

**UNIFORM REPORTING LAW ENFORCEMENT  
IMPROVEMENT ACT**

**(URLEIA)**

November \_\_\_\_, 2016

**“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.

[www.changeisonus.org](http://www.changeisonus.org)

[info@changeisonus.org](mailto:info@changeisonus.org)

202.817.1331

# 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 to overhaul a law enforcement agency's policing practices.

The Uniform Reporting Law Enforcement Improvement Act (URLEIA) is a sensible 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 law enforcement agency or a law enforcement agent is acting illegally or depriving people of their constitutional rights. URLEIA will provide the data DOJ, law enforcement agencies, licensing bodies, civilian review boards, and oversight entities require to quickly detect and remove unfit law enforcement agents before they do irreparable harm to members of the public.

URLEIA also gives rise to a new 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 of affluence throughout the United States where law enforcement agents exhibit restraint when interacting with members of the public. Smart policing is the guiding principle of the obligation to preserve life and prevent injury approach to policing. Smart policing requires a law enforcement agent to make wise decisions during the initial encounter with a member of the public in order to avoid the need for use of force as an encounter progresses.

# LEGAL AUTHORITY FOR FEDERAL CONTROL

## **Printz v. United States 521 U.S. 898 (1997)**

URLEIA is rooted in the Federal Government's right to exercise concurrent authority (dual sovereignty) over the people. URLEIA cures the concerns cited by the U.S. Supreme Court in *Printz*, which affirmed the unconstitutionality of The Brady Act's interim background-check provisions. The provisions would have required "Chief Law Enforcement Officers" (CLEOs) across the nation to accept completed handgun-applicant statements (Brady Forms) from firearms dealers.<sup>1</sup> URLEIA requires:

- **The Federal Government to fund requirements.** The U.S. Supreme Court states in *Printz* that the "Federal Government's power would be augmented immeasurably and impermissibly if it were able to impress into its service-and at no cost to itself-the police officers of the 50 States" Pp. 918-922." The federal government will fund a significant share of the costs associated with implementing URLEIA by charging private security firms for services the government provides; charging law enforcement agents licensing fees; utilizing funds budgeted for pattern or practice investigations; cost savings from technology deployments; civil settlements from pattern or practice investigations; and retention of some grant and training funds routinely provided to local law enforcement agencies.
- **The President's to administer provisions contained in this Act.** *Printz* states that "The Federal Executive's unity would be shattered, and the power of the President would be subject to reduction, if Congress could simply require state officers to execute its laws. Pp. 922-923." The framework URLEIA creates allows the President to implement, manage, and control law enforcement agents nationwide.

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<sup>1</sup> <https://supreme.justia.com/cases/federal/us/521/898/case.html>

- **The Commerce Clause Article 1, Section 8, Clause 3 of the U.S. Constitution**

Article 1, Section 8, Clause 3 of the U.S. Constitution confers upon Congress the power “To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes.” Congress has repeatedly used the Commerce Clause to justify exercising legislative power over the activities of states and their citizens when those activities bear a “close and substantial relationship to interstate commerce.”

Countless reports available on national policing confirm that African Americans, Hispanics, and other minorities are disproportionately harmed by racially discriminatory policing practices and policies. According to the F.B.I.’s *Supplementary Homicide Report*, 31.8 percent of people shot by police were African-American even though African Americans constitute only 13.2 percent of the general population. An article that appeared on the *PBS News Hour*’s website titled *Why Aren’t More People Talking about Latinos Killed by Police?* reports that Hispanics make up 17.6 percent of the U.S. population but represent 23 percent of all searches and nearly 30 percent of arrests. It also reveals that when it comes to police killings, Hispanics are second only to African Americans.

An informal survey conducted by ONUS, Inc.—the drafter of the URLEIA legislative proposal—reveals that discriminatory policing has a restrictive effect on the free flow of interstate and intrastate commerce. The survey also affirms that discriminatory policing significantly influences the decisions African Americans, Hispanics, and other minorities make on a daily basis affecting commerce, including the routes they travel, types of vehicles they purchase, places they shop, and where they locate their businesses.

URLEIA establishes high-quality national standards that will help ensure policing is consistent from community to community and State to State, helping to abate the restrictive effects racially-discriminatory policing is having on commerce. URLEIA will function in concert with existing national laws pertaining to policing, including:

- **The Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (“Section 14141”).** Section 14141 makes it unlawful for a law enforcement officer 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.
- **Omnibus Crime Control and Safe Streets Act of 1968 ([Public Law 90–351; 82 Stat. 1972).** The Omnibus Crime Control and Safe Streets Act of 1968 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; 3) Encourages research and development directed toward the improvement of law enforcement; and 4) Promotes the development of new methods for preventing and reducing crime and detecting and apprehending criminals. The Act also forbids discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds.
- **Title VI of the Civil Rights Act of 1964.** This act forbids discrimination on the basis of race, color, sex, or national origin by agencies receiving federal funds.

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<sup>2</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.

## PRECEDENTS FOR FEDERAL INTERVENTION

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 two 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 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 misdemeanors. 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 personnel, police, and military to own a gun even though they had a domestic violence conviction.

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# H.R. \_\_\_\_\_

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To require the Attorney General of the United States to Standardize law enforcement policies nationwide in order to ensure accountability and transparency in policing.

## IN THE HOUSE OF REPRESENTATIVES

\_\_\_\_, 2016

. \_\_\_\_\_ of \_\_\_\_\_, introduced the following bill, which was referred to the Committee on \_\_\_\_\_, and in addition, to the Committee on \_\_\_\_\_ for a period to 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 standardize policing nationally by requiring 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 based on the obligation to preserve life and prevent injury;
- 3) Institute consistent practices, policies, and laws that ensure transparency and accountability in policing nationwide; and
- 4) Require policing entities to secure approval from the President of the United States before deploying military equipment domestically.

# TITLE 1—SHORT TITLE

## SEC. 1. Short Title

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

# TITLE 2—GENERAL PROVISIONS

## SEC. 1. Definitions

(a) In this Act:

- (1) *Adverse action* refers to any negative action or finding by a law enforcement agency, law enforcement agent with supervisory responsibilities, administrative or oversight tribunal, licensing or certification body, trainer, or other person with authority to train, supervise, or discipline a law enforcement agent.
- (2) *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:
  - (A) Any voluntary agreement or court-related agreement between the United States Department of Justice (DOJ) and a law enforcement agency to rectify a negative investigative or other finding against a law enforcement agent or agency; and
  - (B) Any action taken against a law enforcement agent to rectify or redress a negative investigative or other finding, including a conviction, reprimand, revocation of license, censor, demotion, civil judgment, decertification, or other similar act.
- (3) *Civil judgment* means a court-ordered action rendered in a federal or state court proceeding on a civil matter.
- (4) *Child* means any person who has not reached age eighteen.

- (5) *Color of law* means a person is using or acting upon authority given to him or her by a local, state, or federal governmental 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 working for a public entity at the time of an incident or law enforcement action.
- (6) *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.
- (7) *Consequence* means a result or effect of an act, no matter how small or incremental.
- (8) *Crime scene investigator* (CSI) refers to a person charged with recovering, managing and processing evidence at or from a crime scene.
- (9) *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 a matter being investigated; and
- (B) Any court of general criminal jurisdiction of a State authorized by a law of that State.
- (10) *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.
- (11) *Criminal negligence* means failing to act as required or acting recklessly without reasonable caution, thereby putting another person at risk of injury or death.
- (12) *Data bank* means a large repository of data on a particular topic that is generally accessible by many users.
- (13) *Dead body or dead human body* means a body or fetus for which it reasonably can be determined that death occurred.

- (14) *Department of Justice Attorney* means any person working for DOJ who is charged with exercising powers conferred on DOJ by statute, including DOJ-deputized attorneys.
- (15) *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.
- (16) *Final determination* represents the conclusion of a dispute by the rendering of a final decision on a matter. A final determination includes:
- (A) A recommendation rendered by an investigative or oversight body that rescinds a negative action or adverse finding; or
  - (B) A recommendation rendered by an investigative or oversight body that affirms a negative action or adverse finding. An adverse finding or negative action includes exclusions, revocations of licenses or certifications, censors, reprimands, probation, surrender of weapon, and other similar acts. This definition excludes corrective action plans unless the number of corrective action plans exceeds the number allowed.
- (17) *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.
- (18) *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., gun, knife, etc. Generally, the forensic pathologist who performs an

autopsy on a person killed by a law enforcement agent works for a local, state, or federal entity.

- (19) *Formally activated* means using a law enforcement department personnel procedure to establish a law enforcement agent as on-duty.
- (20) *Incident* refers to 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:
- (A) A stop, arrest, discharge of a weapon, use of an object on a person during an arrest, use-of-force, traffic-related event, arrest, property seizure, vehicle tow, or any other action that results in a consequence to a member of the public.
- (21) *Incident reporting* means the act of documenting an incident in the manner prescribed by law or policy.
- (22) *Implicit bias* is a discriminatory bias based upon attitudes and stereotypes a person is not aware he or she harbors.
- (23) *Law enforcement agency* refers to any local, state, or federal entity that performs law enforcement activities, including contract firms 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:
- (A) Local policing entities, which derive their authority from a local governing body;
  - (B) State police/highway patrols, which are law enforcement agencies charged with patrolling highways and assisting with investigations and emergencies that extend beyond the jurisdictional boundaries of local policing entities;
  - (C) Special jurisdiction police, which generally provides policing services for defined entities or areas such as military compounds, parks, schools, transportation facilities (e.g., subways, buses, etc.), hospitals, universities, colleges, housing authorities, and government buildings. A special jurisdiction policing entity generally provides the full array of services provided by local policing entities;
  - (D) National Guard members;

- (E) Deputy Sheriff Offices, which generally enforce state laws at the local level; and
- (F) Other entities that perform policing functions.
- (24) *Law enforcement agent* is a person authorized to carryout policing functions on behalf of a law enforcement agency or security firm.
- (25) *Law enforcement action or law enforcement event* 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 a law enforcement agent. A law enforcement action/event includes, but is not limited to, removal of a child from the custody of an adult by child protective services, a citation, vehicle tow, arrest, or use of force by a law enforcement agent.
- (26) *Law enforcement-involved use-of-force event* means a use-of-force event by a law enforcement agent or a use-of-force event against a law enforcement agent.
- (27) *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.
- (28) *Lead law enforcement agent* refers to a law enforcement agent who has the most interaction with or most significant interaction with a member of the public during an incident that does not involve use of force. A law enforcement agent who uses force during an incident is considered a lead law enforcement agent.
- (29) *Licensing body* means any local, state, federal, independent entity, or other body charged with licensing a law enforcement agent or private security officer to perform law enforcement duties.
- (30) *Mandatory reporting* means an entity is required to report specific information.
- (31) *Minimum mandatory information* means the minimum information that must be supplied when completing an incident report or other electronic form or record.
- (32) *Military equipment* refers to tools or equipment listed on the *Annual List of Military Equipment* that shall be developed annually by DOJ in conjunction with the U.S. Department of Defense and citizens attending regional and annual policing

conferences hosted by the U.S. Department of Justice Office of Civilian Oversight and Accountability.

- (33) *Negative action* refers to an unfavorable finding by the DOJ, a law enforcement entity, federal or state licensing body, certification authority, or private accreditation entity.
- (34) *Negligent homicide* refers to a criminal charge brought against a person who, due to criminal negligence, allows another person to die.
- (35) *Other adjudicated action or decision* means 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 results from the agency’s established administrative procedure, which includes the exercise of appeal options within specified timeframes.
- (36) *Owner or operator of private security firm* refers to a person who has a financial ownership interest in a private security firm, sits on the firm’s board, or has significant control over the firm’s operations.
- (37) *Precipitate* means an initial act that leads to or results in another act such as use of force.
- (38) *Private prosecutor* refers to a private attorney who criminally prosecutes a person on behalf of a State.
- (39) *Probable<sup>3</sup> cause*, for the purposes of this Act, requires a law enforcement agent to be able to provide “specific and articulable facts” for taking a given action(s). The law enforcement agent shall have knowledge of facts that would lead a **reasonable**

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<sup>3</sup> The Law Dictionary Online: <http://thelawdictionary.org/article/definitions-of-probable-cause-vs-reasonable-suspicion/>

**person** to believe that a particular **individual** is committing or has a committed **criminal act**.

- (40) *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.
- (41) *Reasonable suspicion*<sup>4</sup> asserts that “police officers should be allowed to stop and briefly detain a person if, based upon the officer’s training and experience, there is reason to believe that the individual is engaging in criminal activity. The officer is given the **opportunity** to freeze the action by stepping in to investigate.” URLEIA nullifies the reasonable suspicion standard.
- (42) *Right to record a law enforcement agent* means the right to record a law enforcement agent’s interactions with a member of the public or the right to record the individual actions of a law enforcement agent during the performance of his or her duties.
- (43) *Reportable action* refers to an action a law enforcement agent, agency, or entity that licenses, trains, or certifies law enforcement agents must document in POP.
- (44) *Resisting arrest* means fleeing a law enforcement agent during a lawful arrest or using intermediate or lethal force to resist a law enforcement agent while being arrested. Resisting arrest does not include pulling away from a law enforcement agent or touching a law enforcement agent during an arrest without intent to do a law enforcement agent bodily harm.
- (45) *Routine or spontaneous investigatory activity* refers to, but is not limited to, the following activities by a law enforcement agent:
- (A) Interviews;

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<sup>4</sup> Unlike probable cause that uses a reasonable person standard, reasonable suspicion is based upon the standard of a reasonable [police officer](http://thelawdictionary.org/article/definitions-of-probable-cause-vs-reasonable-suspicion/). *The Law Dictionary online*: <http://thelawdictionary.org/article/definitions-of-probable-cause-vs-reasonable-suspicion/>



- (B) Traffic stops;
  - (C) Pedestrian stops; and
  - (D) Frisks and other types of body searches.
- (46) *Seize*, 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, detention, arrest, or by simply yelling “Stop!”
- (47) *Smart Policing* is an approach to law enforcement that requires a law enforcement agent to demonstrate respect for members of the public; exercise sound judgment; effectively deploy de-escalation techniques to manage volatile encounters; adhere to training protocols; abide by laws and policies; and abstain from prohibited practices.
- (48) *State* refers to the United States, one of the fifty states, the District of Columbia, Puerto Rico, Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.
- (49) *Stop & Frisk* means a quick pat-down of person’s outer clothing.
- (50) *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.
- (51) *Threat (actual)* means a law enforcement agent can demonstrate with facts and evidence that a person is “in the process” of doing significant harm to a law enforcement agent or third party.
- (52) *Threat (perceived)* means a law enforcement agent deems a person to be a threat based upon his or her perceptions of the person and the circumstances. The law enforcement agent’s perceived threat is based largely upon inference, supposition, and conjecture and may have no basis in fact. A law enforcement agent shall not use force based upon perceived threat.
- (53) *Transaction category* identifies types of law enforcement actions that have either 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 the sale of items seized, payments to reclaim property seized or forfeited, vehicle tows, bonds posted, and other funds citizens pay or deposit with a law enforcement agency or judicial or administrative body in conjunction with a law enforcement event or activity.

- (54) *Unfit indicator* refers to an indicator in the POP Data Bank that identifies a law enforcement agent as being unfit to serve as a law enforcement agent. The “Unfit” Indicator can be set by DOJ, a trainer, law enforcement supervisor, or oversight body after the law enforcement agent has exhausted due process options.
- (55) *Unfit history* shows the number of times a law enforcement agent has been declared to be unfit and has succeeded in having his/her unfit status reversed on appeal. A law enforcement agent’s unfit history can itself be reason to declare a law enforcement agent unfit.
- (56) *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 minimal force to lethal force that results in death.
- (57) *Voluntary surrender* means a surrender made in exchange for an agreed-upon decision from a licensing authority or disciplinary body to cease an investigation or proceeding; not conduct an investigation or proceeding; or in lieu of a disciplinary or other adverse action.

## **SEC. 2. Applicability**

This Act establishes the following:

- (b) Attorney General’s responsibility to create and maintain a national Pattern or Practice Data Bank (POP);
- (c) Incident reporting requirements for local, state and federal law enforcement agents and agencies;

- (d) Federal standards governing use-of-force investigations;
- (e) National use-of-force statute;
- (f) Humane policing approach that complies with international standards and focuses on the *obligation to preserve life and prevent injury* during the policing process;
- (g) Attorney General’s responsibility to create and maintain the U.S. Department of Justice Office of Civilian Oversight and Accountability (OCOIA);
- (h) Attorney General’s responsibility to work closely with members of the public nationwide via the Office of Civilian Oversight and Accountability (OCOIA) to establish consistent policing standards for the United States; and
- (i) Attorney General’s responsibility to ensure improved safety for law enforcement agents and members of the public

**SEC. 3. Exclusions**

This Act does not apply to military law enforcement personnel serving abroad.

## **TITLE 3—PREAMBLE**

### **SEC. 1. Preamble**

- (a) A law enforcement agent is among this nation's many first responders.
- (b) A first responder's duties include an inherent risk of injury or death.
- (c) 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.
- (d) A law enforcement agent is not permitted to kill or injure in order to mitigate a perceived threat.
- (e) A law enforcement agent is expected to know the law and respect the law and a person's constitutional rights.
- (f) The Fourth Amendment to the U.S. Constitution grants a person the right to be free from unwarranted search and seizure.
- (g) The unwarranted or unjustified injury or killing of a person constitutes an unwarranted seizure and violates a person's Fourth Amendment rights.

# TRANSPARENCY IN LAW ENFORCEMENT

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## TITLE 4—PATTERN OR PRACTICE DATA BANK (POP)

### SEC. 1. What Authorizes AG to Conduct a Pattern or Practice Investigation?

(a) U.S. Code, Title 42, Chapter 136, Subchapter IX, Part B, Section 14141, incorporated with additions below, authorizes the AG to conduct an investigation into the pattern or practices of a law enforcement agent or law enforcement agency and take civil action to obtain the appropriate relief:

- (1) **Unlawful conduct:** “It shall be unlawful for [any private security firm, or any agent thereof,] or any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.”
- (2) **Civil action by Attorney General:** Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.

### SEC. 2. How Will the Pattern or Practice Data Bank (POP) Function?

- (a) The U.S. Attorney General (AG) of the U.S. Department of Justice (DOJ) shall ensure the design and implementation of a properly structured Pattern or Practice Data Bank (POP) that includes the functionality required to fulfill the provisions of this Act. The AG shall

maintain POP, regulate user access to POP, analyze POP data, maintain POP records, and generate standard and custom POP reports and furnish them to Congress and other appropriate bodies and officials. The AG also shall publicize POP data and statistics monthly to characterize the state of law enforcement in the United States.

### **SEC. 3. What Are POP's Minimum Data Input Requirements?**

(a) The AG shall ensure the POP Data Bank contains features that expedite data input and provide a clear audit trail that preserves the integrity of the original record as well as changes to the record. POP shall date- and time-stamp all entries; insert the preparer's user identification number and agency identification number based upon the preparer's login credentials; require users preparing forms or entering data to complete an affidavit attesting to the truth and accuracy of information provided; and require, to the fullest extent possible, demographic information about each person who is the subject of a law enforcement action or encounter, including the subject's age, race/ethnicity, and gender.

### **SEC. 4. How Will the AG Leverage Technology to Improve Incident Reporting?**

(a) The AG shall actively seek to deploy new and existing technology to enable POP users to streamline data entry and improve data analysis and utilization. The AG shall explore the use of handheld devices, barcoding, and other technology as a means of simplifying incident reporting.

### **SEC. 5. How Will the AG Protect the Confidentiality of POP Data?**

(a) The AG shall ensure the confidentiality of POP data by providing user access levels appropriate to a user's information needs. POP shall use passwords and security measures that protect and preserve the integrity of data stored in POP and POP archival systems. The AG also shall ensure 1) social security numbers, which function as agent identifiers, remain confidential and are viewable only to persons authorized to view such data, and 2) areas of POP available to the public are securely partitioned and do not permit members of the public to access non-public areas of the POP Data Bank.

**SEC. 6. How Will the AG Preserve Historical Information?**

(a) The AG shall allow entities that oversee, certify, or license law enforcement agents; DOJ; and law enforcement agencies to readily retrieve data necessary to gain a complete history of a law enforcement agent’s or law enforcement agency’s actions or interactions with members of the public.

**SEC. 7. How Long Will Records Be Retained?**

(a) The AG shall establish retention timeframes for all POP data, documents, and files. AG shall retain the files of active law enforcement agents indefinitely.

**SEC. 8. What Happens if POP Data Is Lost or Deleted?**

(a) The AG shall develop an effective disaster recovery plan for POP programs and data files. The plan shall ensure offsite storage of POP data files, routine backup procedures, and data recovery procedures.

**TITLE 5—INCIDENT REPORTING**

**SEC. 1. What Will Law Enforcement Agents Use to Document Public Interactions?**

(a) The AG shall work with law enforcement agencies across the nation to design a *Primary Incident Form* and a *Supplemental Incident Form* and other forms needed for incident reporting. Agents shall use the Primary Incident Form and Supplemental Incident Form to document interactions with members of the public and people in the custody of a law enforcement agency.

**SEC. 2. What Are the Timeframes for Preparing an Incident Form?**

(a) The AG shall require a law enforcement agent at the scene before, during, or after an incident to complete the appropriate incident form within the timeframe required by law or policy:

(b) Who Must Prepare the *Primary Incident Form*?

- (1) If an incident did not involve use of force by or against a law enforcement agent, the law enforcement agent deemed to be the lead agent shall complete the *Primary Incident Form* within three (3) hours of departing the scene of an incident.
- (2) A law enforcement agent who *uses force* or *has minimal, intermediate, or lethal force used against him or her* shall complete the Primary Incident Form within three (3) hours of departing the scene of an incident unless the agent is physically<sup>5</sup> unable to complete the form.

(c) Who Must Prepare a *Supplemental Incident Form*?

- (1) If an incident did not involve use of force by or against a law enforcement agent, a law enforcement agent at the scene of an incident who is not the lead agent shall complete a Supplemental Incident Form within eight (8) hours of the incident.
- (2) A law enforcement agent at the scene of a use-of-force incident *who did not use force or have force used against him/ her* during the incident, shall prepare a *Supplemental Incident Form* within three (3) hours after departing the scene even if the lead officer fails to prepare the Primary Incident Form in a timely manner.

(d) When Must a Law Enforcement Agent Upload Supporting Information?

- (1) A law enforcement agent shall upload available supporting documentation when completing an incident report, i.e., photos or other documents that support claims made on the incident form.

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<sup>5</sup> AG shall not exempt a law enforcement agent from completing required reports in the timeframes specified by law or policy due to mental illness or emotional distress.



**SEC. 3. What if an Agent is Unable to Prepare an Incident Form?**

(a) A law enforcement agent deemed physically incapable of preparing an incident form shall provide information required to prepare an incident form to his or her supervisor within three (3) hours after a licensed physician or physician overseeing the agent's care determines the agent is capable of providing such information. The supervisor shall take a recorded statement from the law enforcement agent and complete the incident form using information obtained from the recorded interview. The supervisor shall upload the recorded interview into POP within three (3) hours of concluding the recorded interview.

**SEC. 4. What Are the Timeframes for Uploading Evidence on a Use of Force Event?**

- (a) The AG shall require an authorized person investigating a law enforcement-involved use-of-force event to upload related evidence within the timeframe required by law or policy:
- (2) An investigator shall upload a witness statement within twenty-four (24) hours after the statement is obtained.
  - (3) An investigator shall upload into POP dash cam video, body cam footage, or other electronic evidence within twenty four (24) hours after the evidence is collected.
  - (4) An investigator shall upload other POP information related to a use-of-force event within 24 hours after evidence is collected.

**SEC. 5. How Will an Agent Attest to the Accuracy of an Incident Report?**

(a) AG shall require a law enforcement agent to sign an affidavit on the incident form attesting that information provided on the incident form is true and accurate and was provided within the required timeframe.

**SEC. 6. How Will an Agent Document Items Seized?**

(a) The AG shall include an option in POP that allows a law enforcement agent to prepare an *Inventory Intake Form* while preparing an incident form. A law enforcement agent shall use the

*Inventory Intake Form* to document items seized during an incident. The AG may elect to expand the *Primary Incident Form* and the *Supplemental Incident Form* to reveal an Inventory Intake Form.

Penalty—A law enforcement agent involved in a use-of-force incident who confers with another law enforcement agent about facts, matters, or events related to an incident before completing a POP incident form shall be fined \$25,000 under this title and imprisoned at least one (1) year but not more than three (3) years.

Penalty—An authorized person charged with investigating a use-of-force event who fails to comply with provisions and timeframes specified in this Act shall be prohibited from participating on an independent use-of-force investigative team.

#### **SEC. 7. Does the AG Possess Authority to Change Timeframes?**

(a) AG may, with consultation and input from members of the public and law enforcement, adjust timeframes to accommodate advances in technology and changes in law. AG shall not alter reporting timeframes in this Act by more than eight (8) hours. AG shall not permit extensions on a case-by-case basis.

#### **SEC. 8. Will Historical Data be Loaded into POP Data Bank?**

(a) AG shall require a law enforcement agency to enter use-of-force information from the prior three (3) years when POP is implemented. An agency shall have up to six (6) months to enter historical use-of-force data. AG also shall create a special designation in POP that identifies the information as historical data.

#### **SEC. 9. What Other Functionality Must Attorney General Provide?**

(a) The AG shall ensure POP has the required incident forms, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP INCIDENT REPORTING FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) Primary Incident Form</p>	<p>(A) AG shall design a <i>Primary Incident Form</i> for each type of law enforcement agency.</p> <p>(B) The Primary Incident Form shall include an incident number field as well as fields for a law enforcement agent to provide a complete account of his or her interactions with a member of the public and actions taken, i.e., vehicle tow, confiscations and seizures, use of force, etc. The AG shall design the incident form to expand to reveal additional input fields depending upon the type of incident the agent is documenting.</p> <p>(C) A law enforcement agent deemed to be the lead<sup>6</sup> agent on an incident shall prepare the Primary Incident Form. A law enforcement agent who uses force or has force used against him or her is also required to complete a Primary Incident Form.</p>
<p>(2) Supplemental Incident Form</p>	<p>(A) AG shall design a companion Supplemental Incident Form that is to be completed by a law enforcement agent who was at the scene before, during, or after an incident but was not deemed to be a lead agent. The Supplemental Incident Form shall contain a section that allows an agent at the</p>

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<sup>6</sup> *Lead law enforcement agent* refers to a law enforcement agent who has the most interaction or most significant interaction with a person who is the subject of a law enforcement event. A law enforcement agent who uses force during an incident or is the subject of force during an incident is also considered a lead law enforcement agent.

**POP INCIDENT REPORTING FUNCTION SHALL INCLUDE AT MINIMUM:**

	<p>scene to provide his or her account of events and actions taken. The Supplemental Incident Form shall require an agent to select one of the following three options:</p> <ul style="list-style-type: none"> <li>(i) I agree with all statements shown on the Primary Incident Form made by the lead law enforcement agent.</li> <li>(ii) I agree with statements shown on the Primary Incident Form made by the lead law enforcement agent with some exceptions. (Identify statements you believe to be inaccurate or incomplete and explain why you deem them to be inaccurate or incomplete.)</li> <li>(iii) I disagree substantially with statements shown on the Primary Incident Form made by the lead law enforcement agent. (Identify statements you believe to be inaccurate and explain why you deem them to be inaccurate.)</li> </ul> <p>(B) POP shall not present the above options to the agent completing the Supplemental Incident Form until the lead agent has entered all required information.</p>
<p>(3) Missing Incident Form</p>	<ul style="list-style-type: none"> <li>(A) AG shall ensure POP displays both an officer-level and agency-level incident log identifying incomplete, complete, and missing incident forms, i.e., forms that should have been completed but were not.</li> <li>(B) AG shall create an agency-level incident log in POP that displays all incident forms</li> </ul>

**POP INCIDENT REPORTING FUNCTION SHALL INCLUDE AT MINIMUM:**

that are incomplete. The log shall display the date of an incident, location of an incident, time of an incident, and status of all incident forms, sorted by incident number and then by type of incident form. The log shall display a status of “Incomplete” if an incident form (Primary or Supplemental) associated with the incident number is incomplete.

- (C) POP shall link Primary Incident Forms and Secondary Incident Forms that have the same incident number. A search of an incident number shall reveal all Primary Incident Forms and all Supplemental Incident Forms that have the same number, i.e., incident forms that were prepared by law enforcement agents who were at the scene before, during, or after an incident.
- (D) When multiple law enforcement agents complete a Primary Incident Form or multiple law enforcement agents complete a Supplemental Incident Form using the same incident number, POP shall generate a letter identifier (A, B, etc.) and append it to the incident number. POP shall append an identifier to the end of Supplemental Incident Forms when two or more are prepared using the same incident number.
- (E) The lead law enforcement agent shall open a Primary Incident Form by entering into

**POP INCIDENT REPORTING FUNCTION SHALL INCLUDE AT MINIMUM:**

	<p>POP the location of the incident, date of the incident, time of the incident, and general nature of the incident. The agent can complete the incident form at a later time but within the timeframe specified by law or policy.</p> <p>(F) A law enforcement agent supervising a law enforcement agent involved in a use-of-force event shall ensure that a Primary Incident Form is opened for the incident within one (1) hour after a use-of-force event ends (last act that involved use of force.) A law enforcement agent at the scene before, during, or after the event shall use the incident report number to prepare a Primary Incident Form or Supplemental Incident Form, whichever is applicable.</p>
(4) Confirming Incident Number is Accurate	(A) POP shall contain a feature that helps ensure a law enforcement agent uses the correct incident number when preparing an incident form.
(5) 5) Incident Complete Indicator	(A) POP shall provide an incident reporting feature that requires a law enforcement agent to mark an incident form complete.
(6) Electronic Affidavit	(B) The AG shall require a law enforcement agent preparing a Primary Incident Form or a Supplemental Incident Form to sign an electronic affidavit attesting that statements and representations made on the incident form are true and accurate.

## TITLE 6—INCIDENT RESPONSE

### SEC. 1. What Is the Purpose of the Incident Response Feature?

(a) A member of the public who is issued a citation or other official document by a law enforcement agent can comment on the citation/incident report by accessing POP and completing an *Incident Response Form*.

(b) The Incident Response Form in POP shall display the *Primary Incident Form* prepared by the lead law enforcement agent. The person preparing the incident response can refute the law enforcement agent's account of events, explain his or her version of events, or make other comments.

### SEC. 2. What Other Functionality Must Attorney General Provide?

(a) The AG shall ensure POP has an *Incident Response Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP INCIDENT RESPONSE FUNCTION SHALL INCLUDE AT MINIMUM:**

(1) Incident Response Form

(A) AG shall require a person to enter information from a citation issued by a law enforcement agent in order to access an Incident Response Form. When a law enforcement agent is preparing an incident report, he or she shall require the subject of a law enforcement action to provide an identifier. The law enforcement agent shall include the citation number and the identifier provided by the subject on the citation. The subject must enter the citation number and the identifier to access an Incident Response Form related to his or her incident.

(B) A subject may respond to an incident form by selecting one of the following options:

(i) I agree with all statements shown on the Primary Incident Form.

(ii) I agree with statements shown on the Primary Incident Form with some exceptions. (Identify statements you believe to be inaccurate and explain why you deem them to be inaccurate.)

(iii) I disagree substantially with statements shown on the Primary Incident Form. (Identify statements you believe to be inaccurate and explain why you deem them to be inaccurate.)



**POP INCIDENT RESPONSE FUNCTION SHALL INCLUDE AT MINIMUM:**

- (A) AG shall prohibit a law enforcement agency or agent from altering, deleting, or editing information on an Incident Response Form.
- (B) The AG shall ensure POP sends an email or text alert to the person who prepared the Incident Response Form after the matter is investigated and labeled complete. AG shall allow the preparer to comment on the final determination.
- (C) AG shall send a copy of the Incident Response Form and the final determination to law enforcement supervisors, oversight bodies, certifying and licensing bodies, and other parties the AG deems relevant.

## TITLE 7—INCIDENT DISPOSITION

### SEC. 1. What Is the Purpose of an Incident Disposition Form?

(a) A law enforcement agency that files a civil or criminal charge against a person shall prepare an *Incident Disposition Form* when all proceedings related to the incident are concluded.

### SEC. 2. Who Is Required to Complete an Incident Disposition Form?

(a) A law enforcement agency that has authority to file charges or [mete punishment] shall complete an Incident Disposition Form to document how an incident was concluded.

### SEC. 3. What Information Must be Included on an Incident Disposition Form?

(a) A law enforcement agent who has authority to file charges shall complete an Incident Disposition Form. The agent shall enter on the Incident Disposition Form the identification number assigned to a person incarcerated, placed, or otherwise detained; a person's demographic information; and other consequences meted, including—

- (1) Fees and monetary penalties;
- (2) Items confiscated/seized and their related value;
- (3) Bonds, bail, and other forms of surety;
- (4) Mandates such as community service;
- (5) Information about a vehicle towed, including:
  - (A) Identification number associated with the tow;
  - (B) Reason for the tow;
  - (C) Scan of the signed form from the owner or driver of the vehicle authorizing a tow.  
(A person shall have the right to decline a tow in any and all circumstances.);

- (D) Blue book value of a vehicle towed, seized, or forfeited;
- (E) Number of days a vehicle remained in storage;
- (F) Amount an owner must pay/paid to reclaim a vehicle, along with individual line items for storage costs and other fees imposed;
- (G) Manner of disposal if the vehicle was not returned to the owner (auction, sold, etc.);
- (H) Amount obtained for the vehicle at auction, sale, etc.;
- (I) Information related to other assets seized, forfeited, or abandoned; and
- (J) Timeframes related to sentencing, probation, etc.

**SEC. 4.        What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has an *Incident Disposition Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP INCIDENT DISPOSITION FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) Incident Disposition Form</p>	<p>(A) AG shall design an <i>Incident Disposition Form</i>. POP shall require the preparer to provide the date of the incident, action taken, final determination, financial consequence, bond posted, prisoner Identification number, or other identifier assigned to the subject who is being detained. AG may require other relevant information.</p>
<p>(2) Disposition Query</p>	<p>(A) AG shall design a Disposition Query that reveals the names of people impacted by a law enforcement action or incident. Search criteria shall determine the names that display on the Incident Disposition Report.</p>

## **TITLE 8—PUBLIC FEEDBACK**

### **SEC. 1. Who Should Use the POP Data Bank Public Feedback Option?**

(a) A member of the public who was not issued a citation or incident report number can use the Public Feedback option to comment on the actions or behavior of a law enforcement agent. The comment may amount to a complaint, compliment, or suggestion as to how a law enforcement agent can do a better job. Favorable feedback shall not be deemed to ameliorate bad acts on the part of a law enforcement agent.

### **SEC. 2. Are There Other Ways Members of the Public Can Provide Feedback?**

(a) A law enforcement agency shall publish a statement on its website explaining how members of the public can submit feedback in writing. The AG requires that a law enforcement agency upload into POP—using the Public Feedback option—all feedback from members of the public submitted in writing.

(b) AG shall also create a Notice of Illegal Activities Form that allows members of the public to notify law enforcement of people in the community who are involved in illegal activities.

### **SEC. 3. Who Investigates Public Feedback?**

(a) AG, working in conjunction with the Office of Civilian Oversight and Accountability (OCA) and law enforcement agents, shall determine who reviews public feedback. AG shall afford the person preparing a Public Feedback Form the option of directing the form to one of the investigative entities listed on the Public Feedback Form. The person investigating feedback shall document on the Public Feedback Form steps taken during the investigative process, findings, outcomes, and actions taken.

**SEC. 4. How Can a Person Determine the Status of a Complaint?**

(a) The AG shall allow a person who prepared a *Public Feedback Form* to access POP and determine the status of a complaint or action taken. AG shall ensure a person submitting public feedback has the ability to comment on complaint findings or rulings from his or her home computer.

**SEC. 5. How Does a Law Enforcement Agent Provide Feedback on Other Agents?**

(a) A law enforcement agent shall use the Law Enforcement Agent (LEA) Complaint Form to disclose an illegal, improper, or unconstitutional act committed by a law enforcement agent.

**SEC. 6. What Other Functionality Must Attorney General Provide?**

(a) The AG shall ensure POP has a *Public Feedback Form*, *Notice of Illegal Activities Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP PUBLIC FEEDBACK FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) Public Feedback Form</p>	<p>(A) AG shall design a <i>Public Feedback Form</i> that allows a member of the public who <i>was not</i> the subject of a law enforcement action to provide feedback about a law enforcement agent. The Public Feedback function shall require the preparer to indicate the nature of the feedback:</p> <ul style="list-style-type: none"><li>(i) Compliment or comment;</li><li>(ii) General Complaint;</li></ul> <p>(B) POP shall allow the preparer to upload video, photographs, or documents substantiating statements made on the Public Feedback Form.</p> <p>(C) The Public Feedback Form shall provide a section for the person reviewing the feedback to document steps and actions taken.</p> <p>(D) The Public Feedback Form also shall allow the preparer of the form to comment on actions taken.</p>
<p>(2) Signature</p>	<p>(A) AG shall afford a preparer the option of providing his or her name or submitting the form anonymously. If the person elects to submit information anonymously, POP shall conceal the preparer's identification information. POP shall assign an identification number to the complaint and provide that number to the preparer. The preparer can log into POP and use the number to inquire about the complaint and learn if any corrective measures were adopted.</p>
<p>(3) Notice of Illegal Activities</p>	<p>(A) AG shall create a <i>Notice of Illegal Activities Form</i> that a member of the public can use to notify law enforcement of persons involved in illegal activities within a community.</p>

## **TITLE 9—LEA COMPLAINT**

### **SEC. 1. What Is An LEA Complaint?**

(a) This Act imposes upon every law enforcement agent an obligation to disclose illegal acts committed by another law enforcement agent. A law enforcement agent shall prepare a *Law Enforcement Agent (LEA) Complaint Form* to disclose the illegal or improper acts of another law enforcement agent. AG shall include a feature that conceals the preparer's identifying information from all parties except the U.S. Department of Justice.

### **SEC. 2. Who Shall Investigate LEA Complaints?**

(a) AG shall assign an agent to investigate and resolve LEA Complaints.

### **SEC. 3. What Other Functionality Must Attorney General Provide?**

(a) The AG shall ensure POP has an *LEA Complaint Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—



**POP LEA COMPLAINT FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) LEA Complaint Form</p>	<p>(A) AG shall design a Law Enforcement Agent (LEA) Complaint Form that a law enforcement agent may use to disclose illegal, improper, or unconstitutional acts committed by another law enforcement agent.</p> <p>(B) AG shall manage the distribution, investigation, and resolution of LEA complaints.</p>
<p>(2) Officer Confidentiality</p>	<p>(A) POP shall automatically conceal the identity of the person who prepared an LEA Complaint Form by substituting the preparer’s identifying information (user identification number (User ID), name, etc.) with system assigned information.</p> <p>(B) A law enforcement agent may elect to remain anonymous or have his or her identity disclosed.</p> <p>(C) POP shall advise the preparer to print and save a copy of the completed online Law Enforcement Agent (LEA) Complaint Form.</p>

# TITLE 10—LEA FIELD INSPECTION

## SEC. 1. What Is an LEA Field Inspection?

(a) A Law Enforcement Agent (LEA) Field Inspection is an unscheduled audit of a law enforcement agent and the vehicle the law enforcement agent occupies on a given day while in the field. The purpose of an unscheduled field inspection is to determine if an on-duty law enforcement agent has an illegal item or contraband (“throw down,” drugs, or other contraband) in a law enforcement vehicle or on his or her person.

## SEC. 2. Who Conducts an LEA Field Inspection?

(a) This Act empowers DOJ-trained citizen auditors--aided by a DOJ deputized attorney--to track a law enforcement vehicle using GPS, stop a law enforcement vehicle, and search a law enforcement vehicle and the agents in the vehicle for contraband or unauthorized weapons.

(b) Daily, a law enforcement agent preparing to patrol shall search and inspect the law enforcement vehicle the agent will occupy as well as the person of each law enforcement agent scheduled to accompany the agent on patrol. An agent shall identify any improper items or contraband detected during the search. An agent shall not embark upon patrol until the patrol vehicle and other agent(s) scheduled to accompany the agent in the patrol vehicle are determined to be free of unlawful or prohibited items and substances. An agent shall access POP and complete an *LEA Field Inspection Report* attesting that the agent himself, companion agents, and the vehicle are “clean.”

(a) A Field Inspection Team shall inspect all law enforcement agents accompanying the agent selected for inspection by POP.

### **SEC. 3. How Does a Law Enforcement Agent Remain “Clean” in the Field?**

(a) A law enforcement agent<sup>7</sup> shall immediately document items seized in the field on the appropriate incident report. An agent shall enter on the incident report a description of each item seized, the quantity of each item seized, and time item(s) were seized. [If a law enforcement agent seizes an item, the agent must immediately begin preparing an incident report. The agent must document items seized even if the agent does not complete the incident report.]

### **SEC. 4. How Is an LEA Field Inspection Conducted?**

(a) The AG shall implement the following field inspection process along with any additions he or she determines are warranted:

- (1) POP shall randomly select a law enforcement agent for an unscheduled field inspection based upon program parameters.
- (2) A person participating on the field inspection team shall remove and leave behind telephones or other devices that can be used to communicate with outside parties. A team member shall inspect other team members to confirm no team member has a prohibited device.
- (3) OCOA shall identify the device that field inspectors must use to conduct a field inspection. OCOA also shall determine who must pay for the device and establish guidelines on how the device is to be stored.
- (4) The field inspection team, using GPS, shall travel to the location of the law enforcement agent and vehicle to be inspected.
- (5) The inspection team shall enable livestream video and announce to the law enforcement agent(s) via loudspeaker its intent to conduct a field inspection.

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<sup>7</sup> A law enforcement agent at the scene of an incident where goods were seized must document the seizure.

- (6) The law enforcement agent(s) in the vehicle to be inspected shall stop immediately and remain in the law enforcement vehicle.
- (7) The inspection team shall notify a 911 operator that an inspection is underway.
- (8) The team shall commence searching a law enforcement agent's person and the law enforcement vehicle in accordance with field inspection policies and regulations issued by the AG. The team shall inspect all law enforcement agents who are patrolling with the agent selected for inspection.
- (9) At an inspector's request, a law enforcement agency or the United States Drug Enforcement Agency (DEA) shall deliver a drug-detecting canine to the scene to assist with the inspection.

**SEC. 5. What Must a Law Enforcement Agent Do During a Field Inspection?**

(a) AG shall require a law enforcement agent to comply with the directives of authorized persons conducting an LEA field inspection.

**SEC. 6. What Qualifications Are Needed to Become a Field Inspector?**

(a) AG, working in conjunction with members of the public via the DOJ Office of Civilian Oversight and Accountability (OCA), shall establish guidelines for field inspectors.

Penalty—Interfering with an Investigation. A person authorized to conduct a field inspection who advises a person not on the inspection team advance notice of a pending inspection shall be fined \$50,000 and imprisoned at least one (1) year.

**SEC. 7. What Other Functionality Must an Attorney General Provide?**

(a) The AG shall ensure POP has an *LEA Field Inspection Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP LEA FIELD INSPECTION FUNCTION SHALL INCLUDE AT MINIMUM:**

(1) LEA Field Inspection Form

- (B) The LEA Field Inspection option reviews a law enforcement agency’s *Public Complaint Forms*, *LEA Complaint Forms*, and incident response forms to create a list of law enforcement agents accused of planting contraband, retrieving but not reporting stolen goods, or engaging in other illegal or improper acts that might be revealed during an unscheduled field inspection.
- (C) POP reviews the list of law enforcement agents identified by the LEA Field Inspection function and identifies agents who are currently on duty. In some instances, POP adds to the list the names of other law enforcement agents who are on-duty—some of whom may not have been the subject of a complaint.
  - (i) The inspection option randomly selects a law enforcement agent’s name from the list. That agent becomes the subject of a field inspection.
  - (ii) Field inspection team members shall complete a Field Inspection Form before departing on an inspection. POP shall randomly select a member of the field inspection team to function as the lead on a given day.
  - (iii) Each inspection team member shall sign an affidavit confirming the team performed required checks and verifications in compliance with LEA field inspection requirements.
  - (iv) While in the car together, the field inspection team uses a GPS tracking device to locate the vehicle carrying the law enforcement agent to be inspected.

**POP LEA FIELD INSPECTION FUNCTION SHALL INCLUDE AT MINIMUM:**

(v) The field inspection team notifies the law enforcement agency that a field inspection is underway and proceeds with the inspection. An inspection team shall search the law enforcement vehicle and the person of all law enforcement agents in the vehicle in the order and manner prescribed by the AG.

(D) The lead person on the LEA field inspection team completes the *LEA Field Inspection Form* and obtains the signature of all persons involved in the LEA Field Inspection, including law enforcement agents.

## TITLE 11—UNFIT TO SERVE

### SEC. 1. Who Can Label a Law Enforcement Agent Unfit?

(a) The AG shall grant a law enforcement official—and any entity that licenses, trains, or certifies a law enforcement agent—authority to label a law enforcement agent unfit. A law enforcement agency or private security firm shall not hire a law enforcement agent who has a status of “final” or “pending” next to the Unfit Indicator in the POP Data Bank.

(b) AG shall publish annually a list of actions that render a law enforcement agent Unfit-to-Serve. The AG’s list *shall not* be deemed all inclusive. The AG’s list shall include, at minimum, the following:

A law enforcement agent shall be declared unfit if he or she engages in the following actions:

- (1) Fails to demonstrate sound judgment and decision-making during training;
- (2) Fails to confirm a suspect is in the process of using lethal force before using lethal force;
- (3) Fails 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;
- (4) Uses lethal force to subdue a fleeing felon who is not in the process of using lethal force (*U.S. Supreme Court in Tennessee v. Garner*);
- (5) Uses force on a person subdued or in a state of surrender;
- (6) Uses excessive force to achieve compliance from a subject;
- (7) Evidences a pattern of injuring subjects during arrests;
- (8) Falsely charges a person with resisting arrest or levies other false charges;



- (9) Illegally detains a person, including stopping a person, frisking a person, or otherwise impeding a person's movement temporarily or permanently without an evidence-based reason;
- (10) Has a pattern of exhibiting insufficient knowledge about the laws and policies he or she is charged with enforcing;
- (11) Engages in overly aggressive policing that precipitate events that cause death or injury to a person;
- (12) Acts with disregard for intervening factors, such as being substantially outnumbered by suspects; ignoring substantial differences in a suspect's stature versus the stature of a law enforcement agent; and failing to consider a suspect's age and condition;
- (13) Encourages a law enforcement agent to deter from established training protocols, including approved policing methods and laws;
- (14) Violates the duty-to-care by failing to aid or secure medical assistance for a person in need of help or care;
- (15) Marginally avoids being classified as unfit as evidenced by the repeated setting of the "Unfit" Indicator to "pending" even if the indicator is subsequently reversed on appeal;
- (16) Has an unfavorable history of adverse actions;
- (17) Exhibits other patterns DOJ, a law enforcement supervisor, trainer, oversight body, or certifying or licensing body deems to indicate an agent is unfit-to-serve;
- (18) Fails to provide substantive and complete information on incident reports or fails to provide substantive information and complete information on a use-of-force incident report. A law enforcement agent is expected to make observations necessary to provide complete and substantive information on all incident reports;
- (19) Fails to observe the actions of a lead law enforcement agent and other agents at the scene of an incident;

- (20) Voluntarily surrenders his or her law enforcement license in order to avoid an adverse action or being declared unfit;
- (21) Conducts or participates in a “no knock raid”;
- (22) Conducts a high-speed vehicle chase even though the life of a law enforcement agent or third party is not immediately in jeopardy;
- (23) Carries out a policing action in plain clothes that involves a subject who is not the target of an undercover operation *underway*;
- (24) Carries out a policing action in an unmarked vehicle that involves a subject who is not targeted in an undercover operation *underway*;
- (25) Shoots at or from a moving vehicle; and
- (26) Uses force without issuing a warning and making an effort to determine subject is aware of warning.<sup>8</sup>

**SEC. 2. Who Shall POP Notify When a Law Enforcement Agent Is Labelled Unfit?**

(a) POP shall notify DOJ and the appropriate licensing, oversight bodies, and law enforcement personnel of a law enforcement agent’s unfit status.

Penalty—Any person who deactivates the” Unfit” Indicator for a reason other than reasons permitted in this Act shall be fined under this title \$50,000 and imprisoned at least three (3) years but not more than five (5) years.

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<sup>8</sup> Asking a question prevents a rogue law enforcement agent from issuing a warning and then shooting a subject off camera even if the subject complies with the agent’s directive.

**SEC. 3. Can a Law Enforcement Agent Appeal a Decision Labelling Him/Her Unfit?**

(a) A law enforcement agent may challenge the setting of the Unfit Indicator if law or policy allows the law enforcement agent to appeal the underlying decision that caused the agent to be labelled unfit.

Penalty—Any person who deactivates the Unfit Indicator for a reason other than reasons permitted by this Act shall be fined under this title \$50,000 and imprisoned at least two (2) years but not more than five (5) years.

**SEC. 4. What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has an *Unfit-to-Serve Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP UNFIT TO SERVE FEATURE SHALL INCLUDE AT MINIMUM:**

(1) Unfit to Serve Form

- (A) An entity or person shall prepare an *Unfit-to-Serve Form* when a law enforcement agent is deemed mentally or emotionally unfit to perform law enforcement duties or evidences alarming patterns or practices.
- (B) POP shall forward the Unfit-to-Serve Form to the law enforcement agent that has been declared unfit.
- (C) POP shall set the law enforcement agent’s “Unfit” indicator to a status of “Pending.”
- (D) A law enforcement agent shall select “Appeal” if he or she wants to appeal the decision. The Unfit-to-Serve Form will expand, allowing the law enforcement agent to provide reasons for the appeal and submit the appeal.
- (E) The person or entity ruling on the appeal will select one of two options:
  - (i) Rescinded: This option indicates the person or entity that ruled on the appeal decided the law enforcement agent is fit to serve.
  - (ii) Unfit Final: This option indicates the person or entity that ruled on the appeal decided that the law enforcement agent is unfit to serve. POP will change the unfit status from “Pending” to “Final.”
- (F) A law enforcement agent has sixty (60) days to appeal after receiving initial notice that he or she has been declared unfit. If a law enforcement agent does not appeal the setting of the “Unfit” Indicator within sixty (60) days of receiving notice that he or she has been declared unfit, POP shall change the unfit status of “Pending” to “Final” and insert “Uncontested” in the “Explanation” field.

**POP UNFIT TO SERVE FEATURE SHALL INCLUDE AT MINIMUM:**

<p>(1) Deactivating the “Unfit” Indicator</p>	<p>(A) DOJ shall have sole authority to deactivate the “Unfit” indicator once the indicator is set to final. DOJ can deactivate the indicator only if the indicator was set in error.</p> <p>(B) Any person at DOJ who changes the status of the “Unfit” indicator shall provide the name of the DOJ official who authorized the deactivation and the reason the indicator was deactivated.</p>
<p>(2) Unfit Indicator Log</p>	<p>(A) POP shall maintain a listing (log) of each instance in which an “Unfit” Indicator set to “Pending” was rescinded or an “Unfit” Indicator set to “Final” was deactivated. POP shall distribute the Unfit Indicator Log to law enforcement agencies, licensing bodies, and oversight entities.</p>

## TITLE 12—ADVERSE ACTION REPORTING

### SEC. 1. What is Adverse Action Reporting?

(a) Any person, body, or entity that possesses the authority to discipline or take action against a law enforcement agent shall complete the *Adverse Action Form* to document an adverse action taken. The adverse action function is **not** used to declare a law enforcement agent unfit.

### SEC. 2. What is an Adverse Action?

(a) A revocation of license, voluntary surrender of license, restriction or denial of a privilege while under investigation or in lieu of investigation, decertification by a judicial or administrative tribunal, civil payout related to a civil settlement resulting from the actions of a law enforcement agent, criminal prosecution, negative findings from a pattern or practice investigation, or other negative action constitutes an adverse action.

### SEC. 3. How Does a Law Enforcement Agent or Agency Dispute an Adverse Action?

- (a) A law enforcement agent or agency that receives notice of an adverse action can appeal the decision by completing the appeals section of the *Adverse Action Form*.
- (1) If the law enforcement agent or agency prevails on appeal, the adverse action will be rescinded.
  - (2) If the law enforcement agent or agency fails on appeal, the adverse action will remain as the final determination.
  - (3) If a law enforcement agent or agency fails to appeal the initial adverse action within sixty (60) days, the adverse action will remain as the final determination.

**SEC. 4.        What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has an *Adverse Action Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP ADVERSE ACTION FUNCTION SHALL INCLUDE AT MINIMUM:**

(1) Adverse Action Form

- (A) An entity or person shall prepare an *Adverse Action Form* to notify a law enforcement agent or agency of an adverse action.
- (B) POP shall forward the Adverse Action Form to the law enforcement agent/agency named on the form.
- (C) POP shall set indicator on the Adverse Action Form to a status of “Pending.”
- (D) A law enforcement agent shall select the appeal option on the Adverse Action Form if he or she wants to appeal the decision. The Adverse Action Form will expand, allowing the law enforcement agent to provide reasons for the appeal.
- (E) The person or entity ruling on the appeal will select one of two options:
  - (i) Rescinded: This option indicates that the person or entity that ruled on the appeal decided to rescind the adverse action.
  - (ii) Adverse Action Final: This option indicates that the person or entity that ruled on the appeal decided the adverse action is warranted.
- (F) A law enforcement agent has sixty (60) days to appeal after receiving initial notice of an adverse action. If a law enforcement agent does not appeal the adverse action decision within sixty (60) days of receiving notice, POP shall label the adverse action as final and insert “Uncontested” in the “Explanation” field.



**POP ADVERSE ACTION FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(2) Adverse Action Notices</p>	<p>(A) The Adverse Action function shall notify the law enforcement agent, the applicable law enforcement agency, oversight bodies, and certification authorities of all actions related to an adverse action.</p>
<p>(3) Adverse Action Query</p>	<p>(A) POP shall generate a monthly report, by agency, identifying adverse actions pending and a cumulative-to-date total of the adverse actions taken against an agent and agency.</p> <p>(B) DOJ shall set parameters to flag agents who have an unacceptable history of adverse actions.</p>

# **TITLE 13—MANDATORY SCREENING**

## **SEC. 1. What Screening and Testing will DOJ Require?**

(a) AG shall require law enforcement agents to complete various screenings and testing on a periodic basis to confirm an agent's continued suitability for law enforcement.

## **SEC. 2. Will AG Require Drug and Alcohol Testing?**

(a) AG shall require a law enforcement agent to take periodic unscheduled drug and alcohol tests at a state-approved medical facility. The medical facility performing the testing shall enter results directly into POP. Any law enforcement agent who fails a drug test \_\_\_\_\_times shall be deemed unfit.

## **SEC. 3. Will AG Require Agents to Take Implicit Bias Testing?**

(a) AG 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. AG shall ensure implicit bias testing is administered online, via POP, or by an expert. The person or facility performing the testing shall enter results directly into POP. AG shall allow a law enforcement agency to determine if results of an implicit bias test render a law enforcement agent ineligible to work for the agency.

## **SEC. 4. Will AG Require Agents to Take Psychological Testing?**

(a) Prospective and current law enforcement agents shall undergo periodic psychological testing to determine the agent's suitability for law enforcement. A licensed psychologist working for an independent firm shall conduct psychological testing. Testing shall include, at minimum, a Mini Mental Status Inventory (MMSI), Bender Gestalt, H-T-P, MMPI, WAIS, and any additional tests the AG or other official deems necessary. The person or firm administering the testing shall enter results directly into POP.

**SEC. 5.           What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has the screening and testing forms, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP MANDATORY SCREENING FUNCTION SHALL INCLUDE AT MINIMUM:**

(1) Testing Facility

- (A) AG shall require a law enforcement agency to identify the testing facility(ies) it will use to fulfill testing requirements. The agency shall enter a facility’s contact information (email, facsimile number, etc.) into the POP Testing Facilities Table.
- (B) The AG shall include a function in POP that randomly selects on-duty law enforcement agents for drug and alcohol testing. POP shall generate a requisition for drug and alcohol testing and email it to the appropriate medical testing facility. POP also shall send the requisition for testing via email and text to the law enforcement agent to be tested and to dispatch, which must confirm the agent received the testing requisition.
- (C) A law enforcement agent shall appear at the appointed testing facility within two hours of the time shown on the drug/alcohol testing requisition.
- (D) The testing facility shall use information on the testing requisition to access POP and post test results to the agent’s record.
- (E) POP shall send an alert to the appropriate parties and oversight bodies when a law enforcement agent’s test results are outside the acceptable range.

# **TITLE 14—TRAINING**

## **SEC. 1. How Will DOJ Determine Training Standards?**

(a) DOJ, working with community groups, civilians, and experts across the nation through its Office of Civilian Oversight and Accountability (OCO), shall oversee the implementation of national training standards and methods that promote “smart policing.” DOJ shall hold public hearings, meetings, conferences, and workshops annually in all five regions of the United States (Northeast, Southwest, West, Southeast, and Midwest) to secure public input on national training and policing policies and tactics.

## **SEC. 2. How Will Members of the Public Influence Training?**

(a) DOJ will incorporate public input when establishing policing standards, procedures, and protocols. DOJ shall require that training programs incorporate and communicate the standards, procedures, and protocols adopted and endorsed during regional and national policing conferences hosted by OCOA.

## **SEC. 3. How Will DOJ Provide Training?**

(a) DOJ shall employ a variety of training modalities, including computer-based training, training delivered via videoconferencing, and instructor-led training. DOJ shall ensure training is consistent nationwide and readily available to law enforcement agents across the nation.

## **SEC. 4. What Training Will DOJ Require?**

(a) DOJ shall assign a law enforcement agent to a group type code based upon the type of agency a law enforcement agent works for (private security, school district police, local police, etc.) and the types of duties a law enforcement agent performs (SWAT, patrols, traffic, etc.). DOJ shall compile a list of mandatory training and annual refresher training for each group type. Training will likely include:

- (1) Mandatory actions and prohibited actions;
- (2) National use-of-force statute and guidelines;
- (3) Managing stress during highly charged encounters;
- (4) Perceived threat vs. actual threat;
- (5) Citizens' rights, including right to free speech;
- (6) Goalsetting and measuring performance (POP reports);
- (7) First-aid training, including methods to resuscitate without mouth-to-mouth contact;
- (8) Customer service expectations;
- (9) Behavior-based inclusion training, which shall focus on promoting behavior-specific actions to help ensure a law enforcement agent executes his duties with an even hand;  
and
- (10) De-escalation training to help a law enforcement agent develop the proficiency required to successfully mediate and de-escalate incidents involving youth, domestic disputes, and persons with a mental illness or other special needs.

**SEC. 5. How Will DOJ Confirm Training Is Effective?**

(a) DOJ shall monitor the performance of law enforcement agents nationwide by continuously reviewing POP reports and metrics to determine if agents and agencies are meeting established performance goals. AG shall ensure training programs provide a law enforcement agent ample opportunity for role playing so the agent can perform successfully during real life encounters.

**SEC. 6. Who Will Pay for Training of Private Security Officers?**

(a) AG shall require a private security firm to pay DOJ a per-agent fee for security officers who also work for public law enforcement agencies. The fee helps underwrite the cost of training to law enforcement agents, since the training also benefits private security firms.

**SEC. 7. What Happens If a Law Enforcement Agent Fails to Complete Training?**

(a) AG shall suspend a law enforcement agent’s POP account when a law enforcement agent fails to complete training within ninety (90) days after a deadline date. The suspension shall temporarily deactivate the agent’s account in POP. The agent’s account shall remain suspended until the agent cures the training deficiency.

**SEC. 8. Can a Law Enforcement Agent Continue to Work While Suspended?**

(a) This Act prohibits a law enforcement agent who is not active in POP from working as a law enforcement agent or private security officer. A law enforcement agent with a status of “pending” in POP is not considered “active” in POP.

**SEC. 9. What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has a *Training Completion Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—.

**POP TRAINING FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) Global Training Load</p>	<p>(A) AG shall develop a series of <i>group type</i> codes based upon two factors: 1) Type of agency (local police, juvenile detention center, prison, etc.) a law enforcement agent works for, and 2) Duties a law enforcement agent performs (patrol, inmate management, etc.).</p> <p>(B) The AG shall use a global training function to upload a law enforcement agent’s training requirements into POP based upon the <i>group type</i> code assigned to the agent.</p> <p>(C) AG shall ensure training requirements loaded into POP for each agent identifies deadline for completion, minimum requirements needed to pass training, and a brief overview of training content.</p>
<p>(2) Training Completion Form</p>	<p>(A) A law enforcement agent shall complete a <i>Training Completion Form</i> to provide the date on which training was completed, name of the instructor, training session number, and score received. An agent shall sign an electronic affidavit attesting that information provided is accurate and true.</p> <p>(B) A law enforcement agent’s supervisor shall sign the electronic affidavit on the <i>Training Completion Form</i> to confirm training information a law enforcement agent provides is accurate and true.</p> <p>Penalty—A law enforcement agent or supervisor who misrepresents training scores or training completion dates shall be deemed unfit.</p>



**POP TRAINING FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(3) Training Non-compliance</p>	<p>(A) <i>Training Tracking Function</i> in POP shall examine a law enforcement agent’s training record and identify training the agent has failed to complete by the deadline date specified.</p> <p>(B) Agents who fail to complete training within ninety (90) days after the deadline date shall be placed on suspension by POP. POP shall temporarily deactivate the law enforcement agent’s account until the training deficiency is cured.</p>
<p>(4) Training and Unfit Indicator</p>	<p>(A) AG shall require a trainer to activate the “Unfit” Indicator in POP if he or she determines a law enforcement trainee to be unfit.</p>

## **TITLE 15—INTERROGATION**

### **SEC. 1. How Shall a Law Enforcement Agency Document Interrogation Actions?**

(a) The AG shall require an agency that interrogates a suspect or member of the public within its custody to complete an *Interrogation Tracking Form* to document actions taken during an interrogation. A law enforcement agent overseeing an interrogation shall document specific steps taken during the interrogation, including time of day a person was placed under arrest, offers made to a subject contingent upon a confession; time of day a person was notified of his or her Miranda rights; time of day a person was notified of his or her right to an attorney; time of day a person was afforded an opportunity to make a telephone call; time of day a person was provided any item for consumption, including a drink, cigarette or other consumables; time of day a person was afforded an opportunity to sleep without disturbance; and length of time a person was left without disturbance.

### **SEC. 2. Is a Law Enforcement Agent Obligated to Videotape an Interrogation?**

(a) AG shall require a law enforcement agent to videotape an interrogation with video equipment that meets standards established by the AG. An agent conducting an interrogation shall record the interrogation from beginning to end and shall upload the interrogation video into POP within one hour (60 minutes) after the interrogation is complete.

### **SEC. 3. What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has an *Interrogation Tracking Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—.

**POP INTERROGATION FUNCTION SHALL INCLUDE AT MINIMUM:**

(1) Interrogation Tracking Form

(A) AG shall create an *Interrogation Tracking Form* that a law enforcement agent shall use to document all interactions with a subject during an interrogation.

(B) AG shall ensure a law enforcement agent can upload video recordings of interrogations into the POP Data Bank.

# TITLE 16—PROPERTY AND INVENTORY

## SEC. 1. What Is the POP Inventory Subsystem?

(a) The AG shall design and oversee the implementation of a POP inventory control system that shall be used to manage and track evidence and items seized by a law enforcement agent.

## SEC. 2. How Will an Agency Track Inventory Items Retrieved or Seized?

(a) The AG shall implement standard inventory practices and procedures to ensure a law enforcement agency has complete chain of custody over an item seized or collected by a law enforcement agent from a crime scene, member of the public, or inmate.

## SEC. 3. What Role Does the AG Have in Inventory Tracking?

(a) AG shall implement practices that ensure inventory tracking begins in the field at the time and place items are seized and evidence is collected. AG shall require a law enforcement agent to access POP and enter information about an item seized or collected. A law enforcement agent shall deliver goods seized or collected to a law enforcement agency during the next visit to the agency or before the agent's shift ends, whichever is first. AG shall implement inventory intake and tracking procedures; inventory reconciliation procedures; procedures governing the release of money, and other items; and procedures governing the sale or disposal of inventory items forfeited.

(b) AG also shall establish procedures for expedient return of items associated with a use-of-force event to victims and victim families after investigations are concluded. When more than one law enforcement agent is involved in an incident where a seizure occurs, each agent present must enter the quantity and value of goods seized on the incident form he or she prepares. AG shall ensure POP does not update inventory records with information on incident reports. A law enforcement agent shall use an *Inventory Intake Form* to add an item to inventory and an *Inventory Disposition Form* to remove an item from inventory.

**SEC. 4. Will Law Enforcement Agents Periodically Inventory Physical Items?**

(a) The AG shall require a physical inventorying of evidence and items a law enforcement agency retrieves from members of the public and from crime scenes. The AG shall require that a law enforcement agency reconcile physical inventory to inventory records at timeframes specified.

**SEC. 5. Are Law Enforcement Agencies Obligated to Return Property Seized?**

(a) Property seized by a law enforcement agent shall remain the legal property of the person or estate that owns the property. A law enforcement agency may retain property seized (permanent forfeiture) if a State judicial tribunal determines the property is to be legally contraband or was illegally acquired by the owner.

Penalty for Theft of Property—Any person who removes or helps remove property from a law enforcement agency storage facility in violation of procedures outlined by the AG shall be imprisoned for at least one (1) year and fined \$25,000 or an amount equal to five times the value of items taken, whichever is greater. A law enforcement agent involved in the improper or illegal removal of property from a law enforcement agency storage site shall be deemed unfit.

**SEC. 6. What Other Functionality Must the Attorney General Provide?**

(a) The AG shall ensure POP has an *Inventory Intake Form* and other forms, records, algorithms, and functionality needed to fulfill the requirements of this Act, including—.

**POP INVENTORY FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(1) Inventory Tracking System</p>	<p>(A) AG shall make available an inventory control system in POP that tracks additions and reductions to inventory; identifies the quantity and value of items lost or missing; and reveals the reason items that should be in inventory are not.</p>
<p>(2) Inventory Intake</p>	<p>(A) AG shall design an <i>Inventory Intake Form</i> that shall be used to add property or evidence to an inventory storage site at a law enforcement agency such as a property room or location where vehicles towed are stored. An <i>Inventory Intake Form</i> increases inventory.</p> <p>(B) A law enforcement agent shall document in POP—at the time and location of a seizure—the name and contact information of the person from whom an item was taken; date and time item was seized; blue book value of item seized; serial number associated with item seized; quantity of item seized; estimated age of item seized; description of item seized; and other information the AG deems required.</p>
<p>(3) Inventory Disposition Form</p>	<p>(A) AG shall require a law enforcement agent to complete an <i>Inventory Disposition Form</i> when disposing of an item that was stored at a law enforcement agency storage site or when returning an item seized to the person from whom the item was taken. (An <i>Inventory Disposition Form</i> reduces inventory quantities.)</p>

**POP INVENTORY FUNCTION SHALL INCLUDE AT MINIMUM:**

	<p>(B) A law enforcement agent shall identify the law enforcement official who authorized the disposition; reason for the disposition; and other information the AG deems warranted.</p>
<p>(4) Missing Item Form</p>	<p>(A) AG shall create a <i>Missing Item Form</i> for each inventory item that goes missing in whole or in part. AG shall require that a law enforcement agency investigate and explain why an item is missing from inventory on a Missing Item Form.</p>
<p>(5) Shift-change Inventory Verification</p>	<p>(A) AG shall require a law enforcement agency to inventory high-value items such as drugs, money, weapons, etc., during each shift change. The law enforcement agent coming on shift and the law enforcement agent leaving shift shall jointly count high-value items to confirm that on-hand quantities agree with quantities listed on inventory records.</p>
<p>(6) Periodic Annual Inventory</p>	<p>(B) AG shall require a law enforcement agency to conduct annual or biannual inventory and reconcile physical quantities of items stored to quantities shown on inventory records.</p> <p>(C) AG shall require a law enforcement agent to investigate and discover why an inventory item is missing.</p>

**POP INVENTORY FUNCTION SHALL INCLUDE AT MINIMUM:**

<p>(7) Missing Item Report</p>	<p>(A) POP shall generate a <i>Missing Item Report</i> and direct it to management at a law enforcement agency, DOJ, oversight entities, and others listed as report recipients. The report shall list items missing from inventory for the date range specified.</p>
<p>(8) Videotaping</p>	<p>(B) A law enforcement agency shall install a video recording device in strategic areas of a property room to capture inventory transactions (additions and removals).</p>



## TITLE 17—SUBJECT INSPECTION

### SEC. 1. What Is a Subject Inspection?

(a) The AG shall require a law enforcement agent to complete a *Subject Inspection Form* during the arrest intake process. The agent managing the intake process shall complete the form by providing the subject’s name, race, age, and gender, as well as other information the AG deems warranted. The agent also shall select one of the following to indicate the condition of the subject:

- (a) No Bruising or Injuries Alleged by Subject.
- (b) Bruising and/or Injuries Alleged by Subject.
- (c) Bruising and/or Injuries Observed by a Law Enforcement Agent.

(b) A law enforcement agent or other person who selects the “Bruising and/or Injuries Observed” option shall provide a description of the bruising/injuries witnessed. The agent also shall upload photos of the bruising/injuries into POP via the Subject Inspection Form.

### SEC. 2. What Other Functionality Must the Attorney General Provide?

(b) The AG shall ensure POP has an *Subject Inspection Form*, records, algorithms, and other functionality needed to fulfill the requirements of this Act, including—

**POP *SUBJECT INSPECTION* FUNCTION SHALL INCLUDE AT MINIMUM:**

(2) Subject Inspection Form

(C) AG shall create a *Subject Inspection Form*, which a law enforcement agent shall use to document bruises and injuries on people arrested.

(D) AG shall ensure the Subject Inspection function enables a law enforcement agent to upload photos of a person's bruises and injuries into the POP Data Bank.

# **TITLE 18—DATA RECORDS**

## **SEC. 1. What Is an Entity Summary Record?**

(a) AG shall create an entity summary record for every law enforcement agency covered by this Act. The entity summary record shall display detailed information about a law enforcement agency, including statistics showing the agency’s actual performance in comparison to performance goals publicized by the DOJ Office of Civilian Oversight and Accountability (OCO). An entity summary record also shall display law enforcement statistics by transaction category (use of force, drug arrests, etc.) and by the race, age, and gender of subjects.

(b) AG shall enable an authorized user to query POP and obtain summary information about a law enforcement agency and agents working for the agency.

## **SEC. 2. Where Will Information about the Agency Appear?**

(a) AG shall require a law enforcement agency to display entity information on its agency website.

## **SEC. 3. What Are the Agency’s Crime Statistics?**

(a) The AG shall require a law enforcement agency to provide detailed crime statistics for the community it serves, summarized by type of crime. An agency also shall provide statistics on crimes solved and the manner in which crimes were solved.

## **SEC. 4. How Many Family Members Work for an Agency?**

(a) The AG shall require a law enforcement agency to identify personnel (law enforcement agents and administrative employees) who are related by marriage or birth. An agency shall publish on its website summary information about the number of relatives working for the agency, segmented by administrative personnel and law enforcement agents.

## **SEC. 5. What Is an Agent Summary Record?**

(a) AG shall create an agent summary record for each law enforcement agent in POP using the agent's social security number. The agent summary record shall display comprehensive information about a law enforcement agent, including an agent's age, race, and gender; training and test scores; licensure information; and statistics on a law enforcement agent's performance month-to-date, year-to-date, and cumulative-to-date.

(b) An agent's summary record shall also identify family members working for the same agency.

## **SEC. 6. What Is an Agent Detail Record?**

(a) AG shall make available details about the policing actions of a law enforcement agent. POP shall allow an authorized user to access POP and display all activity associated with a law enforcement agent by transaction category (use of force, drug arrests, etc.) and by the race, age, and gender of subjects. POP also shall display a law enforcement agent's performance relative to established goals as well as other information the AG deems relevant.

**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

(1) Entity Summary Record

(A) AG shall create an entity summary record to establish a law enforcement agency in POP. The *Entity Summary Record* shall include:

- (i) A unique identifier assigned by POP. POP shall assign a unique entity identifier to an agency:
  1. If an agency closes or consolidates with another agency(ies), AG shall close each agency involved by invalidating the agency’s entity identifier.
  2. AG shall ensure data associated with the closed agency(ies) remain available for queries, data analysis, and reporting. The AG shall not assign an entity identifier associated with a closed or consolidated agency to another law enforcement agency.
  3. AG shall deem an agency resulting from a consolidation to be a new agency and shall assign the agency a new entity identifier. The entity record shall display summary statistics for each agency involved in the consolidation.
  4. The AG shall ensure records for a law enforcement agent who worked for the closed or consolidated agency remain available to be queried and

**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

analyzed. AG also shall transfer summary data on an agent’s performance to the agency resulting from the consolidation so the information can be used to calculate an agent’s cumulative-to-date performance.

Additionally, the AG shall ensure the *Entity Summary Record* includes:

- (ii) Population statistics from the U.S. Census Bureau, broken down by race, age, and gender; for the community the law enforcement agency serves;
- (iii) Breakdown of law enforcement personnel working for the agency by rank, race, gender, and age;
- (iv) Entity contact information for law enforcement supervisors, oversight bodies, licensing agencies, and other key personnel such as attorneys hired by the agency to rule on the legality of a law enforcement agent’s actions when challenged by a subject;
- (v) Month-to-date, year-to-date, and cumulative-to-date information on an agency’s law enforcement activities, broken down by type of law enforcement action and subjects’ demographics;
- (vi) Month-to-date, year-to-date, and cumulative-to-date financial proceeds resulting from a law enforcement agency’s activities, broken down by

**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

	transaction type, demographics of subjects, and crime statistics, including number of crimes, types of crimes, and number of crimes solved.
(2) Entity Detail Report	(A) AG shall create an <i>Entity Detail Report</i> that displays summary information about a law enforcement agency (entity) and select summary information about each law enforcement agent working for the law enforcement agency. AG shall create an ad hoc reporting function that allows a user to specify the type of information he or she wants to appear on a report.
(3) Agent Detail Report	(A) An <i>Agent Detail Report</i> shall provide all data entered into POP by a law enforcement agent or pertaining to a law enforcement agent. An Agent Detail Report shall provide summary information about an agent; information about incident reports prepared by a law enforcement agent; actions taken against an agent; complaints leveled against an agent by a member of the public; complaints leveled by law enforcement agents against an agent; and other agent-specific information. The Agent Detail Report also shall provide information about a law enforcement agent’s training, including training required; training completed; training scores received; and training an agent failed to complete by the established deadline.

**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

(4) Agent Summary Record

(A) AG shall require a law enforcement agency to establish an *Agent Summary Record* in POP for every law enforcement agent working for an agency and every law enforcement agent trainee. A law enforcement agency shall enter a law enforcement agent's/trainee's social security number as the person's user identification number. A person's social security number shall not be viewable to POP users once entered.

(B) POP shall perform a search for the social security number before commencing to add the person to POP.

(i) If the agent identifier is not found during the search, POP shall proceed with edits to determine if the agent meets conditions for becoming a law enforcement agent as set forth by the AG. If the agent passes the edits, POP will create a POP summary record for the agent.

An agency's chief law enforcement executive shall ensure that a new hire is subject to a current background check 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 another conviction or status that would prevent an agency from hiring the law enforcement agent.)



**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

	<p>(ii) If the agent identifier already exists in POP, POP shall commence another search to determine if an agent’s “Unfit” Indicator is set to “Final” or ”Pending.”</p> <p>(iii) If the “Unfit” Indicator is set to “Final” or “Pending,” POP shall end the <i>add agent</i> process. A law enforcement agency may be permitted to add a law enforcement agent who has an unfit status of “Pending” at a later time.</p> <p>(iv) If the “Unfit” Indicator is not set to “Final” or “Pending,” POP shall append an agent’s summary record to the agency’s entity record. If a law enforcement agent works for multiple law enforcement agencies and a private security firm, an agent’s summary record shall have a segment for each law enforcement agency and each security firm that employs the agent.</p>
<p>(5) LEA Pattern or Practices</p>	<p>(A) AG shall generate a detailed POP report showing a law enforcement agent’s patterns or practices in an organized, easy-to-read format. The combining 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,</p>

**POP SHALL INCLUDE THE FOLLOWING DATA RECORDS AT MINIMUM:**

	transaction type, and demographics of the subjects.
(6) Licensing and Certification	(A) POP shall deactivate a law enforcement agent’s record and set it to “Pending” if the agent fails to secure re-licensure by the timeframe required by this Act or policy.
(7) Related by Birth or Marriage	<p>(A) AG shall create a <i>Family Relationship Form</i> that all law enforcement agents shall complete annually or when an agent’s family member starts working for an agency. A law enforcement agent shall list on the <i>Family Relationship Form</i> the names of family members (people related by marriage or birth) who work for the same law enforcement agency or private security firm. POP shall display the names of an agent’s relatives on the agent’s summary record in a field titled <i>Related by Birth or Marriage</i>.</p> <p>(B) When a person leaves an agency, POP shall remove all names shown in the <i>Related by Birth or Marriage</i> field. POP shall maintain a cumulative-to-date record of all names that appeared in the <i>Related by Birth or Marriage</i> field for a specific agent.</p>

# TITLE 19— PERFORMANCE MONITORING

## SEC. 1. How Will the AG Monitor Policing Activities Throughout the U.S.?

(a) The AG shall analyze incident and other data to identify troubling patterns or practices and identify law enforcement agents and agencies that have metrics that fall outside the acceptable range, i.e., seem to target specific demographic groups, or are unconstitutional in nature. POP shall alert DOJ, oversight entities, deputized attorneys, and law enforcement supervisors when troubling patterns or practices exist so they can take corrective actions.

## SEC. 2. What Types of Reports Will POP Generate?

(a) AG shall generate a host of reports on a monthly basis, including but not limited to:

(1) *Agency Scorecard*, which shall reveal:

(A) Demographic composition of a community based upon the most recent census data;

(B) Number of law enforcement incidents that occurred in the community by demographic breakdown;

(C) Number and nature of law enforcement-involved use-of-force incidents by policing entity;

(D) Economic impact of law enforcement actions by agency and transaction type, segmented by demographics. AG shall allow a POP user with the appropriate credentials to print a national, state, or agency scorecard;

(E) Other information the AG deems warranted.

(2) *Law Enforcement Agency Revenue Report*, which displays by **transaction category** the amount of revenue generated by a law enforcement agency month-to-date, year-to-date, and cumulative-to-date. Transaction categories shall display a revenue

breakdown by demographic group, age, and gender. A Law Enforcement Agency Revenue Report shall also provide an income statement showing how net revenue was calculated.

- (3) *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 complaints, including month-to-date, year-to-date, and cumulative-to-date.
- (4) *Monthly Incident Discrepancy Report*, which identifies POP incident reports called into question by a person involved in the incident.
- (5) *Agent Exception Report*, which identifies law enforcement agents whose incident reports and actions reveal troubling patterns or practices.
- (6) *Agent Adverse Action Report*, which identifies, by agency, law enforcement agents who were the subjects of an adverse action. If a law enforcement agent works for multiple agencies, the report shall display the name of the law enforcement agent and the adverse action(s) taken against the agent by each agency.
- (7) *Customized Comparison Report* that compares incident reporting statistics for two or more law enforcement agencies.
- (8) *Other Reports the AG deems warranted.*

### **SEC. 3. Will POP Allow for Ad Hoc Reporting?**

(a) AG shall allow a user, based upon his or her access level, to generate custom reports based upon the parameters and search criteria the user enters.

## **TITLE 20—MARKETING POP**

### **SEC. 1. How Will the Public Learn about POP Features?**

(a) Data collected during a pattern or practice investigation is woefully incomplete without input 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 the POP incident response feature, complaint feature, role of DOJ's Office of Civilian Oversight and Accountability (OCO), and regional and national policing conferences hosted by OCO. The AG shall target marketing efforts in proportion to the extent a community or demographic group is adversely affected by law enforcement actions.

(b) AG shall place radio and television ads, public service announcements (PSAs), and marketing messages that convey to targeted communities information on how they can get involved in helping to influence national policing policies and practices.

# ACCOUNTABILITY IN LAW ENFORCEMENT

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## TITLE 21— QUALITY POLICING

### **SEC. 1. What Is Quality Policing?**

(a) AG shall develop a national policing approach that ensures policing throughout the United States is consistent and high-quality in every State. AG shall achieve and maintain high-quality policing by involving every law enforcement agency and law enforcement agent throughout the U.S. in a process of continuous quality improvement in policing.

### **SEC. 2. How Will the AG Cultivate a National Culture of Quality Policing?**

(a) AG shall maintain a sustained focus on four tenets: 1) Smart policing; 2) Obligation to preserve life and prevent injury during the policing process; 3) Crime prevention; and 4) Crime solving. The AG shall cement the four tenets of quality policing as the bedrock of America's policing culture by making sure the four tenets guide the development of policies; practices; training programs; role-playing scenarios; assessment instruments; and transparency and accountability mechanisms.

### **SEC. 3. How Will AG Promote Smart Policing?**

(a) AG shall require a law enforcement agent to show respect for members of the public; exercise sound judgment; effectively utilize de-escalation techniques to manage volatile encounters; adhere to training protocols; abide by laws and policies; and abstain from prohibited practices. Smart policing requires a law enforcement agent to make wise decisions during an initial encounter with a member of the public in order to avoid the need for use of force as an encounter progresses.

#### **SEC. 4. How Will AG Shift the Focus to an Obligation to Preserve Life?**

(a) The AG shall ensure the “Obligation to preserve life and prevent injury” is an abiding theme and goal that guides a law enforcement agent’s decision-making during the policing process. POP shall monitor a law enforcement agent’s performance to determine the degree to which an agent is able to apprehend subjects without injury or use-of-force.

#### **SEC. 5. How Will the AG Maintain a Sustained Focus on Crime Solving?**

(a) AG shall generate a report that reveals a law enforcement agency’s crime-solving statistics, broken down by type of crime and manner in which each crime shown on the report was solved, i.e., confession, plea bargain, evidence, eyewitness, etc.

(b) AG shall make available federal resources and training to help law enforcement agencies with high rates of unsolved crime significantly improve evidence-based crime-solving capabilities.

#### **SEC. 6. How Will AG Ensure a Major Focus on Crime Prevention?**

(a) AG shall encourage people in communities with high crime rates to join with experts from academic institutions (criminologists, statisticians, psychologists, social scientists, and media representatives) to create a *Quality Policing Team* (QPT). The QPT shall work with law enforcement to develop a crime reduction and prevention plan that includes encouraging members of the public to access POP and complete a *Notice of Illegal Activities Form* to alert law enforcement of persons involved in illegal activities (drug dealers, etc.). QPT also shall encourage members of the public to complete a *POP LEA Complaint Form* to make DOJ aware of law enforcement agents who are engaged in inappropriate or illegal activities.

(b) AG shall provide an online forum and other mechanisms to help QPTs across the nation connect, exchange ideas, jointly develop best practices, and hone proven strategies for making a community safe.

## **TITLE 22—DOJ OFFICE OF CIVILIAN OVERSIGHT AND ACCOUNTABILITY (OCA)**

### **SEC. 1. What Will the DOJ Office of Civilian Oversight and Accountability Do?**

(a) AG shall create and oversee the DOJ's Office of Civilian Oversight and Accountability (OCA). OCA shall:

- (1) Establish national standards for training, licensing, and hiring law enforcement agents, which include private security officers;
- (2) Develop national standards for training, certifying, and enlisting the services of citizen monitors and field inspectors;
- (3) Develop national standards for training and certifying licensed attorneys to act on behalf of DOJ as deputized attorneys;
- (4) Compile and publicize on OCA's website recommendations submitted by law enforcement agents and law enforcement agencies;
- (5) Develop national performance goals in all areas of policing for law enforcement agents and law enforcement agencies;
- (6) Evaluate the performance of law enforcement agents and agencies by comparing actual performance, as revealed by the POP Data Bank, to pre-established goals;
- (7) Work with DOJ's Bureau of Justice Statistics (BJS), experts in the academic community, Quality Policing Teams (QPTs), and community members to develop the parameters POP shall use to evaluate how a law enforcement agent and a law enforcement agency are performing; and
- (8) Perform other activities necessary to ensure a quality policing environment nationwide.



## **SEC. 2. How Will DOJ Target Resources?**

(a) AG shall target a significant share of OCOA resources towards communities that are most adversely affected by unconstitutional and unlawful law enforcement actions and high rates of crime as revealed by POP reports.

## **SEC. 3. When and Where Will OCOA Host Regional Policing Conferences?**

(a) AG via OCOA shall host four regional conferences each year to review the state of policing in the United States and to identify and capitalize on opportunities to further improve policing and reduce crime. Regional conferences shall enlist the public's involvement in studying pertinent problems and issues related to law enforcement. **Policing conferences shall not be open to law enforcement agents or their spouses.**

(b) 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 crime and use-of-force events by and against law enforcement agents for three consecutive years. 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) OCOA shall hold training sessions during conferences to help community members learn how to operate effectively in groups (teams) in a manner that ensures everyone's thoughts, ideas, and concerns are heard and acknowledged during policing conferences.

## **SEC. 4. When and Where Will OCOA Host National Policing Conference?**

(c) AG shall host a national policing conference in a region of the United States that is different from the location of regional conferences held during the same year. Conferences shall reinforce the four tenets of quality policing.

**SEC. 5. How Shall AG Handle Proposed Changes in Policing Policy?**

(a) AG shall enlist experts, community groups, criminologists, and advocates to help evaluate and examine current and proposed policing policies to determine if a proposal disproportionately affects, in an adverse manner, a particular ethnic, gender, or socio-economic group. OCOA shall publish on its website each public impact statement developed in response to a proposed change in policing policies or practices. AG shall ensure a public impact statement is discussed extensively during at least one annual policing conference and two regional policing conferences before a change can be adopted or implemented.

**SEC. 6. How Will AG Correct Problem Patterns or Practices?**

(b) DOJ shall review POP reports and audit a law enforcement agency to determine if the agency is, in fact, engaging in unconstitutional or unlawful practices.

(c) AG shall furnish training to help deputized attorneys learn how to conduct a pattern or practice investigation, analyze POP reports, and bring a civil action against a law enforcement agency and a criminal action against a law enforcement agent on behalf of DOJ.

**SEC. 7. How Will AG Ensure that People Most Affected by Policing Are Involved?**

(a) The AG shall not create an ongoing leadership hierarchy among persons working with OCOA on a volunteer basis. Any ad hoc committee of volunteers convened shall have a demographic makeup that represents the proportion to which each demographic group is adversely affected by law enforcement actions based upon POP use-of-force data and crime statistics. A person shall not participate on the same ad hoc committee for more than one year.

(b) OCOA shall make scholarships to attend policing conferences available for persons in communities most adversely affected by law enforcement actions. OCOA shall use a public lottery process to award scholarships. OCOA shall publicize the scholarship program on its website, via community notices, and in community publications.

## **TITLE 23—USE-OF-FORCE INVESTIGATIONS**

### **SEC. 1. Who Will Investigate Use-of-Force Incidents on Behalf of a State?**

(a) A use-of-force event by a law enforcement agency shall be investigated by a State-approved team of independent investigators. An investigation by an independent team on behalf of a State does not preclude a concurrent or serial investigation of the same act by the U.S. Department of Justice (DOJ) or a deputized attorney acting on DOJ's behalf.

### **SEC. 2. Who Must Be Included on an Independent Investigative Team?**

(a) An independent investigative team shall constitute itself. An independent investigative team shall include a forensic pathologist, independent laboratory, appropriate number of crime scene investigators (CSIs), and other professionals possessing skills needed to conduct a comprehensive and thorough investigation of an incident involving use of force by a law enforcement agent. **A person who routinely works for a law enforcement agency in any capacity shall not participate on a team officially charged with investigating a use-of-force event by a law enforcement agent.**

(b) A State and a law enforcement agency shall provide information about independent investigative teams on their website. Information shall include:

- (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 times the team has investigated a use-of-force event committed by a law enforcement agent;
- (5) Outcome of each use-of-force investigation; and
- (6) List of geographic area(s) the team serves.

**SEC. 3. What Qualifications Must an Investigative Team Member Possess?**

(a) A member of an independent investigative team shall meet licensing, certification, and other requirements set forth for the profession by the applicable State.

(b) A company or person providing services as part of an Investigative Team shall exercise extreme due diligence to collect all information known or suspected to exist related to an investigation.

**SEC. 4. Who Selects the Independent Investigative Team?**

(a) A victim or a victim’s family shall have first right to select an independent team to investigate a use-of-force event by a law enforcement agent that injures or kills a victim. If the family of a victim cannot be reached, a law enforcement agency shall contact the independent team pre-selected by the community. If the community has not identified a preferred team, a law enforcement agency shall select an independent investigative team from the law enforcement agency’s website.<sup>9</sup>

**SEC. 5. What Is the Investigative Protocol for a Use-of-Force Incident?**

(a) The AG shall work with experts in the forensic field and academic community to establish strict protocols for independent investigative team members that investigate use-of-force actions by a law enforcement agent. At minimum, the protocols shall:

(A) Require a law enforcement agent to immediately secure the scene of an incident as prescribed by law and policy. A law enforcement agent shall not remove, pick up, replace, transport, or in any way disturb the scene following a use-of-force

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OCOA shall suggest that communities host a meeting with independent investigative team members and identify the team(s) they would like contacted should the need arise to investigate a use-of-force incident by a law enforcement agent.

incident by a law enforcement agent except to aid, assist, or provide medical care to a victim.

(B) Permit a certified citizen monitor to help secure the scene of a use of force incident by a law enforcement agent until a member of the independent investigative team arrives.

## **SEC. 6. What Is a Citizen Monitor Authorized to Do at an Incident Scene?**

(a) A citizen monitor plays a critical role in law enforcement's system of checks and balances. A citizen monitor, upon arriving at the scene of a law enforcement-involved use-of-force event, is authorized to monitor and help secure the scene as well as evidence at the scene. A citizen monitor shall record and photograph a crime scene and persons at the crime scene to the fullest extent possible. A citizen monitor also may record the name and telephone number of witnesses. A citizen monitor shall cease all data collection activities once a CSI on the independent investigative team arrives at the scene.

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

(c) A citizen monitor shall provide media containing photographs and recording made at the scene to a member of the independent investigative team overseeing the use-of-force investigation.

## **SEC. 7. How Long Does a CSI Have to Arrive at a Scene?**

(a) Crime scene investigators (CSIs) shall contractually commit to arriving at a crime scene within one (1) hour following a request for services.

(1) Crime scene investigators shall inspect the person of a law enforcement agent at the scene of an incident if the agent used force. A CSI shall document and photograph bruises and injuries observed. If an agent is hospitalized, a CSI shall ensure the

attending physician documents and photographs all bruises and injuries. CSI shall make every effort to personally document and photograph all the agent's bruises and injuries.

(b) A crime scene investigation (CSI) shall also ensure:

- (1) Proper removal and packaging of a law enforcement agent's weapons;
- (2) Complete examination and photo documentation of an agent's vehicle, bicycle, etc., at the scene;
- (3) Strict adherence to procedures and protocols governing the transport of remains;
- (4) Strict adherence to guidelines for collecting and preserving evidence in inclement weather (rain, snow, storms, etc.);
- (5) Immediate screening of an agent for alcohol and drugs; and
- (6) Compliance with other mandated investigative protocols.

## **SEC. 8. Are Investigative Team Members Subject to Confidentiality Requirements?**

(a) A person, alive or deceased, shall be presumed innocent until proven guilty on matters not adjudicated by a court of law.<sup>10</sup>

(b) A State shall "seal" the criminal file of a person<sup>11</sup> who is the subject of a law enforcement-involved use-of-force incident to ensure the incident is evaluated based solely upon evidence, facts, and testimony related to the incident.

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<sup>10</sup> *Coffin v. United States*, 156 U.S. 432 (1895), is a case appealed to the United States Supreme Court in 1895 that established the presumption of innocence of persons accused of crimes.

<sup>11</sup> Falsely representing the actions of a person who is the subject of law enforcement-involved use of force may have significant consequences that include preventing the person's estate from collecting civil damages and/or tainting a jury pool in the event there is a criminal prosecution of a law enforcement agent involved. This provision

(c) A company, person, or institution with official power to investigate an incident involving use of force by a law enforcement agent shall keep confidential all information pertaining to the investigation with the following exceptions:

- (1) An investigator shall immediately disclose the name(s) of the law enforcement agent involved in a use-of-force event;
- (2) An investigator shall release to the media all video captured related to the use-of-force event, including video taken before, during, or after force was used; and
- (3) Name of victim and where incident occurred.

(d) Upon concluding an investigation, the independent investigative team shall simultaneously present findings to victim representatives and agent representatives before presenting findings to a newly-seated grand jury.

Penalty—Unauthorized Disclosure of Investigative Findings or Evidence. Any person or official authorized to investigate a use-of-force incident by a law enforcement agent shall be fined \$50,000 and imprisoned at least one (1) year but not more than five (5) years for disclosing information in a manner that violates this Act.

Penalty—Failure to Disclose Evidence to an Independent Investigative Team. A citizen monitor is granted access to a law enforcement use-of-force scene contingent upon his or her commitment to collect and furnish information collected to members of an independent investigative team. A citizen monitor who gains access to a scene and fails to provide *all* information collected to independent team members shall be fined 25,000 and imprisoned at least two (2) years but not more than three (3) years for interfering with a lawful investigation.

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is akin to imposing a permanent gag order on law enforcement agents and agencies to hinder them from disclosing information about persons who are the subject of a law enforcement-involved use-of-force event.

# TITLE 24—NATIONAL USE-OF-FORCE STATUTE

## SEC. 1. Who Investigates Law Enforcement-involved Use-of-Force Events?

(a) State Executive shall ensure that an independent investigative team commences an immediate investigation of an incident involving use-of-force by a law enforcement agent.

## SEC. 2. What Constitutes Excessive Use of Force?

(a) AG shall require all persons investigating a use-of-force incident to operate by the spirit and letter of provisions contained in this Title when determining if a law enforcement agent used excessive force or otherwise violated a person's constitutional rights.

(b) A law enforcement agent shall engage in extreme measures to avoid using force during the policing process and shall take extraordinary steps to preserve life and prevent injury. To that end—

(1) A law enforcement agent shall use minimum to intermediate force as a last resort to assist in the lawful arrest of a person committing a crime or who is legitimately suspected of having committed a crime based upon clear and convincing evidence;

(2) A law enforcement agent may only use force proportionate to the legitimate objective to be achieved when no other option exists and after significant efforts to de-escalate and negotiate a favorable end have been exhausted, except for—

(A) When a law enforcement agent is confronted with armed resistance or a threat equivalent to armed resistance that places the life of a law enforcement agent or other party at risk and responding with force does not pose a risk to an innocent bystander.

(3) A law enforcement agent shall not use lethal force to subdue a fleeing felon, achieve compliance, carryout an arrest, or protect property when there is no armed resistance or threat equivalent to armed resistance that places the life of a law enforcement agent or other party at risk.



### **SEC. 3. What Constitutes First Degree Murder—Felony Child Abuse?**

(a) A law enforcement agent who injures or kills a person under eighteen (18) who was not engaged in armed resistance or a similar threat at the time force was used shall be guilty of First Degree Murder—Felony Child Abuse.

### **SEC. 4. What Constitutes First Degree Murder?**

(a) A law enforcement agent who kills a person who posed no actual threat to a law enforcement agent or another person shall be guilty of first degree murder.

### **SEC. 5. What Constitutes Felony Murder in the First Degree?**

(a) A law enforcement agent 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 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 Law Enforcement Agent (LEA) Complaint Form in POP.

### **SEC. 6. What Constitutes Second Degree Murder?**

(a) A law enforcement agent 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 a law enforcement agent **or another person.**

### **SEC. 7. What Constitutes Negligent Homicide?**

(a) A law enforcement agent 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 was

not engaged in armed resistance and did not pose a threat equivalent to armed resistance to a law enforcement agent or other party.

**Penalty—Failure of a State to Abide by the National Use-of-Force Statute. A State shall not receive federal funding if it fails to abide by the National Use-of- Force Statute.**

## **TITLE 25—PRESENTATION OF FINDINGS**

### **SEC. 1. How Will AG Ensure Consistency of Public Presentation of Findings?**

(a) Office of Civilian Oversight and Accountability (OCO) 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 consistent, concise explanation of findings at a seventh-grade reading level.

### **SEC. 2. What Is the Order of Autopsy?**

(a) The forensic pathologist on the independent investigative team shall conduct the first<sup>12</sup> autopsy of the victim's remains when a death results from a law enforcement-involved killing.

(b) A coroner, medical examiner, or forensic pathologist planning to conduct a second autopsy on a deceased person killed by a law enforcement agent shall advise a victim's family of the date, time, and location of the planned autopsy at least 24 hours prior to the autopsy.

(c) A family may have a pathologist of its choosing present during an autopsy.

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<sup>12</sup> The intent of this Act is to have a pathologist selected by the victim's family conduct the first autopsy.

### **SEC. 3. How Will an Independent Team Present Findings?**

(a) The independent team shall present its finding to the law enforcement agent's representatives and the victim's representatives at the same time. During the briefing, 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.

(b) During the investigative process, independent teams shall protect the confidentiality of evidence collected and information obtained except to corroborate or impeach witness accounts and allow disclosures as mandated by this Act.

### **SEC. 4. How Will the Grand Jury Process Work?**

(a) The public prosecutor shall notify a victim's representative of the date, location, and time a grand jury will be selected to render judgement on the findings of an independent investigative team investigating use of force by a law enforcement agent. A public prosecutor shall notify the victim's representative at least seven (7) days in advance of grand jury selection.

(b) A new grand jury shall be seated to determine if probable cause exists to indict a law enforcement agent accused of using excessive force. The district attorney or prosecuting attorney representing the jurisdiction shall have no involvement in the selection of jurors.

(c) A victim's representative shall be permitted to observe the entire process governing grand jury selection—from beginning to end.

(d) The team shall present findings to a newly-seated grand jury in accordance with guidelines outlined in the *Format for Public Presentation of Evidence*.

(e) The independent investigative team shall afford a law enforcement agent's representative an opportunity to publicly ask questions and seek clarification on information presented following the investigative team's presentation to the grand jury.

(f) The independent investigative team shall afford the victim’s representative an opportunity to publicly ask questions and seek clarification on information presented to the grand jury.

**SEC. 5. Who Will Prosecute an Agent if the Agent Is Indicted?<sup>13</sup>**

(a) The estate of a person killed by a law enforcement agent or a person injured by a law enforcement agent shall **have the option of selecting** a licensed attorney to prosecute a law enforcement agent indicted for using excessive force pursuant to the National Use-of-Force Statute.

(b) A licensed attorney who institutes a criminal proceeding against a law enforcement agent on behalf of a State’s chief prosecutor shall be compensated from the chief prosecutor’s budget. An attorney functioning as a private prosecutor may charge a late fee and a daily interest charge on invoice amounts that are not paid according to the terms of the *Compensation of Private Prosecutor Agreement* prepared by OCOA.

## **TITLE 26—FEDERAL INVESTIGATIONS**

**SEC. 1. What Is a DOJ Investigation?**

(b) This Act authorizes the U.S. Department of Justice and its agents to launch an investigation into the patterns and practices of a law enforcement agency and a private security firm in the manner and with powers enumerated in the Law Enforcement Act of 1994, 42 U.S.C. § 14141.

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<sup>13</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.

## **SEC. 2. Who Conducts a DOJ Investigation?**

(c) The U.S. Department of Justice (DOJ) or a DOJ-deputized attorney may pursue a civil lawsuit against a law enforcement agency and a criminal action against a law enforcement agent who is engaging in unconstitutional acts in the manner discussed in 18 U.S. Code § 242—*Deprivation of Rights Under Color of Law*. DOJ-deputized attorneys may also access other remedies available to DOJ pursuant to this Act, 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.

# **TITLE 27—LAW ENFORCEMENT IN GENERAL**

## **SEC. 1. To What Extent Are Law Enforcement Agents Expected to Know the Law?**

(a) Prospective and current law enforcement agents shall demonstrate, through testing and role playing, a firm understanding and knowledge of local, state, and federal laws the agent is responsible for enforcing. The person or firm administering testing shall enter results directly into POP.

## **SEC. 2. Is a Law Enforcement Agent Obligated to Disclose Wrongdoing?**

(b) A law enforcement agent shall disclose any illegal act or unconstitutional act the law enforcement agent witnesses, knows about, or should have known about that was committed by another law enforcement agent. A law enforcement agent who participates in actions, fails to disclose actions, or conspires to conceal actions that violate a law, policy, or a person's civil rights shall be deemed unfit. Such actions shall include:

- (1) Failing to facilitate a person's right to challenge the legality of an arrest;
- (2) Presence of an unauthorized weapon or contraband on the person of a law enforcement agent or in a vehicle transporting a law enforcement agent;

- (3) Knowledge of, but failing to disclose, a false statement made by a law enforcement agent or an official, independent investigator, or other person with power to investigate policing actions;
- (4) Concealing, tampering with, or disturbing evidence at a crime scene or the unauthorized collection of evidence or witness statements;
- (5) Thwarting a fact-finding effort related to a law enforcement-involved use-of-force event;
- (6) Removing, dismantling, or disabling an electronic surveillance or tracking device;
- (7) Manipulating or altering video, photos, audio, or other files in order to shield facts, mischaracterize facts, or degrade images;
- (8) Participating in or helping to prevent the prosecution of a person involved in a criminal enterprise;
- (9) Retaliating against a member of the public or other person for disclosing information about the misdeeds of a law enforcement agent;
- (10) Releasing information about a subject, incident, or use-of-force incident in violation of this Act;
- (11) Restraining a person against his or her will without legal authority or justification (false arrest); and
- (12) Overcharging, which includes levying on a person more charges than are warranted.

**SEC. 3. Are there Limits on the Number of Hours an Agent Can Work?**

(a) A law enforcement agent shall not work more than twelve hours on a day the law enforcement agent has worked any time in a law enforcement capacity except for in the case of an emergency declared by a State Executive or U.S. President.

#### **SEC. 4. Can a Law Enforcement Agent Use Law Enforcement Powers Off Duty?**

(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 until an agent declares him- or herself active as required by policy or law. AG shall establish procedures for clearly establishing when a law enforcement agent is on-duty and off-duty<sup>14</sup>.

#### **SEC. 5. What Are the Standards Governing Prisoner Transport?**

(b) A law enforcement agent driving a transport vehicle shall ensure persons arrested are providing safe, humane conditions during transport, including proper lighting, ventilation, temperature, ample space, and methods of securing themselves.

(c) A law enforcement agent shall take immediate steps as outlined by the AG to correct any condition that fail to meet requirements.

## **TITLE 28—NATIONAL WHISTLEBLOWER PROTECTION**

#### **SEC. 1. Are Law Enforcement Agents Afforded Whistleblower Protections?**

(a) A public official or official at 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, employee of a law enforcement agency, or other official. 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 and mismanagement.

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<sup>14</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.

(b) A law enforcement agent shall use *the Law Enforcement Agent (LEA) Complaint Form* to advise DOJ and oversight officials that a law enforcement agent is retaliating against an agent for disclosing wrongdoing.

(c) A law enforcement agent who submits an *LEA Complaint Form* shall be granted the following options:

- (1) Reassignment to low-risk law enforcement duties;<sup>15</sup>
- (2) Early retirement; or
- (3) Other option negotiated by a law enforcement agent and DOJ.

Penalty for Retaliation—Any person who threatens, fires, demotes, harasses, assaults, injures, kills or otherwise "retaliates" against a law enforcement agent who discloses an illegal or improper act committed by another law enforcement agent, political appointee, or elected official shall be fined at least \$100,000 and imprisoned not less than two (2) years. The penalty or sentence shall be added to the penalty or sentence assessed for the underlying offense(s).

## **TITLE 29—CHECKS AND BALANCES**

### **SEC. 1. Can a Law Enforcement Agency Deploy Military Equipment?**

(a) A law enforcement agency shall secure approval from the President of the United States before deploying military equipment listed on the Annual List of *Prohibited Military Equipment*, which DOJ shall publish annually.

- (1) The President of the United States shall not authorize the deployment of military equipment on domestic soil except for when the use of such equipment or tools is authorized by an act of the U.S. Congress.

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<sup>15</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 in retaliation for disclosing agent wrongdoing.



(2) DOJ and U.S. Department of Defense shall work with citizens attending the DOJ Office of Accountability and Civilian Oversight's (OCO) regional and annual policing conferences to develop an annual *List of Prohibited Military Equipment*

Penalty—Failing to Obtain Approval Before Deploying Military Equipment. Any person who deploys military equipment without the expressed approval of the President of the United States shall be deemed to have violated the provisions of this Title and shall be fined \$250,000 and imprisoned at least one (1) year but not more than three (3) years.

## **SEC. 2. Are Law Enforcement Vehicles Required to Have GPS?**

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

## **SEC. 3. Is AG Required to Establish Standards for Capturing and Storing Video and Electronic Images?**

(a) The AG shall establish standards and protocols for capturing, 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 standards, backup protocols, and data retention timeframes established by the AG.

## **SEC. 4. How Will AG Ensure Video and Audio Are High Quality?**

(a) A law enforcement agency shall comply with minimum standards published by DOJ for video and other recording equipment. A law enforcement agency shall post sample video recordings taken with agency equipment to display the clarity of video captured during the day, at night, and in various conditions specified by DOJ (overcast, cloudy, etc.). The preview shall enable the public to discern if bodycam, vehicle cam, or other video capturing a use-of-force

event involving a law enforcement agent is equivalent in clarity to sample video posted on a law enforcement agency's website.<sup>16</sup>

(b) AG shall endeavor to identify new technology and methods of deploying technology to increase surveillance of policing activities in law enforcement facilities and in the field.

## **SEC. 5. What Surveillance Devices Is An Agency Mandated to Have?**

(a) A law enforcement agency shall use modern video, audio, or other surveillance devices to document interactions between a law enforcement agent and members of the public. A law enforcement agency shall:

- (1) Equip a law enforcement agent with a fully-operational body camera that documents the agent's interactions with members of the public while the law enforcement agent is on duty. The agent must wear the body camera or a similarly-approved device at all times;
- (2) Equip a law enforcement vehicle with a working modern surveillance device;
- (3) Install surveillance devices in areas of its facility where people under arrest and members of the public interact with law enforcement agents.

## **SEC. 6. How Shall an Agent Prevent Video-recording Mishaps?**

(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

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<sup>16</sup> India Kager, a 27-year-old Navy Veteran, and Angelo Perry were shot over 30 times on a 7-Eleven convenience store parking lot by a Virginia Beach Police SWAT Team. Virginia Beach Police claim that someone notified the police department that Perry was "going to" commit a crime later that evening. The couple's four-month-old baby was in the back seat of the car when the shooting occurred. Video footage of the shooting is difficult to discern even though the camera that captured the video was state-of-the-art.

enforcement agent shall take immediate action to correct non-functioning surveillance equipment.

(b) OCOA shall develop a policy that provides guidance on the steps a law enforcement agent must take to immediately rectify problems with non-functioning or incorrectly-functioning surveillance equipment.

(c) A law enforcement agent shall not approach a member of the public without first confirming that video recording equipment is operational. An agent who fails to confirm videotape equipment is operating properly before interacting with a member of the public shall be deemed unfit.

(d) An investigator shall send video or other electronic evidence believed to be in question to an independent lab for evaluation.

#### **SEC. 7. Can a Person Retain a Recording Device Upon Arrest?**

(a) A law enforcement agent shall permit a person to continue recording on his or her phone or other personal device the circumstances surrounding a personal encounter with a law enforcement agent, including arrest and transport to a law enforcement agency. A law enforcement agent shall ask if the subject wants to continue to record and shall facilitate the request.

(b) A law enforcement agent shall not invade a person's privacy by making an effort to access any information on a person's device except for by court order.

## **TITLE 30—PROHIBITED PRACTICES**

#### **SEC. 1. What Generally Does this Act Preclude?**

(a) A law enforcement agency shall not implement a law or adopt a tactic that can be construed to undermine this Act.

## **SEC. 2. Are Video Cameras Mandated?**

(a) It shall be unlawful for a law enforcement agent who *is not equipped* with a body cam or similarly-approved device to interact with a member of the public in an area that is not equipped with a surveillance camera. An agent who violates this provision shall be deemed unfit.

## **SEC. 3. Can a Law Enforcement Agency Use Policing to Generate Revenue?**

(a) It shall be unlawful for a law enforcement agency or political subdivision to retain revenue earned from policing activities that exceed *reasonable, ordinary, and necessary expenses*.

(b) AG shall require a law enforcement agency to publish quarterly a detailed income statement showing revenue earned from policing activities by demographic group. An agency shall also publish *reasonable, ordinary, and necessary* expenses and net income from policing activities.

(c) A law enforcement agency that realizes revenue that exceeds reasonable, customary, and necessary expenses of operating a law enforcement agency shall deposit funds into a federally-designated account established by U.S. Department of Justice (DOJ). AG shall use funds garnered from revenue overages and civil judgements against law enforcement agencies to compensate DOJ-deputized attorneys acting on behalf of DOJ, purchase equipment for law enforcement agencies, and fund training programs.

## **SEC. 4. Can a State Cap Civil Judgements?**

(a) A state shall not cap judgments on civil actions brought against a law enforcement agent or law enforcement agency by a member of the public who was harmed by unconstitutional policing practices or civil rights violations.

**SEC. 5. Can a Law Enforcement Agency Use Locally-created Judicial Instruments?**

(a) A law enforcement agency shall not create or use a judicial mechanism, tool, process, or device that was created locally to circumvent established legal constructs or judicial instruments such as a subpoena. A law enforcement agent shall use valid legal instruments also used at the federal level in conjunction with the policing process.<sup>17</sup>

## **TITLE 31—PENALTIES**

**SEC. 1. What Penalties Are Imposed by 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 a member of a target group shall be guilty of violating 18 U.S.C. § 1091 and shall be subject to related penalties.

**SEC. 2. What Penalties Are Imposed by 18 U.S.C. § 1001 Statements or Entries Generally?**

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

(c) Any owner or fiduciary of a security firm that has its license to operate revoked shall be prohibited for five years from participating materially in the operation of another security firm licensed by the AG.

(d) Fiduciaries of a private security firm shall sign an affidavit attesting to their compliance with provisions set forth in this Act.

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<sup>17</sup>The DOJ Pattern or Practice Investigation involving the Ferguson Police Department revealed that Ferguson created a number of constructs and instruments designed to circumvent legal processes such as a subpoenas.

Penalty—Failure to Comply. Any law enforcement agent, law enforcement agency, private security firm, or private security officer who fails to comply with any provision of this Act shall be subject to the penalty set forth in the related Section or Title of this Act or fined \_\_\_\_\_ and sentenced to two (2) years, whichever is greater.

## **TITLE 32—IMPLEMENTATION**

### **SEC. 1. What Happens if a Law Enforcement Agency Does Not Comply?**

(a) The AG shall require a law enforcement agency to consolidate with another agency or cease policing activities if it fails to comply with provisions, conditions, and the spirit of this Act.

### **SEC. 2. Will Drafter Help with Final Drafting and Implementation of this Act?**

(a) The AG, working with ONUS, Inc., and experts shall develop a plan for the full implementation of this Act, in incremental stages, with a deadline for completing implementation set for eighteen (18) months following the date this Act is enacted into law.

## **TITLE 33—AUTHORIZATION OF APPROPRIATIONS**

### **Authorizations**