

112TH CONGRESS
1ST SESSION

H. R. 3228

To require Federal law enforcement agencies to report to Congress serious crimes, authorized as well as unauthorized, committed by their confidential informants, to amend title 28, United States Code, with respect to certain tort claims arising out of the criminal misconduct of confidential informants, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 14, 2011

Mr. LYNCH introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require Federal law enforcement agencies to report to Congress serious crimes, authorized as well as unauthorized, committed by their confidential informants, to amend title 28, United States Code, with respect to certain tort claims arising out of the criminal misconduct of confidential informants, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Confidential Informant
5 Accountability Act of 2011”.

1 **SEC. 2. REPORT.**

2 (a) **IN GENERAL.**—Not later than March 1 and Sep-
3 tember 1 of each year, the head of each department that
4 contains a law enforcement agency shall, with respect to
5 each law enforcement agency within that Department,
6 fully report to the House Committee on Oversight and
7 Government Reform, the House Committee on the Judici-
8 ary, the Senate Committee on Homeland Security and
9 Governmental Affairs, and the Senate Committee on the
10 Judiciary all serious crimes, authorized and unauthorized,
11 committed by informants maintained by the law enforce-
12 ment agency.

13 (b) **PERIOD COVERED.**—Each report due on March
14 1 of a year shall cover serious crimes that took place dur-
15 ing the 6 month period beginning July 1 and ending De-
16 cember 31 of the preceding year. Each report due on Sep-
17 tember 1 of a year shall cover serious crimes that took
18 place beginning January 1 and ending June 30 of that
19 year.

20 (c) **CONTENTS.**—

21 (1) **REQUIRED.**—Each report under subsection
22 (a) shall include a description of the total number of
23 each type and category of crime; the amount of
24 drugs involved if the crime is a drug crime; the
25 amount of money involved if the crime is a theft or
26 bribery crime; whether the crime was authorized or

1 unauthorized; and the state in which each crime
2 took place.

3 (2) PROHIBITED.—The report shall not contain
4 individual informant names, informant control num-
5 bers, or other personal identification information
6 that could reveal the identity of an individual in-
7 formant.

8 (d) ARREST OR CHARGE OF INFORMANT NOT TO AF-
9 FECT DUTY TO REPORT.—The duty to report crimes
10 under this section exists regardless of whether the inform-
11 ant has or has not been arrested or charged with the re-
12 portable crime in any jurisdiction.

13 (e) DISCLAIMER.—Nothing in this section limits the
14 authority and responsibility of the appropriate committees
15 of each House of Congress to obtain such information as
16 they may need to carry out their respective functions and
17 duties.

18 (f) DEFINITIONS.—In this section—

19 (1) the term “department that contains a law
20 enforcement agency” means the Department of Jus-
21 tice, the Department of Homeland Security, and the
22 Department of the Treasury;

23 (2) the term “law enforcement agency” means
24 Federal Bureau of Investigation, the Drug Enforce-
25 ment Administration, the United States Secret Serv-

1 ice, United States Immigration and Customs En-
2 forcement, and the Bureau of Alcohol, Tobacco,
3 Firearms and Explosives;

4 (3) the term “informant” means any individual
5 who is believed to be providing useful and credible
6 information to the law enforcement agency for any
7 authorized information collection activity, and from
8 whom the law enforcement agency expects or intends
9 to obtain additional useful and credible information
10 in the future, and whose identity, information, or re-
11 lationship with the law enforcement agency warrants
12 confidential handling; and

13 (4) the term “serious crime” means—

14 (A) any serious violent felony as that term
15 is defined in section 3559(c)(2)(F) of title 18,
16 United States Code;

17 (B) any serious drug offense as that term
18 is defined in section 3559(c)(2)(H) of title 18,
19 United States Code; or

20 (C) an offense consisting of racketeering,
21 bribery, child pornography, obstruction of jus-
22 tice, or perjury;

23 that an agent or employee of the relevant law en-
24 forcement agency has reasonable grounds to believe
25 that an informant has committed.

1 **SEC. 3. TORT CLAIMS ARISING OUT OF THE CRIMINAL MIS-**
2 **CONDUCT OF A CONFIDENTIAL INFORMANT.**

3 (a) IN GENERAL.—Section 2401(b) of title 28,
4 United States Code, is amended—

5 (1) by striking “A tort claim” and inserting
6 “(1) Except as provided in paragraph (2)”; and

7 (2) by adding at the end the following:

8 “(2) In the case of a claim arising out of the
9 conduct of an employee of the Government with re-
10 spect to the criminal misconduct of a Government
11 informant, paragraph (1) shall be applied by sub-
12 stituting ‘three’ for ‘two.’”.

13 (b) RETROACTIVE EFFECT.—The amendments made
14 by this section shall apply with respect to any claim that—

15 (1) accrued on or after May 1, 1982; and

16 (2) is presented not later than one year after
17 the date of enactment of this Act.

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