

A

**BILL**

To regulate law enforcement use of predictive policing systems for reasonable suspicion.

**SEC. 1. SHORT TITLE.**

This Act may be cited as the “Suspicion-Enhancing Tools of Predictive Policing Systems Act” or the “STOPPS Act.”

**SEC. 2. DEFINITIONS.** As used in this Act—

- (a) “Predictive policing system(s)” or “PPS” means any computer-based tool(s), process(es), or software, or portion(s) thereof, that provides machine assistance to an officer in making inferences and makes inferences about the location, type, frequency, victim, or perpetrator of criminal activities past, present, or future, except for basic computer-based policing systems.
- (b) “Basic computer-based policing system” means any tool, process, or software, or portion thereof used by an officer solely to collect, store, search, retrieve, display, or transmit police records.
- (c) “Police records” means any factual, historical, or objective information collected by a law enforcement agency, including information collected on crime reports, arrests, detention, indictments, dispositions, sentencing, correctional supervision, release, wants, warrants, or tips.
- (d) “Officer” means any investigative or law enforcement officer of a State or a political subdivision of the State who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in the State criminal code, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses.
- (e) “Stop” means a brief investigatory detention of an individual by an officer based on reasonable suspicion that the individual is or is about to be engaged in criminal activity, except that the term shall not include stops made for purposes of administrative searches of businesses, drug-testing of employees or schoolchildren, suspicionless safety searches in public spaces, such as airports, subways, or public buildings, permanent or temporary checkpoints, inventory searches, or border searches.

**SEC. 3. USE OF PREDICTIVE POLICING SYSTEMS FOR REASONABLE SUSPICION.**

- (a) **In General.** An officer shall not use PPS to establish reasonable suspicion to conduct a

stop except as provided in this section.

**(b) Permitted Uses.—**

**(1)** If an officer uses PPS to establish reasonable suspicion, the information generated by the PPS taken together must—

- (A)** reasonably relate to the instance of suspected crime or criminal activity;
- (B)** directly connect to the suspected individual; and
- (C)** derive from PPS in compliance with subsection (g) of section 4.

**(2) Insufficient PPS Information.—**

**(A)** An officer shall not conduct a stop based solely on information generated by PPS that, taken together, does not satisfy the requirements of paragraph (b)(1) of this section, but such information may contribute to the totality of the circumstances towards providing an officer reasonable suspicion to make a stop, to the extent that there is a relation between the information and the suspected—

- (i)** crime or criminality; or
- (ii)** individual.

**(B)** The following factors can never establish reasonable suspicion alone:

- (i)** an individual's presence in a high crime area as identified by PPS;
- (ii)** an individual's presence in the area of a potential future crime predicted using PPS;
- (iii)** an individual's inclusion on a list of potential future criminals generated using PPS;
- (iv)** a PPS-based risk score estimating an individual's likelihood of committing crimes;
- (v)** an analysis using PPS of an individual's social network connections; or
- (vi)** information generated by PPS based solely on an individual's criminal history.

**(3) Recent Crime Areas.** An officer may conduct a stop in a recent crime area if information generated by PPS—

**(A)** justifies—

- (i)** a reasonable inference that a suspected individual located in the recent crime area could be the perpetrator; or
- (ii)** a virtual certainty that a suspected group of individuals contains the perpetrator; and

**(B)** is based on—

- (i)** a particularized description of the perpetrator or vehicle; or
- (ii)** PPS-predicted information, including the following:

- (I) the size of the recent crime area;
- (II) the number of individuals in the recent crime area; or
- (III) the direction or trajectory of the perpetrator.

**(4) Exculpatory Information.** An officer shall make a good faith effort to consider exculpatory information—

- (A) known to the officer; or
- (B) readily available from PPS or basic computer-based policing systems used, including the following:
  - (i) basic personal information;
  - (ii) employment information; or
  - (iii) lack of criminal history.

**(5) Predictions of Future Perpetrators.** An officer must have consent to stop an individual who PPS predicts to be the future perpetrator of a crime that is neither imminent nor ongoing.

**(c) Judicial Discretion.** Notwithstanding the requirements provided in this subsection, a State or federal judge may deny or reverse a finding of reasonable suspicion pursuant to subsection (a) of section 5.

**(d) Relation to Other Laws.** This section does not annul, alter, affect, or exempt any person subject to the provisions of this section from complying with any federal or State laws, except to the extent that those laws are inconsistent with any provision of this section, and then only to the extent of the inconsistency.

**(e) Exceptions.** \_\_\_\_\_

- (1) An officer shall not be subject to paragraphs (1) through (2) and (4) of subsection (b) in this section if an emergency situation exists that involves immediate danger of death or serious bodily injury to any individual.
- (2) Notwithstanding subsection (b), any officer may stop an individual solely based on identity if the individual is wanted for a completed felony.

#### **SEC. 4. ACCOUNTABILITY AND OVERSIGHT.**

**(a) Documentation of the Use of PPS.—**

- (1) Each officer shall—
  - (A) log its use of PPS to the extent necessary to comply with subsections (b) and (g) of this section; and
  - (B) transmit the documentation to the law enforcement agency in accordance with the adopted use policy.
- (2) The documentation shall include at a minimum the following:
  - (A) predictive policing systems used;
  - (B) data outputs considered;

(C) potentially exculpatory information considered under paragraph (4) in subsection (b) of section 3; and

(D) whether stop resulted in an arrest.

**(b) Private Access to Relevant Documentation.** Each law enforcement agency shall—

(1) allow individuals filing police misconduct complaints or criminal defendants to access documentation relevant to the individual’s stop in a timely manner upon request;

(2) adopt specific measures for preventing unauthorized access or release; and

(3) comply with the State’s public disclosure laws.

**(c) Office of the National Coordinator of Predictive Policing.—**

(1) **Establishment.** There is established within the Department of Justice an Office of the National Coordinator for Predictive Policing Systems (referred to in this section as the “Office”). The Office shall be headed by a National Coordinator who shall be appointed by the Attorney General and shall report directly to the Attorney General.

(2) **Duties.** The National Coordinator shall—

(A) serve as a leading member in the establishment and operations of the Predictive Policing Policy and Standards Committee under subsection (d) of this section and serve as a liaison between the committee and the Federal Government;

(B) maintain and frequently update an Internet website with information on the work and recommendations of the Predictive Policing Policy and Standards Committee;

(C) review and determine whether to endorse each standard for the use of PPS recommended by the Predictive Policing Policy and Standards Committee for purposes of adoption under subsection (e) of this section;

(D) adopt and publish a model use policy;

(E) provide for the certification by law enforcement agencies of compliance with paragraph (e)(1) of this section; and

(F) prepare and publish the following reports on an annual basis:

(i) lessons learned from the use of PPS by law enforcement agencies;

(ii) assessment of the impact of PPS on U.S. citizens; and

(iii) evaluation of benefits and costs associated with the use of PPS.

**(d) Predictive Policing Policy and Standards Committee.—**

(1) **Establishment.** There is established a Predictive Policing Policy and Standards Committee (referred to in this section as the “Committee”) to make policy and

standards recommendations to the National Coordinator established in subsection (c) relating to the use of PPS.

**(2) Areas of Standard Development.** The Committee shall propose a use policy framework to the National Coordinator based on recommended standards in the following areas:

- (A)** appropriate uses of PPS; and
- (B)** PPS data management procedures, including:
  - (i)** collection;
  - (ii)** maintenance;
  - (iii)** accuracy;
  - (iv)** access controls; and
  - (v)** update and verification procedures.

**(3) Public Input.** The Committee shall—

- (A)** serve as a forum for a broad range of stakeholders to provide input on the development of standards;
- (B)** ensure an opportunity for the participation in activities of the Committee of outside advisors; and
- (C)** conduct open meetings and develop a process to allow for public comment on the recommendations described in this subsection.

**(4) Membership.—**

- (A)** The National Coordinator shall establish and direct the operations of the Committee.
- (B)** The Committee shall be composed of 15 members to be appointed as follows:
  - (i)** 2 members shall be appointed by the Attorney General, 1 of whom shall be appointed to represent the Department of Justice and 1 of whom shall have special expertise in predictive policing; and
  - (ii)** 13 members shall be appointed by the Comptroller General of the United States of whom—
    - (I)** 3 members shall be civil rights advocates;
    - (II)** 4 members shall represent law enforcement agencies, one of which shall be a criminologist;
    - (III)** 5 members shall have expertise in data analysis; and
    - (IV)** 1 member shall be from the research community.
- (C)** The members of the Committee appointed under subparagraph (B) of this paragraph shall represent a balance of interests.

- (D) The terms of the members of the Committee shall be 3 years, except that the Comptroller General shall designate staggered terms for the members first appointed.
- (5) **Application of FACA.** The Federal Advisory Committee Act (5 U.S.C. App.), other than section 14 of such Act, shall apply to the Committee.
- (6) **Publication.** The Attorney General shall provide for the publication in the Federal Register and the posting on the Internet website of the Office of the National Coordinator for Predictive Policing all recommendations made by the Committee under this section.
- (e) **Agency Use Policies.** Each law enforcement agency that uses PPS and receives federal financial assistance or funds for that use shall—
  - (1) adopt and enforce a written use policy governing the use of PPS that incorporates each standard set out in the model policy adopted by the National Coordinator;
  - (2) conduct open meetings and develop a process to allow for public comment before adopting the model use policy or when making substantial changes to it;
  - (3) certify annual compliance with paragraph (1) of this subsection and section 3 as required under section 6; and
  - (4) develop an annual strategic plan outlining specific objectives for each PPS used and measurable outcome goals.
- (f) **Training Programs.—**
  - (1) Each law enforcement agency must develop ongoing, comprehensive training programs for all personnel who may use PPS or otherwise be involved with the use of PPS, including the following:
    - (A) supervisors;
    - (B) records management personnel;
    - (C) training personnel; and
    - (D) officers.
  - (2) The training program shall include:
    - (A) relevant laws;
    - (B) data management guidelines;
    - (C) documentation best practices;
    - (D) scenario-based exercises; and
    - (E) PPS evidentiary procedure.
- (g) **Auditing the Use of PPS.—**
  - (1) **Internal Audit.—**
    - (A) Any law enforcement agency whose officers use PPS shall—
      - (i) annually evaluate compliance with—
        - (I) the adopted use policy; and

- (II) the strategic plan developed under paragraph (4) in subsection (e) of this section; and
    - (ii) follow the guidelines developed under clause (2)(A)(i) of this subsection.
  - (B) The results of the internal audit shall be considered by each law enforcement agency for purposes of improving the use policy and training programs.
- (2) External Audit.—**
  - (A) The Criminal Justice Information Services Division of the Federal Bureau of Investigation (referred to in this section as the ‘CJIS’) shall—
    - (i) develop guidelines to assist law enforcement agencies to conduct an internal audit;
    - (ii) conduct an audit of the use of PPS by each law enforcement agency whose PPS is partially or completely federally funded; and
    - (iii) establish rules for granting independent authority to a person or organization under subparagraph (E) of this paragraph.
  - (B) **Subject of the External Audit.** The CJIS shall audit the use of PPS by each law enforcement agency, including the following:
    - (i) the distinct predictive policing systems used, including the following:
      - (I) methods of typical and common use by officers;
      - (II) frequency of such use;
      - (III) rate of arrests resulting from stops based in whole or in part on such use;
      - (IV) evaluation according to the strategic plan developed under paragraph (4) in subsection (e) of this section;
      - (V) accuracy; and
      - (VI) potential disparate impact; and
    - (ii) data used by PPS, including its—
      - (I) collection;
      - (II) maintenance;
      - (III) accuracy;
      - (IV) access controls; and
      - (V) update and verification procedures.
  - (C) **Audit Cooperation.—**
    - (i) The CJIS shall be granted access to the following:
      - (I) personnel trained in the use of the PPS;
      - (II) the data used in the PPS;

- (III) documentation created under subsection (a) of this section;
  - (IV) use policies adopted under subsection (e) of this section; and
  - (V) the results of any internal audits conducted under paragraph (1) in subsection (g) of this section.
- (ii) The law enforcement agency under audit and the developers of the PPS being audited shall provide reasonable assistance to the CJIS during the course of the audit.

**(D) Public Release.—**

- (i) The Director of the CJIS shall annually report results of the completed audits to the Attorney General, who may request more information, clarification, or testimony from the Director.
- (ii) The Attorney General shall release the report and any accompanying documentation unless the information—
  - (I) must be kept confidential by statute; or
  - (II) would, in the consideration of the Attorney General, breach the privacy of individuals.
- (iii) If the report cannot be released in whole for reasons under subclauses (ii)(I) or (ii)(II) of this subparagraph, the Attorney General must release any portions of the report not restricted therein.
- (iv) Each law enforcement agency must implement protocols and notice mechanisms for public release of—
  - (I) measures used to evaluate whether the strategic plan’s specific objectives and outcome goals were met; and
  - (II) audit results authorized for release.

**(E) Independent Authority to Audit.** Any person may apply to the CJIS for independent authority to audit the law enforcement agency’s use of PPS.

- (i) **Grant Authorization.** The Attorney General shall make funds available under Part A of Chapter 46 of Title 42 of the U.S. Code to States and units of local government, or combinations thereof, to carry out all or a substantial part of a program or project intended to develop or improve transparency mechanisms related to the use of PPS and the capability to audit PPS.

**SEC. 5. ENFORCEMENT.**

- (a) **Suppression.** Whenever the requirements under subsection (b) of section 3 are not met, no results from those searches and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury,

department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof.

**(b) Civil Action.—**

- (1) In General.** Any person who is subject to a stop based on the use of PPS in violation of this Act may in a civil action recover from the officer or the law enforcement agency which engaged in that violation such relief as may be appropriate.
- (2) Relief.** In an action under this subsection, appropriate relief includes—
  - (A)** such preliminary and other equitable or declaratory relief as may be appropriate;
  - (B)** actual damages suffered by the claimant; or
  - (C)** a reasonable attorney’s fee and other litigation costs reasonably incurred.
- (3) Defense.** A good faith determination that subsection (e) of section 3 permitted the conduct complained of is a complete defense against any civil or criminal action brought under this section.
- (4) Limitation.** A civil action under this subsection may not be commenced later than two years after the date upon which the claimant first has a reasonable opportunity to discover the violation.

**SEC. 6. FUNDING FOR LAW ENFORCEMENT PREDICTIVE POLICING SYSTEMS.**

- (a) No federal financial assistance or funds may be expended for the creation, maintenance, or modification of a law enforcement predictive policing system unless the agency using that system certifies compliance with sections 3 and 4 of this Act.
- (b) Subsection (a) of this section shall take effect 18 months after the enactment of this Act.