

116TH CONGRESS
2D SESSION

H. R. 8597

To improve the collection and retention of disciplinary records of law enforcement officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2020

Mr. CARTER of Texas introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To improve the collection and retention of disciplinary records of law enforcement officers, 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 “Policing Transparency
5 Act”.

6 **SEC. 2. NATIONAL USE-OF-FORCE DATA COLLECTION.**

7 Section 501 of title I of the Omnibus Crime Control
8 and Safe Streets Act of 1968 (34 U.S.C. 10152) is amend-
9 ed by adding at the end the following:

1 “(h) NATIONAL USE-OF-FORCE DATA COLLEC-
2 TION.—

3 “(1) DEFINITIONS.—In this section—

4 “(A) the term ‘law enforcement officer’—

5 “(i) means any officer, agent, or em-
6 ployee of a State, unit of local government,
7 or an Indian tribe authorized by law or by
8 a government agency to engage in or su-
9 pervise the prevention detection, or inves-
10 tigation of any violation of criminal law, or
11 authorized by law to supervise sentenced
12 criminal offenders; and

13 “(ii) includes an individual described
14 in clause (i) who is employed or volunteers
15 in a full-time, part-time, or auxiliary ca-
16 pacity;

17 “(B) the term ‘National Use-of-Force Data
18 Collection’ means the National Use-of-Force
19 Data Collection of the Federal Bureau of Inves-
20 tigation; and

21 “(C) the term ‘serious bodily injury’ means
22 bodily injury that results in death, unconscious-
23 ness, protracted and obvious disfigurement, or
24 protracted loss or impairment of the function of
25 a bodily member or organ.

1 “(2) REPORTING REQUIREMENT.—For each fis-
2 cal year in which a State or unit of local government
3 receives funds under subsection (a), the State or
4 unit of local government shall report to the National
5 Use-of-Force Data Collection on an annual basis and
6 pursuant to guidelines established by the Federal
7 Bureau of Investigation, information regarding—

8 “(A) a use-of-force event by a law enforce-
9 ment officer in the State or unit of local gov-
10 ernment that results in—

11 “(i) the fatality of an individual that
12 is connected to use of force by a law en-
13 forcement officer;

14 “(ii) the serious bodily injury of an in-
15 dividual that is connected to use of force
16 by a law enforcement officer; and

17 “(iii) in the absence of either death or
18 serious bodily injury, when a firearm is
19 discharged by a law enforcement officer at
20 or in the direction of an individual;

21 “(B) any event in which a firearm is dis-
22 charged by a civilian at or in the direction of
23 a law enforcement officer; and

24 “(C) the death or serious bodily injury of
25 a law enforcement officer that results from any

1 discharge of a firearm by a civilian, or any
2 other means, including whether the law enforce-
3 ment officer was killed or suffered serious bod-
4 ily injury as part of an ambush or calculated
5 attack.

6 “(3) INFORMATION REQUIRED.—For each use-
7 of-force event required to be reported under para-
8 graph (2), the following information shall be pro-
9 vided, as required by the Federal Bureau of Inves-
10 tigation:

11 “(A) Incident information, including the
12 type of incident, the type of force used, and the
13 weapon type, if applicable.

14 “(B) Subject information, including any
15 injuries sustained by the subject and the race of
16 the subject.

17 “(C) Officer information, including the
18 race of each officer involved, the length of serv-
19 ice of each officer involved, the number of offi-
20 cers involved, and the size of the law enforce-
21 ment agency that employs each such officer.

22 “(4) COMPLIANCE.—

23 “(A) INELIGIBILITY FOR FUNDS.—

24 “(i) FIRST FISCAL YEAR.—

1 “(I) STATES.—For the first fis-
2 cal year beginning after the date of
3 enactment of the Policing Trans-
4 parency Act in which a State fails to
5 comply with paragraph (2) with re-
6 spect to a State law enforcement
7 agency, the State shall be subject to a
8 20-percent reduction of the funds that
9 would otherwise be allocated for reten-
10 tion by the State under section 505(c)
11 for that fiscal year, and if any unit of
12 local government within the State fails
13 to comply with paragraph (2), the
14 State shall be subject to a reduction
15 of the funds allocated for retention by
16 the State under section 505(c) that is
17 equal to the percentage of the popu-
18 lation of the State represented by the
19 unit of local government, not to ex-
20 ceed 20 percent.

21 “(II) LOCAL GOVERNMENTS.—
22 For the first fiscal year beginning
23 after the date of enactment of the Po-
24 licing Transparency Act in which a
25 unit of local government fails to com-

1 ply with paragraph (2), the unit of
2 local government shall be subject to a
3 20-percent reduction of the funds that
4 would otherwise be allocated to the
5 unit of local government for that fis-
6 cal year under this subpart.

7 “(ii) SUBSEQUENT FISCAL YEARS.—

8 “ (I) STATES.—Beginning in the
9 first fiscal year beginning after the
10 first fiscal year described in clause
11 (i)(I) in which a State fails to comply
12 with paragraph (2) with respect to a
13 State law enforcement agency, the
14 percentage by which the funds de-
15 scribed in clause (i)(I) are reduced
16 shall be increased by 5 percent each
17 fiscal year the State fails to comply
18 with paragraph (2), except that such
19 reduction shall not exceed 25 percent
20 in any fiscal year.

21 “(II) LOCAL GOVERNMENTS.—

22 Beginning in the first fiscal year be-
23 ginning after the first fiscal year de-
24 scribed in clause (i)(II) in which a
25 unit of local government fails to com-

1 ply with paragraph (2), the percent-
2 age by which the funds described in
3 clause (i)(II) are reduced shall be in-
4 creased by 5 percent each fiscal year
5 the unit of local government fails to
6 comply with paragraph (2), except
7 that such reduction shall not exceed
8 25 percent in any fiscal year.

9 “(B) REALLOCATION.—Amounts not allo-
10 cated under a program referred to in subpara-
11 graph (A) to a State or unit of local govern-
12 ment for failure to comply with paragraph (2)
13 shall be reallocated to the United States Treas-
14 ury.

15 “(5) PUBLIC AVAILABILITY OF DATA.—Not
16 later than 1 year after the date of enactment of this
17 Act, and each year thereafter, the Director of the
18 Federal Bureau of Investigation shall publish, and
19 make available to the public, the National Use-of-
20 Force Data Collection.

21 “(6) FBI OUTREACH AND TECHNICAL ASSIST-
22 ANCE.—The Director of the Federal Bureau of In-
23 vestigation shall provide to a State or unit of local
24 government technical assistance and training for the

1 collection and submission of data in accordance with
2 this subsection.”.

3 **SEC. 3. LAW ENFORCEMENT RECORDS RETENTION.**

4 (a) IN GENERAL.—Part E of title I of the Omnibus
5 Crime Control and Safe Streets Act of 1968 (34 U.S.C.
6 10151 et seq.) is amended by adding at the end the fol-
7 lowing:

8 **“Subpart 4—Law Enforcement Records Retention**

9 **“SEC. 531. LAW ENFORCEMENT RECORDS RETENTION.**

10 “(a) DEFINITIONS.—In this section—

11 “(1) the term ‘applicable covered system’, with
12 respect to a law enforcement agency, means the cov-
13 ered system of the covered government of which the
14 law enforcement agency is part;

15 “(2) the term ‘covered government’ means a
16 State or unit of local government;

17 “(3) the term ‘covered system’ means a system
18 maintained by a covered government under sub-
19 section (b); and

20 “(4) the term ‘disciplinary record’—

21 “(A) means any written document regard-
22 ing an allegation of misconduct by a law en-
23 forcement officer that—

1 “(i) is substantiated and is adju-
2 dicated by a government agency or court;
3 and

4 “(ii) results in—

5 “(I) resignation, dismissal of em-
6 ployment, relief of duty status exceed-
7 ing three days, or another adverse ac-
8 tion by the employing law enforcement
9 agency resulting in the loss of pay or
10 demotion; or

11 “(II) criminal charges; and

12 “(B) does not include a written document
13 regarding an allegation described in subpara-
14 graph (A) if the adjudication described in
15 clause (i) of that subparagraph has been over-
16 turned on appeal.

17 “(b) RECORDS RETENTION REQUIREMENTS.—

18 “(1) RECORDS RETENTION SYSTEM.—A covered
19 government that receives funds under this part shall
20 maintain a system for sharing disciplinary records of
21 law enforcement officers that meets the require-
22 ments under paragraph (2).

23 “(2) REQUIREMENTS.—In administering a cov-
24 ered system, a covered government shall—

1 “(A) retain each disciplinary record or in-
2 ternal investigation record regarding a law en-
3 forcement officer that is prepared by a law en-
4 forcement agency of the covered government,
5 and retain, for each law enforcement officer
6 with respect to whom a record is retained under
7 this subparagraph, at the time of the creation
8 of the record—

9 “(i) the number of official claims
10 made against the officer and investigations
11 regarding the officer that were based on
12 discrimination;

13 “(ii) the number of investigations with
14 respect to which the complaint was deter-
15 mined to be unfounded; and

16 “(iii) the total number of official civil-
17 ian interactions (including traffic stops and
18 arrests) the officer has had during their
19 employment with the law enforcement
20 agency;

21 “(B) retain a record of each award or com-
22 mendation regarding a law enforcement officer
23 that is prepared by a law enforcement agency
24 of the covered government;

1 “(C) establish a policy that ensures that
2 each record included in the covered system is
3 retained and accessible for not less than 20
4 years;

5 “(D) allow a law enforcement officer, coun-
6 sel for a law enforcement officer, or the rep-
7 resentative organization of a law enforcement
8 officer to—

9 “(i) submit information to the covered
10 system relating to a disciplinary record or
11 internal investigation record regarding the
12 law enforcement officer that is retained
13 under subparagraph (A); or

14 “(ii) obtain access to the covered sys-
15 tem in order to review a disciplinary record
16 or internal investigation record described
17 in clause (i);

18 “(E) allow any Federal, State, or local law
19 enforcement agency to access any record in-
20 cluded in the covered system for the purpose of
21 making a decision to hire a law enforcement of-
22 ficer;

23 “(F) require that, before hiring a law en-
24 forcement officer, a representative of a law en-

1 enforcement agency of the covered government
2 with hiring authority—

3 “(i) search the applicable covered sys-
4 tem of each law enforcement agency that
5 has employed the applicant as a law en-
6 forcement officer in order to determine
7 whether the applicant has a disciplinary
8 record, internal investigation record, or
9 record of an award or commendation on
10 file; and

11 “(ii) if a record described in clause (i)
12 exists, review the record in full before hir-
13 ing the law enforcement officer; and

14 “(G) prohibit access to the covered system
15 by any individual other than an individual who
16 is authorized to access the covered system for
17 purposes of—

18 “(i) submitting records or other infor-
19 mation to the covered system as described
20 in subparagraphs (A), (B), and (D); or

21 “(ii) reviewing records or other infor-
22 mation in the covered system as described
23 in subparagraphs (E) and (F).

24 “(c) INELIGIBILITY FOR FUNDS.—

1 “(1) IN GENERAL.—A covered government may
2 not receive funds under section 505, 506, 515, or
3 516 unless the covered government is in compliance
4 with subsection (b) of this section.

5 “(2) REALLOCATION.—Amounts not allocated
6 under a section referred to in paragraph (1) to a
7 covered government for failure to comply with sub-
8 section (b) shall be reallocated to the United States
9 Treasury.

10 “(d) ONE-TIME GRANT.—

11 “(1) IN GENERAL.—The Attorney General shall
12 award a grant to each State, using an apporportion-
13 ment formula that reflects the differences between
14 each State, to be used by the State and units of
15 local government within the State to establish cov-
16 ered systems.

17 “(2) AMOUNT.—The amount of a grant award-
18 ed to a State under paragraph (1) shall be not less
19 than \$1,000,000.

20 “(3) DIRECT APPROPRIATIONS.—For the pur-
21 pose of making grants under this subsection, there
22 is authorized to be appropriated \$100,000,000, to
23 remain available until expended.

24 “(e) INDEMNIFICATION.—

1 “(1) IN GENERAL.—The United States shall in-
2 demnify and hold harmless a covered government,
3 and any law enforcement agency thereof, against
4 any claim (including reasonable expenses of litiga-
5 tion or settlement) by any person or entity related
6 to—

7 “(A) the retention of records in a covered
8 system as required under subsection (b); or

9 “(B) the review of records included in a
10 covered system as required under subsection
11 (b).

12 “(2) LIMITATION.—Paragraph (1) shall not
13 apply to the release of a record—

14 “(A) to a non-law enforcement entity or in-
15 dividual; or

16 “(B) for a purpose other than making a
17 decision to hire a law enforcement officer.”.

18 (b) EFFECTIVE DATE.—Section 531(c) of title I of
19 the Omnibus Crime Control and Safe Streets Act of 1968,
20 as added by subsection (a), shall take effect on October
21 1 of the first fiscal year beginning after the date of enact-
22 ment of this Act.

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