data, adverse actions taken against the agent, complaints levied by citizens, and other information the AG deems warranted. POP shall publish the report quarterly and shall also display demographic information about the law enforcement agent.
  - (5) *Monthly Law Enforcement Agent Complaint Report*, which identifies the number of complaints leveled against a law enforcement agent. The report shall display a summary total of prior complaints, recent complaints, and the system number assigned to the complaints.

- (6) *Monthly Incident Discrepancy Report*, which identifies POP incident reports called into question by a person involved in the incident.
- (7) *Agent Exception Report*, which identifies law enforcement agents whose incident reports and actions reveal troubling patterns or practices.
- (8) *Agent Adverse Action Report*, which identifies, by agency, law enforcement agents who were the subject of an adverse action report. If a law enforcement agent works for multiple agencies, a second version of the report shall display each law enforcement agent, the agencies that employ the agent, and the adverse actions taken against the agent by each agency.
- (9) *Customized Comparison Report*, which shall compare incident reporting statistics for two or more law enforcement agencies.

# **ACCOUNTABILITY IN LAW ENFORCEMENT**

## **TITLE 14—LAW ENFORCEMENT IN GENERAL**

### **SEC. 1. Smart Policing**

- (a) A law enforcement agent shall engage in “smart policing” to protect the safety of law enforcement agents and members of the public while preserving public peace and lawfulness. A law enforcement agent engaging in “smart policing” shall be presumed to:
- (1) Know and understand the law and act upon the law at all times;
  - (2) Understand the rights of persons, including a person’s right to defend against unjustified force by a law enforcement agent in defense of self and the right to defend a third party against unjustified force by a law enforcement agent; and
  - (3) Possess keen knowledge of weapons and the ability to distinguish one weapon from another at all times in order to avoid errors, mistakes and reckless use of force that result in great bodily harm or the unjustified taking of a person’s life.

### **SEC. 2. Obligation to Preserve Life and Prevent Injury**

- (a) A law enforcement agent who demonstrates a pattern or practice of interacting with the public in a manner that does not preserve life and prevent injury shall be deemed unfit.
- (b) The AG, a trainer, the agent’s law enforcement supervisor, a physician, mental professional, state licensing entity, or a board with formal powers shall identify a law enforcement agent as unfit if the law enforcement agent engages in troubling patterns and practices, including, but not limited to:
- (i) Failing to demonstrate required judgment and decision-making ability during training;
  - (ii) Failing to determine that an actual and immediate threat exists before using force;
  - (iii) Failing to retreat, suspend pursuit, wait for backup, or take other actions needed to avoid use of lethal force when the life of a law enforcement agent or another person is not immediately at risk;

- (iv) Using force to subdue a fleeing felon who poses no immediate threat to a law enforcement agent or another person ( U.S. Supreme Court in *Tennessee v. Garner*);
- (v) Using force on a person after a person is subdued or the person surrenders;
- (vi) Using excessive force to achieve compliance from a subject during a legal arrest;
- (vii) Failing to prevent injury during arrests, as evidenced by a pattern of injuring or bruising persons arrested;
- (viii) Arresting persons for whom there is no legal basis (probable cause) to arrest or detain;
- (ix) Stopping a person, frisking a person, or otherwise temporarily or permanently restricting a person’s free movement without first establishing an “objective and factual basis” for probable cause;
- (x) Demonstrating a pattern of insufficient knowledge about law and agency policies;
- (xi) Engaging in overly aggressive policing that precipitates a chain of events that leads to death or injury of a person;
- (xii) Acting with disregard for intervening factors such as the number of suspects versus the number of law enforcement agents, the suspect’s size, and the suspect’s age and condition. (A law enforcement agent shall wait for backup and take other actions necessary to avoid use of force.);
- (xiii) Encouraging a law enforcement agent to deter from established training protocols, approved policing methods or laws;
- (xiv) Failing to aid or secure medical assistance for a person in need; or
- (xv) Otherwise abusing the powers of a law enforcement agent.

**SEC. 3. Right to Challenge<sup>7</sup> Lawfulness of an Arrest**

- (a) A law enforcement agency shall have a person or lawyer who possesses keen knowledge of criminal law, criminal procedure, and individual rights available 24 hours daily to

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<sup>7</sup> A law enforcement agent has the power to arrest, use force, or shoot while on the job, off the job, or while working private-duty security. The psychological effects of carrying police powers 24/7, combined with long on-the-job hours and the stress of confronting criminals, can render a law enforcement agent ill-equipped to make wise split-second decisions pertaining to use of force.

render an opinion to a law enforcement agent desiring to confirm the legality of a contemplated action. A person shall have the right to challenge the legality of an arrest or other action by notifying the sergeant he or she would like a legal review of circumstances leading to the arrest. The person shall be permitted to speak with the law enforcement agency's expert on law and explain why he or she believes the arrest to be illegal or a violation of the person's rights. The law enforcement agency's expert on law shall possess authority to override a law enforcement agent's decision.

Penalty—Opportunity to Challenge Arrest. A law enforcement agent who prevents a person from formally challenging an arrest shall be deemed unfit. A person shall be permitted to use a recording device to document his or her request to challenge an arrest.

#### **SEC. 4. Hours of Service Limit**

- (a) In the interest of public safety, a law enforcement agent shall not work as a private-duty security officer while employed as an employee or contractor for a local, state, or federal law enforcement agency. A law enforcement agent shall take into account the Hours of Service Limit when establishing salary grades for law enforcement agents.

#### **SEC. 5. On-duty Status**

- (a) A person employed as a law enforcement agent shall not use law enforcement powers while off-duty. A law enforcement agent is off-duty when the agent is not working on behalf of the agency or has not been “activated to work” by a local, state, or federal governmental agency,<sup>8</sup> as required by the entity's personnel policies.

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<sup>8</sup> Maintaining police powers 24/7 can foster a *God complex*. A *God complex* is a psychological state of mind whereby a person believes he or she is above the rules of society and is entitled to special treatment and consideration.

**SEC. 6. Local Constructs Designed to Circumvent Judicial Instruments**

- (a) A local enforcement agency shall not create a mechanism, device, document, or process that functions as a substitute for a legal process or legal instrument such as a warrant.<sup>9</sup>

**SEC. 7. Licensing**

- (a) A state shall establish a licensing process for licensing law enforcement agents, which includes private-duty security officers.

**TITLE 15—MANDATORY TESTING**

**SEC. 1. Routine Drug Testing**

- (a) A law enforcement agent shall take periodic unscheduled drug tests and a test for alcoholism at a state-approved medical facility. The medical facility performing the testing shall enter results directly into POP using the law enforcement agent’s Social Security Number. Any law enforcement agent who fails a drug test two (2) times shall be deemed unfit.

**SEC. 2. Implicit Bias Testing**

- (a) A law enforcement agency shall require a law enforcement agent to undergo implicit bias testing so a law enforcement agent can understand his or her biases against a specific group and then work to mitigate them. Testing shall be administered by an expert in the field either online or in person and the results divulged to the agent. Except for extraordinary circumstances, implicit bias test results shall not preclude a law enforcement agency from hiring a law enforcement agent.

**SEC. 3. Psychological Testing**

- (a) Prospective and current law enforcement agents shall undergo a psychological test to determine their suitability for law enforcement responsibilities. A psychologist shall administer a test at least annually. A psychologist or a person with managerial authority at the law enforcement agency may require more frequent testing. An independent firm shall conduct the psychological testing, which shall include, at minimum, a Mini Mental

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<sup>9</sup> DOJ found that in Ferguson, MO, the Ferguson Police Department issued “wanted” when the County Prosecutor denied the law enforcement agent’s request for a warrant to arrest a suspect.

Status Inventory (MMSI), Bender Gestalt, H-T-P, MMPI, WAIS, and any additional tests deemed necessary. The firm administering the test shall enter test results directly into POP.

## **TITLE 16—MANDATORY TRAINING**

### **SEC. 1. Developing Training Standards**

- (a) The Attorney General, working with community groups, civilians, and experts across the nation through its Office of Civilian Oversight and Accountability, shall oversee the creation and maintenance of national training standards, methods, and tactics that reflect “smart policing.” The AG shall hold public hearings, meetings, conferences, and workshops annually in all five regions of the United States (Northeast, Southwest, West, Southeast, and Midwest) to obtain public input in order to improve policing in the United States and its territories.
- (b) The AG shall incorporate public feedback when developing training procedures, methods, and standards. National training programs shall be mandatory for all law enforcement agents in the United States and its territories. A law enforcement agency may offer additional training. Nationally-mandated training for law enforcement agents shall include, but is not limited to the following:
  - (i) Description of mandatory actions a law enforcement agent must take as well as allowed actions and prohibited actions;
  - (ii) Strategies for de-escalating encounters;
  - (iii) Negotiation as an alternative to use of force (training shall include extensive role playing);
  - (iv) Intense study and review of prevailing laws and use-of-force guidelines;
  - (v) Managing stress during highly charged encounters;
  - (vi) Distinguishing actual threat from perceived threat;
  - (vii) A citizen’s right to defend self;
  - (viii) A citizen’s right to defend a third party;
  - (ix) Performance measuring (POP reports);
  - (x) First-aid training, including resuscitation methods that do not demand mouth-to-mouth contact;



- (xi) Ramifications of encouraging a law enforcement agent to deter from standard protocols;
- (xii) Extensive role playing to substantiate competency in different areas of training.

## **SEC. 2. Behavior-based Inclusion Training**

- (a) A law enforcement agency shall make behavior-based inclusion training available to a law enforcement agent who desires such training and will be mandatory for agents whose test scores on their implicit bias test indicate strong biases.

## **SEC. 3. Special Training**

- (a) A law enforcement agent encounters people of all ages with a variety of challenges and problems. A law enforcement agency shall provide special training and support to help law enforcement agents develop the proficiency required to successfully mediate and de-escalate incidents involving domestic abuse, youth, and persons who are mentally ill. A law enforcement agency shall develop an ongoing relationship with a mental health professional or mental health resource that can provide 24/7 hotline assistance to officers requiring help managing an incident involving a person who is mentally ill, domestic abuse or youth.

## **SEC. 4. Tracking Training**

- (a) A law enforcement agent shall update his or her agent record in POP and shall sign an affidavit in POP attesting to the accuracy of his or her representation regarding training. The agent shall also provide the date on which training was completed, name of the instructor, training session number and, when applicable, training score received. The law enforcement agent's supervisor shall provide an electronic signature confirming information the agent entered into POP.

## TITLE 17— QUALITY CONTROL

### SEC. 3. Measuring the Performance of Law Enforcement Agents and Agencies

- (a) The AG via the Office of Civilian Oversight and Accountability shall develop annual performance goals for law enforcement agents and law enforcement agencies. The AG shall enter parameters into POP that shall be used to measure the performance of law enforcement agents and law enforcement agencies in several categories. POP shall determine performance by comparing incident reporting metrics to the goals established.

## TITLE 18 CHECKS AND BALANCES

### SEC. 1. Observer’s Right to Record

- (a) Members of the public are an important component of law enforcement’s system of checks and balances. A law enforcement agent shall not interfere with, confiscate or otherwise complicate the efforts of an observer to videotape or record a law enforcement agent’s actions.

Penalty—A law enforcement agent who arrests a person or engages in other actions intended to impede the person’s right to record the agent’s actions shall be fined under this title \$25,000 and imprisoned at least six (6) months but not more than two (2) years.

### SEC. 2. Cameras and Other Electronic Surveillance Equipment

- (a) A law enforcement agency shall use modern video, audio, or other surveillance devices to document the interactions between a law enforcement agent and members of the public.
- (1) A law enforcement agent shall wear a fully operational body camera that documents the agent’s interactions with members of the public while the law enforcement agent is on duty;
  - (2) A law enforcement agency shall equip a vehicle with a working modern surveillance device if the vehicle is used to transport a member of the public or a person arrested;
  - (3) A law enforcement agency shall ensure persons arrested are providing humane conditions during transport, including proper lighting, ventilation, temperature, and ample space.

- (4) A law enforcement agency shall install surveillance devices in areas of its facility where people under arrest and members of the public interact with law enforcement agents.

### **SEC. 3. Storing Video and Electronic Footage**

- (a) The AG, through the Office of Civilian Oversight and Accountability, shall establish protocols for storing, transmitting, and safeguarding video footage, photographs, and other visual and audio data collected during the policing process. A law enforcement agency shall abide by all backup protocols and data retention methods and time frames established by the AG. A law enforcement agent shall upload pertinent video, photographs, or audio files into POP within the timeframes specified by DOJ Office of Civilian Oversight and Accountability.

Penalty—Timely Uploading of Evidence into POP. A law enforcement agent or the law enforcement agent’s on-duty supervisor who fails to upload video documenting a use-of-force incident in POP within timeframes established by DOJ Office of Civilian Oversight and Accountability.

### **SEC. 4. Confirming Surveillance Equipment Is Operating**

- (a) A law enforcement agent shall inspect surveillance devices at the beginning of each shift and from time to time during a shift to confirm surveillance devices are fully operational. A law enforcement agent shall take immediate action to correct non-functioning surveillance equipment as prescribed by the law enforcement agency’s policies.
- (b) A law enforcement agency shall have a policy that provides guidance on the steps a law enforcement agent must take to notify the agency of and immediately correct non-functioning surveillance equipment.

### **SEC. 5. Disabling Electronic Surveillance Equipment**

- (a) It shall be unlawful for any person to modify, edit, or erase a video, photo, audio, or other electronic surveillance device provided for the purpose of documenting interactions between a law enforcement agent and a member of the public except for by the person, method, manner and time frame prescribed in policy and law.

Penalty—Disabling Electronic Surveillance Device. Any person who disables, distorts or conceals a visual, audio or other surveillance device furnished to a law enforcement agent by a law enforcement agency to document interactions between a law enforcement agent and members of the public shall be fined \$25,000 and imprisoned at least one (1) year but not more than five (5) years.

**SEC. 6. Photo Verification**

- (a) A law enforcement agent who identifies a vehicle malfunction or defect as the impetus for a traffic stop shall photograph the malfunction or defect and upload the photograph when the incident report is entered into POP.

**SEC. 7. Device Possessed by Subject**

- (a) A person shall have the right to record his or her personal encounter with a law enforcement agent from the moment at which the person is stopped until the person is booked and jailed. Law enforcement personnel shall not attempt to confiscate a recording, audio, or other surveillance device from a person before the person is booked or jailed. A law enforcement agent shall not attempt to access photos, video, or other information on a person's cell phone, video camera, or other surveillance device without a court order or the owner's written permission, provided in the presence of the attorney representing the owner of the device.

**SEC. 8. GPS (Global Positioning Satellite)**

- (a) A law enforcement agency shall equip a law enforcement vehicle used to transport members of the public with Global Positioning Satellite (GPS) to facilitate in-the-field inspections and detect the whereabouts of a law enforcement vehicle at all times.

**SEC. 9. Field Auditing for “Throw Downs,” Drugs, and Other Contraband**

- (a) DOJ trained citizen auditors and DOJ-empowered attorneys shall have authority to conduct unscheduled in-the-field inspections of law enforcement vehicles and law enforcement agents. Citizen auditors, aided by DOJ empowered attorneys, shall have authority to track law enforcement vehicles using GPS, stop the law enforcement vehicle, and search the vehicle for contraband such as drugs and unauthorized weapons. The AG's Office of Civilian Oversight and Accountability shall state, at minimum, the following:

- (1) A law enforcement agent preparing to patrol in a vehicle to be occupied by another law enforcement agent shall inspect the vehicle and the other law enforcement agent for contraband before embarking upon the patrol.
- (2) POP shall randomly select a law enforcement agent for an unscheduled in-the-field inspection based upon program parameters.
- (3) Any law enforcement agent or person authorized to participate in the inspection of a law enforcement agent or law enforcement vehicle shall not retain a telephone or other device that can be used to communicate with outside parties except for the communications devices provided for the exclusive purpose of conducting an unscheduled in-the-field inspection.
- (4) The audit team, using GPS, shall travel to the location of the vehicle to be inspected.
- (5) The inspection team shall enable livestream video and announce to the law enforcement agent via loudspeaker its intent to conduct a field inspection.
- (6) The law enforcement agent(s) subject to the inspection shall stop immediately and remain in the law enforcement vehicle. The agents shall comply with all directives issued by the inspection team.
- (7) The inspection team shall notify a 911 operator that an inspection is underway. The 911 operator shall immediately dispatch a law enforcement sergeant to the site of the inspection.
- (8) The team shall commence searching the law enforcement agent's person and the law enforcement vehicle in accordance with policies and regulations issued by the DOJ's Office of Civilian Oversight and Accountability.
- (9) At an inspector's request, the law enforcement agency or the United States Drug Enforcement Agency (DEA) shall deliver a drug-detecting canine to the scene to assist with the search..

Penalty—Advance Notification of Field Inspection. A person authorized to conduct an unscheduled in-the-field inspection who provides a person not on the inspection team advance notice of an inspection shall be fined \$25,000 and imprisoned at least one (1) year but not more than three (3) years.

## **SEC. 10. Auditing Use-of-force and Other Files**

- (a) The AG shall provide training on procedures for auditing law enforcement files. Attorneys working on behalf of the AG (deputized) shall have authority to audit law enforcement agency files on behalf of DOJ to determine if *use of force* and other documentation comply with DOJ and agency record requirements.
- (b) Attorneys working on behalf of the AG shall have authority to review a law enforcement agency's files to determine if the agency is thoroughly investigating complaints and use-of-force incidents.

# **TITLE 19—NATIONAL WHISTLEBLOWER PROTECTION**

## **SEC. 1. Whistleblower Protection for Law Enforcement Agent**

- (a) An elected official, political appointee, or employee of a law enforcement agency shall not retaliate against a law enforcement agent for reporting or disclosing an illegal or unconstitutional act committed by an elected official, political appointee, or employee of a law enforcement agency. Illegal and unconstitutional acts include, but are not limited to, waste or abuse of public funds, abuse of authority, deprivation of a person's constitutional rights and legal violations or mismanagement. A law enforcement agent shall use the complaint function in POP or another method to report acts of retaliation.
- (b) A law enforcement agent who files a whistleblower complaint against an official or law enforcement agent shall be granted the following:
  - (1) An option of being re-assigned to low-risk law enforcement duty,<sup>10</sup> or
  - (2) Early retirement or payout. A state shall provide a retirement or payout option for law enforcement agents who report or discloses illegal or unconstitutional acts committed by an employee of a law enforcement agency, elected official, or political appointee. The state shall recoup payout funds from the jurisdiction involved in the illegal or unconstitutional act(s).

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<sup>10</sup> Law enforcement agents who have disclosed illegal actions on the part of another law enforcement agent have been known to succumb to injury or death as part of an effort to conceal the information the agent disclosed.

Penalty for Retaliation—Any person who threatens to or does, in fact, fire, demote, harass, threaten to assault, injure, kill or otherwise "retaliate" against a law enforcement agent who discloses the illegal or improper actions of another law enforcement agent, political appointee, or elected official shall be fined \$250,000 and imprisoned at least five (5) years but not more than seven (7) years.

## **TITLE 20—NATIONAL USE-OF-FORCE STATUTE**

If a public grand jury issues a true bill to indict a law enforcement agent for homicide under any act referenced in this legislation, the law enforcement agent shall stand trial for the following relevant offenses. A private prosecutor may see fit to indict on additional charges.

### **SEC. 1. First Degree Murder “Under Color of Law”**

- (a) A law enforcement agent “acting under the color of law” or a security guard shall be guilty of first degree murder if the law enforcement agent 1) Exhibited actions that evidenced an intent to injure or kill; 2) Acted upon the intent and did kill; and 3) Ended the life of a person who posed no actual threat to the law enforcement agent or another person.

### **SEC. 2. Felony Murder in the First Degree “Under Color of Law”**

- (a) A law enforcement agent acting under the “color of law” or a security guard shall be guilty of felony murder in the first degree if 1) The law enforcement agent is present when another law enforcement agent commits an illegal act or an act that denies a subject his or her constitutional rights; 2) The illegal act or unconstitutional act committed by the officer agent precipitates, causes, or results in the death of a person who posed no actual threat of injury to the law enforcement agent or another person at the time of death or injury; and 3) The law enforcement agent present, but not acting, failed to intervene to stop the act or to immediately report the act to his or her superiors as evidenced by the filing of a complaint in POP.

### **SEC. 3. Enumerated First Degree Murder—Felony Child Abuse**

- (a) A law enforcement agent “acting under the color of law” or a security guard shall be guilty of felony child abuse if the law enforcement agent intentionally or unintentionally commits an assault upon a child who posed no actual threat to the law enforcement agent or another person.

**SEC. 4. Second Degree Murder “Under Color of Law”**

- (a) A law enforcement agent “acting under the color of law” or a security guard shall be guilty of second degree murder if the law enforcement agent 1) Engaged in an act that showed indifference to human pain and suffering; and 2) Intentionally or unintentionally caused serious bodily harm or precipitated a condition that ultimately led to the death of a person who posed no actual threat to the law enforcement agent or another person.

**SEC. 5. Negligent Homicide**

- (a) A law enforcement agent “acting under the color of law” or a security guard shall be guilty of negligent homicide if he or she causes the death of a person due to negligence, error, mistake or recklessness when, in fact, the person posed no actual threat to the officer or another person.

**SEC. 6. False Arrest and False Imprisonment**

- (a) A law enforcement agent shall be guilty of false arrest and false imprisonment when the law enforcement agent unlawfully restrains a person against his or her will without legal authority or justification, or illegally arrests a person without justification. A law enforcement agent is expected to know the law and abide by the law in order to confirm an arrest is lawful before a person is arrested or imprisoned.



# **TITLE 21— INDEPENDENT CRIME SCENE INVESTIGATION**

## **SEC. 1. Independent Investigative Process**

- (a) This act requires a law enforcement agency to commission an independent investigation on all use-of-force complaints.

## **SEC. 2. Independent Custody of the Investigative Process**

- (a) An independent investigative team shall investigate use-of-force events involving a law enforcement agent. The investigative team shall have the same powers conferred upon the person charged with investigating homicides for the applicable state.

## **SEC. 3. Listing of Approved Independent Investigative Teams**

- (a) A state shall maintain on its website an easy-to-find roster of independent investigative teams certified by the state to conduct use-of-force investigations.

## **SEC. 4. Composition of Investigative Team**

- (a) The teams shall include crime scene investigators, a forensic pathologist, an independent laboratory, and persons representing other specialties and professions needed to complete a comprehensive use-of-force investigation. Independent investigative team members may not include persons working for a law enforcement agency as an employee or contractor, or a person or company that routinely works with a law enforcement agency.
- (b) An independent investigative team shall be available 24 hours a day and must commit to arriving at a crime scene within one (1) hour following a request for services. (The crime scene shall be preserved as outlined by the DOJ Office of Civilian Oversight and Accountability until the investigative team arrives). The listing on the state website shall identify, at minimum:
  - (1) Name of each person on the investigative team and the person's responsibilities;
  - (2) Certifications and licenses held by each team member;
  - (3) Experience level and background of each team member;
  - (4) Number of use-of-force investigations the team member has helped investigate;
  - (5) Brief synopsis of use-of-force investigations the team has overseen;

- (6) Dates on which each investigation began;
- (7) Pathologist's findings on each use-of-force investigation;
- (8) Outcome of the investigation (law enforcement agent was indicted, convicted exonerated, etc.); and
- (9) List of geographic area(s) the team serves.

## **SEC. 5. Confidentiality**

- (a) Every company, person, or institution comprising the independent investigative team shall sign a legal agreement obligating the party to preserve the confidentiality of all information collected during the investigation until the findings are reviewed jointly with law enforcement representatives, the victim, and the victim's legal counsel.
- (b) The independent investigative team *shall not* share investigative findings with the prosecutor, law enforcement representatives, or anyone else prior to disclosing information in the manner prescribed in the document developed by DOJ in conjunction with experts titled *Format for Public Presentation of Evidence*.

Penalty—Unauthorized Disclosure of Investigative Findings and Evidence. Any person on an independent investigative team investigating a law enforcement use-of-force incident who discloses information pertaining to the investigation to any unauthorized party shall be fined \$50,000 and imprisoned at least two (2) years but not more than five (5) years and shall be deemed unfit.

## **SEC. 6. Qualifications**

- (a) A member of an independent investigative team shall meet the licensing and other requirements set forth for the profession by the applicable state, including experience, education requirements, certification requirements, continuing education requirements, etc.

## **SEC. 7. Selecting an Independent Investigative Team**

- (a) The family of the victim shall have first right to select an investigative team. If the family cannot be reached, the law enforcement agency shall notify the team on the website that serves the area and has the best record of securing indictments against officers accused of using excessive force.

**SEC. 8.           Compensating the Independent Investigative Team**

- (a) Each member of the independent investigative team shall submit an individual invoice for costs, reimbursable fees, and services to the law enforcement agency involved in the use-of-force incident. The law enforcement agency shall remit payment to each member of the team within 45 days, or earlier, in accordance with the agreement governing the contract the state entered into with members of the investigative team. The teams may charge a late fee and daily interest for invoices that remain unpaid beyond the payment due date.

**SEC. 9.           Family Representative’s Right to Be Present**

- (a) A coroner, medical examiner, or forensic pathologist planning to conduct a second autopsy on a deceased person killed by a law enforcement agent or as a result of the actions of a law enforcement agent shall advise the investigative team and the family members of the date and location of the planned autopsy at least 24 hours prior to the procedure.

**SEC. 10.         Investigative Protocol for Law-enforcement-involved Incidents**

- (a) The AG shall work with experts in the forensic field to establish strict protocols for independent investigative teams that investigate use-of-force actions by a law enforcement agent. At minimum, the protocols shall include:
- (1) A procedure that requires a law enforcement agent involved in the incident to be photographed for bruises, etc., before leaving the scene of the incident;
  - (2) Proper removal and packaging of the law enforcement agent’s weapons;
  - (3) Complete examination of an officer’s vehicle of transportation (car, bicycle, etc., at the scene);
  - (4) Photographs of the officer’s vehicle, bicycle, etc., at the scene;
  - (5) Procedures and protocols for transporting remains; and
  - (6) Guidelines for collecting and preserving evidence in inclement weather (rain, snow, storms, etc.).

**SEC. 11.         Officers at Scene of Incident Involving Use of Force**

- (a) A law enforcement agent shall immediately secure the scene as prescribed by the AG’s Office of Civilian Oversight and Accountability.

- (b) A law enforcement agent shall not remove, pick up, replace, transport, or in any way disturb the scene following a use-of-force incident by a law enforcement agent except to aid, assist, or provide medical care to the victim(s).

**SEC. 12. Citizen Monitors**

- (a) A state shall hold a lottery to select non-profit organizations across the state to manage the citizen monitors program in their area. The state shall not award a contract that extends more than three years.
  - (1) A state shall query the POP data bank and identify the racial population that is most adversely affected by law enforcement actions within the state.
  - (2) Non-profit organizations that have a history of serving the racial population most adversely affected by law enforcement actions within the state shall be deemed eligible to manage the citizen monitors program, providing the organization meets other criteria specified by DOJ's Office of Civilian Oversight and Accountability.
  - (3) The contract developed by the state shall require that the organization confirm that monitors comply with certification, training, and paperwork requirements.
  - (4) The state shall pay the non-profit organization an annual management fee for its services. The management fee shall be determined by DOJ's Office of Civilian Oversight and Accountability.
  - (5) Each jurisdiction in a state that is served by a law enforcement agency shall pay to the state a proportionate share of costs the state incurs to operate the state's citizen monitors program.

**SEC. 13. Role of A Citizen Monitor**

- (a) A citizen monitor shall arrive at the crime scene soon after a law enforcement-involved lethal use-of-force incident occurs.

## **SEC. 14. State’s Obligation to Seal Criminal File**

- (b) A state shall “seal” the criminal file of the person who is the victim of a law enforcement-involved use-of-force incident to ensure the incident is evaluated solely upon evidence related to the incident.
- (b) The citizen monitor shall videotape and photograph the entire crime scene without disturbing evidence.
- (c) The citizen monitor shall upload video and photos into POP immediately after leaving the crime scene.

## **TITLE 22—PRESENTATION OF FINDINGS**

### **SEC. 1. Format for Public Presentation of Findings**

- (a) Office of Civilian Review and Oversight shall publish a document titled *Format for Public Presentation of Evidence*. The document shall outline the order in which evidence shall be presented and the format and outline each member of the independent investigative team shall use for the presentation of evidence. The goal is to provide a concise, simple explanation of findings at the seventh-grade level.

### **SEC. 2. Order of Autopsy**

- (a) The forensic pathologist on the independent investigative team shall conduct the first autopsy of the victim’s remains when a death results from a law enforcement-involved killing.

### **SEC. 3. Review of Evidence**

- (a) The independent team shall present its finding to the law enforcement agent’s representatives and the victim’s representatives in separate meetings. The team shall brief the law enforcement agent’s team first. During briefings, the independent investigative team shall present findings in accordance with the *Format for Public Presentation of Evidence*, receive additional evidence a party may desire to offer, respond to concerns about findings, and respond to questions. The team shall revise findings when necessary in response to new or additional evidence obtained during the briefings.

### **SEC. 4. New Grand Jury Seated**

- (a) A new grand jury shall be seated to determine if probable cause exists to indict a law enforcement agent accused of using excessive force and depriving a person of his or her constitutional rights. The district attorney or prosecuting attorney representing the jurisdiction shall have no involvement in juror selection. The grand jury selection process shall be open to the public.

**SEC. 5. Public Grand Jury Proceeding on Officer-involved Incidents**

- (a) The DOJ shall establish a defined process for presenting investigative, medical autopsy, ballistics, and other findings. The team lead shall ensure findings are presented in a factual and objective manner in the format DOJ prescribes to the public grand jury newly convened to examine evidence in a case involving use of force by a law enforcement agent.

**SEC. 6. Questioning of Experts by Jury Members**

- (a) The independent investigative team shall afford jury members an opportunity to ask questions and seek clarification on information presented following the investigative team's presentation to the grand jury.

**SEC. 7. Questioning of Experts by Family Representative**

- (a) The independent investigative team shall present information.

**SEC. 8. Prosecution by Private Prosecutor<sup>11</sup>**

- (a) A family member of a person injured or killed by a law enforcement agent shall have the option of hiring a private attorney (prosecutor) to bring criminal proceedings against a law enforcement agent accused of violating the person's constitutional rights.

**SEC. 9. Compensation**

- (a) The state shall compensate the private prosecutor for services provided at an hourly rate commensurate with the rate paid attorneys providing similar services in the area. The state shall remit payment within 45 days or earlier in accordance with the agreement between the state and private prosecutor. The independent prosecutor shall charge a late

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<sup>11</sup> The ability of a DOJ or a DOJ-deputized attorney to bring a civil action against a law enforcement agency and a criminal action against a law enforcement agent is not hindered by the actions of a private prosecutor who brings a criminal action against a law enforcement agent on behalf of the state.

fee and daily interest charge for invoices that are not paid according to the terms of the agreement between the state and the private prosecutor.

## **TITLE 23—DOJ OFFICE OF CIVILIAN OVERSIGHT AND ACCOUNTABILITY**

### **SEC. 1. Office of Civilian Oversight and Accountability**

- (a) United States Attorney General shall establish an Office of Civilian Oversight and Accountability. The Office shall work with community groups, civilian review boards, Bureau of Justice Statistics, statisticians, advocates, and licensed attorneys from communities across the U.S. to develop parameters and best practices for monitoring policing, minimizing use of force, and measuring the performance of law enforcement agents nationwide. Law enforcement agents and their spouses are prohibited from participating in activities or forums hosted by the Office of Civilian Oversight and Accountability.
- (b) The AG shall not implement a formal structure or leadership hierarchy for civilians participating in the Office of Civilian Oversight and Accountability. The AG shall devise a process that affords all community members and groups equal power and equal access to the Office's resources.

### **SEC. 2. Regional Policing Conferences**

- (a) The Office of Civilian Oversight and Accountability shall host four regional conferences each year to review current statistics on law enforcement in the United States. The conferences shall enlist the public's involvement in studying pertinent problems and issues related to law enforcement and crafting national solutions. The AG may reduce the number of regional conferences held from four to two, once POP statistics begin to confirm a significant nationwide reduction in use of force by law enforcement agents. In the event DOJ reduces the number of regional conferences to two, regional conferences shall not be held in the same regions for two consecutive years. A national conference may not be held where a regional conference was held during the same year.

### **SEC. 3. Annual Policing Conference**

- (a) The Office of Civilian Oversight and Accountability shall host an annual conference to foster new and improve existing crime control techniques and policing strategies. All conferences shall maintain a focus on preserving life and preventing injury during the law enforcement process. The annual conference shall be held in a region that is different from the location of regional conferences held during the year.

## **TITLE 24—OBLIGATION TO DISCLOSE**

### **SEC. 1. Unconstitutional Practices by Law Enforcement Agents**

- (a) A law enforcement agent who participates in actions or conspires to conceal actions that are known to violate a person's constitutional rights, a law or a policy of DOJ or a law enforcement agency shall be deemed unfit. Such actions shall include but are not limited to:
- (1) Presence of unauthorized weapons or contraband on a law enforcement agent or in a vehicle owned, leased, or rented by a law enforcement agency over which the agent has custody;
  - (2) Knowledge of, but failure to disclose, a false statement made by a law enforcement agent to another law enforcement agent or local, state, or federal official investigating a use of force or other incident;
  - (3) Concealing, tampering with, or disturbing evidence at a crime scene;
  - (4) Thwarting a fact-finding effort related to a law enforcement-involved incident;
  - (5) Removing, dismantling, or disabling an electronic surveillance or tracking device installed on the person of a law enforcement agent, in the vehicle of a law enforcement agent, in a building housing law enforcement agents, or otherwise installed to track the activities or whereabouts of a law enforcement agent or law enforcement vehicle;
  - (6) Retaliation against a law enforcement agent;
  - (7) Unauthorized release of information collected during an investigation; and
  - (8) Participating in or helping to prevent the prosecution of persons participating in a criminal enterprise.

## **TITLE 25—PROHIBITED PRACTICES**



## **SEC. 1. Prohibited Practices**

- (a) A state shall not:
  - (1) Deny employment to a law enforcement agent based upon the agent's financial condition.
  - (2) Cap financial judgments on civil actions brought against law enforcement agents or law enforcement agencies.

## **TITLE 26—ACTIONS BY ATTORNEYS**

### **SEC. 1. Deputizing Licensed Attorneys**

- (a) The AG shall authorize licensed attorneys in good standing to act on behalf of the AG pursuant to powers outlined in the Violent Crime and Law Enforcement Act (Law Enforcement Act of 1994, 42 U.S.C. § 14141), the Omnibus Crime Control and Safe Streets Act of 1968, and Title IV of the Civil Rights Act of 1964, which forbids discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds and this act.

## **TITLE 27—REVENUE GENERATION**

### **SEC. 1. Revenue Generation from Policing Activities**

- (a) A law enforcement agency or a law enforcement agent shall not impress upon a law enforcement agent, implicitly or explicitly, the need to accomplish a certain number of law enforcement stops, issue a certain number of citations, or otherwise set goals pertaining to policing or revenue generation other than those specifically related to crime reduction and safety.

### **SEC. 2. Revenue Generation from Other Functions**

- (a) The Office of Civilian Accountability and Oversight, aided by community representatives, shall monitor law enforcement jurisdictions to identify agencies that are engaging in targeted policing, i.e., strategically positioning speed traps, check stops, etc. in a manner that disproportionately affects members of a protected class.

### **SEC. 3. Vehicle Tows**

- (a) A state shall set standard statewide rates and policies for vehicle tows related to law enforcement activities.

Penalty—Violating Provisions In This Section. Any person who violates a provision of this section shall be fined \$50,000 and imprisoned at least one (1) year but not more than three (3) years.

## **TITLE 28—PENALTIES**

### **SEC. 1. 18 U.S.C. § 1001—Statements or Entries Generally**

- (a) Any person who enters false information into POP or provides information he or she knows to be false for entry into POP shall be guilty of violating 18 U.S.C. § 1001 and subject to related penalties.

**SEC. 2. 18 U.S.C. § 1091 — Genocide**

- (a) Any law enforcement agent who uses his or her status as a law enforcement agent to injure or kill members of a target group shall be guilty of violating 18 U.S.C. § 1091 and shall be subject to related penalties.

**TITLE 29—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 1. Authorizations**

**Special Thanks:**