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S. 2883

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2023

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cost of Police Mis-
5 conduct Act of 2023”.

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

7 (a) DEFINITIONS.—In this section:

1 (1) ALLEGATION OF MISCONDUCT.—The term
2 “allegation of misconduct” means an allegation by a
3 member of the community, a fellow law enforcement
4 officer, or other individual that a law enforcement
5 officer took an unlawful under State or Federal law,
6 tortious, or otherwise inappropriate action in connec-
7 tion with the official duties of the officer.

8 (2) BYRNE JAG PROGRAM.—The term “Byrne
9 JAG program” means any grant program under
10 subpart 1 of part E of title I of the Omnibus Crime
11 Control and Safe Streets Act of 1968 (34 U.S.C.
12 10151 et seq.).

13 (3) CIVIL RIGHTS ORGANIZATION.—The term
14 “civil rights organization” means an organization
15 that monitors the equitable enforcement of and
16 treatment under the law and that has a national
17 presence and membership.

18 (4) JUDGMENT.—The term “judgment” means
19 the final court order in a civil action that resolves
20 all issues in dispute and settles the parties’ rights
21 with respect to those issues.

22 (5) LAW ENFORCEMENT AGENCY.—The term
23 “law enforcement agency” means an agency engaged
24 in the prevention, detection, investigation, prosecu-

1 tion, or adjudication of violations of the law in the
2 United States.

3 (6) MISCONDUCT.—The term “misconduct”
4 means an instance in which a law enforcement offi-
5 cer took an unlawful under State or Federal law,
6 tortious, or otherwise inappropriate action in connec-
7 tion with the official duties of the officer.

8 (7) PROFESSIONAL LAW ENFORCEMENT ASSO-
9 CIATION.—The term “professional law enforcement
10 association” means a law enforcement membership
11 association that works for the needs of Federal,
12 State, local, or Indian Tribal law enforcement agen-
13 cies and with the civilian community on matters of
14 common interest, such as the Hispanic American
15 Police Command Officers Association (HAPCOA),
16 the National Asian Pacific Officers Association
17 (NAPOA), the National Black Police Association
18 (NBPA), the National Latino Peace Officers Asso-
19 ciation (NLPOA), the National Organization of
20 Black Law Enforcement Executives (NOBLE),
21 Women in Law Enforcement, the Native American
22 Law Enforcement Association (NALEA), the Inter-
23 national Association of Chiefs of Police (IACP), the
24 National Sheriffs’ Association (NSA), the Fraternal

1 Order of Police (FOP), or the National Association
2 of School Resource Officers.

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

5 (A) a civil action prior to the entry of
6 judgment; or

7 (B) a legal dispute prior to the filing of a
8 complaint or petition.

9 (b) IDENTIFICATION REQUIREMENT.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of enactment of this Act, and annually
12 thereafter, the Attorney General shall identify—

13 (A) the total number of Federal law en-
14 forcement agencies in the Federal Government;
15 and

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

18 (2) PUBLICATION.—Not later than 120 days
19 after the date of enactment of this Act, and annually
20 thereafter, the Attorney General shall make publicly
21 available on the internet website of the Department
22 of Justice the information under paragraph (1).

23 (c) FEDERAL LAW ENFORCEMENT REQUIRE-
24 MENTS.—

1 (1) DATA COLLECTION.—Beginning on the date
2 that is 120 days after the date of enactment of this
3 Act, a Federal law enforcement agency identified
4 under subsection (b)(1) shall collect the information
5 described in paragraph (2) of this subsection relat-
6 ing to any judgments or settlements with respect to
7 such allegations of misconduct.

8 (2) INFORMATION REQUIRED.—With respect to
9 the preceding year, a Federal law enforcement agen-
10 cy identified under subsection (b)(1) shall collect the
11 following information:

12 (A) The total number of judgments or set-
13 tlements entered into during the year with re-
14 spect to allegations of misconduct by a Federal
15 law enforcement officer employed by such agen-
16 cy.

17 (B) For each judgment or settlement with
18 respect to allegations of misconduct identified
19 in subparagraph (A):

20 (i) The race, ethnicity, sex, and age of
21 each Federal law enforcement officer and
22 civilian involved, if known.

23 (ii) The year in which the alleged mis-
24 conduct took place.

1 (iii) The year in which the allegation
2 was reported.

3 (iv) The type of allegation, which may
4 include a body camera violation (whether a
5 failure to wear or record), use of force (in-
6 cluding the type of force), a collision, racial
7 profiling, negligence, property damage, sex-
8 ual harassment or assault, false testimony,
9 wrongful death, failure of a duty to inter-
10 vene, or wrongful imprisonment.

11 (v) Any personnel action taken by the
12 officer involved, which may include res-
13 ignation or retirement.

14 (vi) Any personnel action taken by the
15 Federal law enforcement agency involved,
16 which may include termination, demotion,
17 or relocation of the officer involved.

18 (vii) The total amount paid to satisfy
19 the judgment or settlement (and related
20 court fees), regardless of the source of the
21 payment.

22 (viii) The source of money used to pay
23 the judgment or settlement (and related
24 court fees), including whether the money
25 came from amounts appropriated under

1 section 1304 of title 31, United States
2 Code (commonly known as the “Judgment
3 Fund”), amounts appropriated to the Fed-
4 eral law enforcement agency, or another
5 source.

6 (ix) Any injunctive or declaratory re-
7 lief awarded, or any comparable terms in
8 any settlement agreement.

9 (C) The total amount paid pursuant to
10 such judgments and settlements (and related
11 court fees) by the Federal law enforcement
12 agency.

13 (3) REPORTS REQUIRED.—

14 (A) IN GENERAL.—Not later than 60 days
15 after the last day of each year that begins after
16 the date of enactment of this Act, a Federal law
17 enforcement agency identified under subsection
18 (b)(1) shall report to the Attorney General,
19 pursuant to guidelines established by the Attor-
20 ney General, the information collected pursuant
21 to paragraph (1) for the preceding year.

22 (B) EXTENSION.—The Attorney General
23 may extend the deadline under subparagraph
24 (A) by not more than 60 days for a Federal law
25 enforcement agency that the Attorney General

1 determines is making good faith efforts to com-
2 ply with the requirement under such subpara-
3 graph.

4 (C) SCOPE OF INITIAL REPORT.—The first
5 report submitted by a Federal law enforcement
6 agency under subparagraph (A) shall include
7 data collected prior to the year covered by the
8 report, if the data collection requirement under
9 paragraph (1) applies to any period prior to
10 that year.

11 (d) STATE AND LOCAL LAW ENFORCEMENT RE-
12 QUIREMENTS.—

13 (1) REQUIREMENTS.—

14 (A) NOTIFICATION.—Not later than 30
15 days after the date of enactment of this Act,
16 the Attorney General shall notify each State or
17 unit of local government that receives funds
18 under the Byrne JAG program of the require-
19 ment under subparagraph (B).

20 (B) DATA COLLECTION.—On and after the
21 date that is 120 days after the date of enact-
22 ment of this Act, each State or unit of local
23 government that receives funds under the
24 Byrne JAG program shall collect information
25 relating to any judgments or settlements with

1 respect to any allegations of misconduct that is
2 substantially similar to the information de-
3 scribed in subsection (c)(2).

4 (C) DATA REPORTING.—

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

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

23 (iii) SOURCE OF MONEY FOR JUDG-
24 MENTS AND SETTLEMENTS.—For purposes
25 of clause (i), in reporting the source of

1 money used to pay a judgment or settle-
2 ment (and related court fees), as described
3 in subsection (c)(2)(C)(viii), a State or
4 unit of local government shall disclose the
5 portion of the judgment or settlement pay-
6 ment that came from a general operating
7 budget, State or local law enforcement
8 agency budget, bonds, liability insurance, a
9 central risk management fund or pool, or
10 other source.

11 (iv) INSURANCE, BONDS, AND RISK
12 MANAGEMENT FUNDS.—For purposes of
13 clause (i), a State or unit of local govern-
14 ment shall disclose—

15 (I) the total amount, if any,
16 spent on any insurance premiums
17 paid by the State or unit of local gov-
18 ernment for insurance against law en-
19 forcement misconduct;

20 (II) if any portion of a settlement
21 is paid with bonds, the amount of the
22 bond, as well as the total future cost
23 of the bond, including any interest
24 and fees; and

1 (III) the total amount, if any,
2 that the State or unit of local govern-
3 ment contributed to any central risk
4 management fund or pool toward the
5 settlement of law enforcement mis-
6 conduct claims.

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

14 (vi) PUBLICATION.—Not later than 30
15 days after the date on which a State or
16 unit of local government submits to the At-
17 torney General the information collected
18 under subparagraph (B) in accordance
19 with the requirements of this subpara-
20 graph, the State or unit of local govern-
21 ment shall publish such information on the
22 respective website of the State or unit of
23 local government.

24 (2) INELIGIBILITY FOR FUNDS.—

1 (A) IN GENERAL.—A State or unit of local
2 government that fails to comply with the re-
3 quirements under paragraph (1) shall be sub-
4 ject to not more than a 10-percent reduction of
5 the funds that would otherwise be allocated to
6 the State or unit of local government under the
7 Byrne JAG program, not more than a 10-per-
8 cent reduction of the funds that would other-
9 wise be allocated to the State or unit of local
10 government under the “Cops on the Beat” pro-
11 gram under part Q of title I of the Omnibus
12 Crime Control and Safe Streets Act of 1968
13 (34 U.S.C. 10381 et seq.), or both, for—

14 (i) the fiscal year in which the failure
15 to comply occurs; or

16 (ii) the subsequent fiscal year.

17 (B) REALLOCATION.—Amounts not allo-
18 cated under the Byrne JAG program or the
19 “Cops on the Beat” program under part Q of
20 title I of the Omnibus Crime Control and Safe
21 Streets Act of 1968 (34 U.S.C. 10381 et seq.)
22 to a State or unit of local government for fail-
23 ure to fully comply with paragraph (1) shall be
24 reallocated under the relevant program to

1 States or units of local government that have
2 complied with such paragraph.

3 (3) OPEN-SOURCE DATA.—Not later than 30
4 days after each date on which the Attorney General
5 receives information reported under paragraph (1)
6 from a State or unit of local government, the Attor-
7 ney General shall verify such information reported
8 using open-source data, as practicable, including
9 using data from newspaper and court records.

10 (e) STUDY AND REPORTS REQUIRED.—

11 (1) GAO STUDY AND REPORT.—

12 (A) STUDY.—After data has been collected
13 and reported under subsections (c) and (d) for
14 2 full years, the Comptroller General of the
15 United States shall carry out a study on such
16 data, including—

17 (i) the number of Federal, State, and
18 local law enforcement agencies reporting
19 such data to the Attorney General;

20 (ii) a determination of the leading
21 cause of judgments and settlements
22 against Federal, State, and local law en-
23 forcement agencies;

24 (iii) an analysis of any relationship
25 between the number of judgments and set-

1 tlements and the actions taken by Federal,
2 State, or local law enforcement agencies,
3 including the process of the agency to en-
4 force the law, the culture of the agency,
5 and any new programs established by the
6 Federal, State, or local law enforcement
7 agency to enforce the law;

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

12 (v) identification of Federal, State,
13 and local law enforcement agencies that
14 have spent the most money with respect to
15 judgments and settlements (and related
16 court fees);

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

22 (vii) the average amount of money
23 spent on judgments or settlements (and re-
24 lated court fees) by—

1 (I) Federal law enforcement
2 agencies;

3 (II) State law enforcement agen-
4 cies; and

5 (III) local law enforcement agen-
6 cies;

7 (viii) an assessment of—

8 (I) how efficiently and effectively
9 the Attorney General collects and dis-
10 seminate data collected under sub-
11 sections (c) and (d); and

12 (II) how the Attorney General
13 may improve coordination with State
14 and local law enforcement agencies re-
15 garding any review process for allega-
16 tions of misconduct, including how the
17 agencies implement consent decrees
18 and initiate pattern and practice in-
19 vestigations relating to allegations of
20 misconduct; and

21 (ix) a review by the Attorney General
22 of the data collection practices carried out
23 pursuant to subsections (c) and (d) and
24 recommendations relating to how such
25 practices may be improved.

1 (B) REPORT.—Not later than 120 days
2 after the last day of the third year that begins
3 after the date of enactment of this Act, the
4 Comptroller General, in consultation with the
5 Attorney General, shall—

6 (i) prepare and submit to the Com-
7 mittee on the Judiciary of the Senate and
8 the Committee on the Judiciary of the
9 House of Representatives a report that
10 contains the findings of the study under
11 subparagraph (A); and

12 (ii) make the report described in
13 clause (i) available to the public.

14 (2) DEPARTMENT OF JUSTICE REPORT.—

15 (A) IN GENERAL.—Not later than 120
16 days after the last day of the third year that
17 begins after the date of enactment of this Act,
18 and annually thereafter, the Attorney General
19 shall—

20 (i) prepare and submit to the Com-
21 mittee on the Judiciary of the Senate and
22 the Committee on the Judiciary of the
23 House of Representatives a report that in-
24 cludes the information described in sub-
25 paragraph (B); and

1 (ii) subject to subsection (f) and not-
2 withstanding any other provision of Fed-
3 eral law relating to privacy, make the re-
4 port described in clause (i) available to the
5 public.

6 (B) CONTENTS.—The report submitted
7 under subparagraph (A) shall include—

8 (i) recommendations for law enforce-
9 ment agencies relating to the use of force;

10 (ii) best practices, created in consulta-
11 tion with law enforcement organizations,
12 professional law enforcement associations,
13 and civil rights organizations, for methods
14 by which law enforcement agencies may re-
15 duce instances of misconduct;

16 (iii) an analysis of data relating to
17 judgments and settlements reported by
18 State and local law enforcement agencies
19 under subsection (d); and

20 (iv) any other relevant information re-
21 lating to data and information collected
22 under subsections (c) and (d).

23 (3) DATABASE.—

24 (A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of this Act, the At-

1 torney General shall create and maintain on the
2 internet website of the Department of Justice a
3 public, searchable database containing all data
4 reported under subsections (c) and (d), subject
5 to any otherwise applicable confidentiality re-
6 quirements. Such publication shall not include
7 any personally identifiable information of any
8 law enforcement officer.

9 (B) DATABASE UPDATES.—The Attorney
10 General shall update the database created
11 under subparagraph (A) on an annual basis
12 with data reported under subsections (c) and
13 (d).

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

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