

AMENDMENT TO H.R. 9770
OFFERED BY MR. PETERS OF CALIFORNIA

At the appropriate place in the text, insert the following:

1 **SEC. ____ . ENFORCEMENT LIMITS.**

2 (a) IN GENERAL.—The Immigration and Nationality
3 Act is amended by inserting after section 287 the following:
4

5 **“SEC. 287A. FEDERAL IMMIGRATION ENFORCEMENT.**

6 “(a) USE OF FORCE.—

7 “(1) REQUIREMENTS.—All Federal immigration
8 enforcement personnel shall be subject to the following requirements:
9

10 “(A) USE OF FORCE STANDARD.—Federal
11 immigration enforcement personnel may use
12 non-deadly force as follows:

13 “(i) No reasonably effective, safe, and
14 feasible alternative appears to exist to
15 bring an unlawful situation safely and effectively under control, and the level of
16 force used is proportional to the seriousness of the actual or threatened resistance.
17
18

1 “(ii) Agents shall account for factors
2 such as age, injury, disability, and size of
3 the subject when assessing reasonableness.

4 “(iii) The ‘reasonableness’ of a par-
5 ticular use of force must be judged from
6 the perspective of a reasonable officer on
7 the scene, and its calculus must account
8 for the fact that law enforcement personnel
9 are often forced to make split-second deci-
10 sions, in circumstances that are tense, un-
11 certain, and rapidly evolving, about the
12 amount of force necessary in a particular
13 situation.

14 “(iv) Federal immigration enforce-
15 ment personnel who make or attempt to
16 make an arrest need not retreat or desist
17 from their efforts by reason of the resist-
18 ance or threatened resistance of the person
19 being arrested. Federal immigration en-
20 forcement personnel shall not be deemed
21 an aggressor or lose the right to self-de-
22 fense by the use of force when no reason-
23 ably effective, safe, and feasible alternative
24 appears to exist, in compliance with clause
25 (i), to effect the arrest or to prevent escape

1 or to overcome resistance. For the pur-
2 poses of this section, ‘retreat’ does not
3 mean tactical repositioning or other de-es-
4 calation tactics.

5 “(B) MINIMIZATION OF RISK.—Federal
6 immigration enforcement personnel shall mini-
7 mize the risk of injury to a third person when
8 using non-deadly force.

9 “(C) DEESCALATION.—Federal immigra-
10 tion enforcement personnel shall make all rea-
11 sonable efforts to de-escalate tensions prior to
12 using force.

13 “(D) AFFIRMATIVE DUTY.—Federal immi-
14 gration enforcement personnel shall have an af-
15 firmative duty to intervene to prevent or stop,
16 as appropriate, any other Federal immigration
17 enforcement personnel from engaging in exces-
18 sive force or any other use of force that violates
19 the Constitution, other Federal laws, or policies
20 on the reasonable use of force. Such personnel
21 who witness excessive use of force shall also
22 have a duty to report it to their chain of com-
23 mand or the Department of Homeland Secu-
24 rity’s Office of the Inspector General. Such per-
25 sonnel shall recognize and act upon the affirma-

1 tive duty to request and, as appropriate, render
2 medical aid, if needed.

3 “(E) MASKS.—Federal immigration en-
4 forcement personnel shall limit the use of
5 masks or face coverings, except in the case that
6 a supervisory officer provides written approval
7 for such use in one of the following instances:

8 “(i) The target poses a national secu-
9 rity threat.

10 “(ii) There is a high likelihood that
11 the personnel needs to maintain anonymity
12 for future covert operations.

13 “(iii) Masks are necessary to protect
14 personnel’s health from environmental haz-
15 ards.

16 “(F) IDENTIFICATION.—

17 “(i) IN GENERAL.—Federal immigra-
18 tion enforcement personnel shall wear a
19 uniform or identification clearly displaying
20 their agency or that they are Federal im-
21 migration enforcement personnel, unless—

22 “(I) the target poses a public
23 safety or national security threat;

1 “(II) not wearing identification is
2 necessary to safely carry out the oper-
3 ation; and

4 “(III) the personnel receives
5 prior written approval from a super-
6 visory officer.

7 “(ii) RESTRICTION.—No uniform of
8 Federal immigration enforcement per-
9 sonnel may use the title ‘Police’ or any
10 other identifier that may result in them
11 being misidentified as local police officers.

12 “(2) RESTRICTED EQUIPMENT.—Federal immi-
13 gration enforcement personnel are prohibited from
14 being equipped with or using noise flash diversionary
15 devices (also known as flash bangs), rubber bullets,
16 pepper balls, and tear gas, except for the following
17 immigration enforcement operations purposes:

18 “(A) An immigration enforcement oper-
19 ation involving the arrest of a person in the
20 presence or view of Federal immigration en-
21 forcement personnel who is entering or attempt-
22 ing to enter the United States in violation of
23 any law.

24 “(B) An immigration enforcement oper-
25 ation with respect to an enforcement target pre-

1 senting a public safety or national security
2 threat. To qualify for this exception, personnel
3 are required to complete a tactical action plan,
4 to be approved by their supervisor, outlining the
5 equipment they plan to use in the operation and
6 provide justification for the need for this equip-
7 ment. Personnel may also complete a tactical
8 action plan, to be approved by their supervisor,
9 to provide them with the contingent authority
10 to appropriately use restricted equipment in
11 specified operations targeting national security
12 or public safety threats in the event personnel
13 unexpectedly encounter their target and do not
14 have time to seek additional approval without
15 jeopardizing apprehension of the target.

16 “(C) The exceptions under this paragraph
17 shall only apply in the case of Federal immigra-
18 tion enforcement personnel who are trained and
19 certified for the use of the specified equipment.

20 “(3) BACKUP TEAM.—

21 “(A) IN GENERAL.—For any operation not
22 qualifying for an exception under paragraph
23 (2), such operation may maintain a trained and
24 certified backup team equipped with restricted
25 nondeadly equipment that can be deployed

1 when the safety of the primary Federal immi-
2 gration enforcement personnel, or others, is at
3 risk.

4 “(B) FIRST AMENDMENT ACTIVITIES.—
5 The safety of Federal immigration enforcement
6 personnel shall not be determined to be at risk
7 solely due to lawful protest or other protected
8 First Amendment activities.

9 “(4) DISCIPLINE.—The Office for Civil Rights
10 and Civil Liberties of the Department of Homeland
11 Security and the Office of the Inspector General of
12 the Department of Justice shall be required to inves-
13 tigate and, if necessary, discipline any Federal immi-
14 gration enforcement personnel, within their primary
15 jurisdiction, who violates this subsection.

16 “(b) BODY AND VEHICLE CAMERA REQUIRE-
17 MENTS.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this section, the
20 Secretary of Homeland Security shall develop and
21 disseminate a Department-wide directive requiring
22 the use of—

23 “(A) body-worn cameras by all Federal im-
24 migration enforcement personnel; and

1 “(B) dashboard cameras for all vehicles
2 being used in Federal immigration enforcement
3 operations and associated recording protocols.

4 “(2) PRINCIPLES.—In preparing the directive
5 required under paragraph (1), the Secretary of
6 Homeland Security shall include the following:

7 “(A) Benchmarks for implementation of
8 the use of body-worn cameras by Federal immi-
9 gration enforcement personnel and dashboard
10 cameras for vehicles being used for Federal im-
11 migration enforcement to conform with a stand-
12 ard that cameras are on by default and may
13 only be turned off in certain circumstances.

14 “(B) Training requirements, procedures,
15 and best practices for the use of body-worn
16 cameras and dashboard cameras.

17 “(C) Plans to publicize the directive and
18 the requirements set forth in this section to en-
19 sure Federal immigration enforcement per-
20 sonnel and other impacted individuals are noti-
21 fied of new policies.

22 “(3) EXCEPTION.—The directive required under
23 paragraph (1) shall not apply to any personnel who
24 operate in a location where the Secretary carries out
25 redundant video-monitoring or video-surveillance

1 that is maintained in good working order and that
2 provides video footage of a quality that is the same
3 or better than that which would be captured by a
4 body-worn camera or dashboard camera.

5 “(4) RETENTION OF FOOTAGE.—

6 “(A) IN GENERAL.—Body camera and
7 dashboard camera video footage shall be re-
8 tained by the Department of Homeland Secu-
9 rity for 1 year after the date on which it was
10 recorded, after which time such footage shall be
11 permanently deleted.

12 “(B) ADDITIONAL RETENTION REQUIRE-
13 MENTS.—Notwithstanding the retention and de-
14 letion requirements in subparagraph (A)—

15 “(i) such video footage shall be auto-
16 matically retained for not less than three
17 years if the video footage captures an
18 interaction or event involving—

19 “(I) any use of force; or

20 “(II) an encounter involving a
21 registered complaint by a subject of
22 the video footage;

23 “(ii) such video footage shall be re-
24 tained for not less than three years if a

1 longer retention period is voluntarily re-
2 quested by—

3 “(I) the Federal immigration en-
4 forcement personnel whose body cam-
5 era recorded the video footage, if that
6 personnel reasonably asserts the video
7 footage has evidentiary or exculpatory
8 value in an ongoing investigation or is
9 a subject of the video footage, if the
10 personnel reasonably asserts the video
11 footage has evidentiary or exculpatory
12 value;

13 “(II) any superior officer of the
14 personnel whose body camera re-
15 corded the video footage or who is a
16 subject of the video footage, if that
17 superior officer reasonably asserts the
18 video footage has evidentiary or excul-
19 patory value;

20 “(III) any uniformed law enforce-
21 ment officer, if the video footage is
22 being retained solely and exclusively
23 for enforcement training purposes;

24 “(IV) any member of the public
25 who is a subject of the video footage;

1 “(V) any parent or legal guard-
2 ian of a minor who is a subject of the
3 video footage; or

4 “(VI) a spouse of a deceased sub-
5 ject, next of kin, or legally authorized
6 designee; or

7 “(iii) footage may not be discarded
8 until the conclusion of any investigation or
9 lawsuit to which the footage is relevant.

10 “(5) RIGHT TO INSPECT.—During the retention
11 periods described in paragraph (4), the following in-
12 dividuals shall have the right to inspect, but not re-
13 tain or in any matter alter, the body camera footage:

14 “(A) Any individual who is a subject of
15 body camera video footage, and their designated
16 legal counsel.

17 “(B) A parent of a minor subject of body
18 camera video footage, and their designated legal
19 counsel.

20 “(C) The spouse, next of kin, or legally au-
21 thorized designee of a deceased subject of body
22 camera video footage, and their designated legal
23 counsel.

24 “(D) Federal immigration enforcement
25 personnel whose body camera recorded the

1 video footage, and their designated legal coun-
2 sel, subject to the limitations and restrictions in
3 this part.

4 “(E) The superior officer of the personnel
5 whose body camera recorded the video footage,
6 subject to the limitations and restrictions in
7 this part.

8 “(F) Any defense counsel who claims, pur-
9 suant to a written affidavit, to have a reason-
10 able basis for believing a video may contain evi-
11 dence that exculpates a client.

12 “(G) Any Member of Congress rep-
13 resenting the district in which the operation in
14 the video took place.

15 “(H) Any Member of Congress who sits on
16 a relevant Committee of jurisdiction.

17 “(c) TRAINING.—Federal immigration enforcement
18 personnel shall receive training, at least annually—

19 “(1) on use of force policy and related legal up-
20 dates; and

21 “(2) to—

22 “(A) reinforce the appropriate exercise of
23 discretion and judgment in using non-deadly
24 and deadly force;

1 “(B) provide techniques for the use of and
2 reinforce the importance of de-escalation;

3 “(C) comply with the First Amendment’s
4 protections for journalists, protesters, and those
5 who assemble;

6 “(D) comply with the Fourth Amend-
7 ment’s protections against unreasonable
8 searches and seizures;

9 “(E) reinforce the illegality of determining
10 immigration enforcement targets primarily
11 based on race;

12 “(F) reinforce the affirmative duty to in-
13 tervene to prevent or stop, as appropriate, any
14 officer from engaging in excessive force or any
15 other use of force that violates the Constitution,
16 other Federal laws, or policies on the reasonable
17 use of force;

18 “(G) reinforce the affirmative duty to re-
19 quest and/or render medical aid, as appropriate,
20 where needed; and

21 “(H) document and keep records of prac-
22 tice for immigration enforcement operations.

23 “(d) **REQUIRING NOTIFICATION FOR LOCAL LAW**
24 **ENFORCEMENT.**—Federal immigration enforcement shall

1 notify local law enforcement of impending operations in
2 their jurisdiction.

3 “(e) DHS REPORTING REQUIREMENTS.—Beginning
4 not later than 3 months after the date of enactment of
5 this subsection, the Secretary of Homeland Security shall
6 submit to Congress the following reports on the criteria
7 Federal immigration enforcement personnel use to deter-
8 mine whether an immigrant poses a public safety or na-
9 tional security threat:

10 “(1) The Secretary of Homeland Security shall
11 submit to Congress a report every 6 months detail-
12 ing instances where non-deadly force was used, the
13 level of public safety or national security threat the
14 target posed, for what reason non-deadly force was
15 administered, specific instances where non-deadly
16 force was improperly administered, and the meas-
17 ures the Department took to ensure accountability
18 for improper use of force.

19 “(2) The Secretary of Homeland Security shall
20 submit to Congress a report every 6 months detail-
21 ing instances of assaults against Federal immigra-
22 tion enforcement personnel. The report shall include
23 the total number of personnel involved in immigra-
24 tion enforcement operations, the number of assaults

1 against Federal immigration enforcement personnel,
2 and details on the severity of those instances.

3 “(3) The Secretary of Homeland Security shall
4 send a classified report to Congress every 6 months
5 detailing instances in which Federal immigration en-
6 forcement personnel operated without identification.

7 “(4) The Secretary of Homeland Security shall
8 submit a report to Congress every 6 months on the
9 frequency of Federal immigration enforcement per-
10 sonnel using facial coverings.

11 “(f) DOJ REPORTING REQUIREMENT.—The Attor-
12 ney General shall submit a report to Congress every 6
13 months on the number and circumstances of incidents of
14 individuals falsely impersonating a Federal immigration
15 enforcement personnel, the public safety impact of individ-
16 uals posing as immigration enforcement, and how the De-
17 partment of Justice is combating impersonations.

18 “(g) DATABASE.—

19 “(1) IN GENERAL.—The Secretary of Homeland
20 Security shall maintain a database accessible to su-
21 pervisors of Federal immigration enforcement per-
22 sonnel with proof of certification and training for all
23 Federal immigration enforcement personnel who will
24 use equipment restricted under this subsection.

25 “(2) ENFORCEMENT.—

1 “(A) SUPERVISOR RESPONSIBILITY.—Each
2 supervisor shall be responsible and held ac-
3 countable if Federal immigration enforcement
4 personnel without proper training and certifi-
5 cation use restricted equipment under sub-
6 section (a)(2).

7 “(B) IMPROPER APPROVALS.—Each super-
8 visor shall also be responsible and held account-
9 able for clearly improper approval of the au-
10 thority under paragraph (1).

11 “(3) IN GENERAL.—The Secretary of Homeland
12 Security shall create a searchable and organizable
13 database, including all reports from Federal immi-
14 gration enforcement personnel, for the following sys-
15 tems:

16 “(A) Use of Force Incident Reporting Sys-
17 tem, which is mandatory for all deployments of
18 force.

19 “(B) Significant Incident Reports, which is
20 mandatory for all operational anomalies or es-
21 calations.

22 “(C) Civil Rights and Civil Liberties re-
23 porting, which is mandatory for all allegations
24 of abuse or misconduct.

25 “(4) AVAILABILITY.—

1 “(A) UNREDACTED AVAILABILITY.—En-
2 tries from the database described in paragraph
3 (3) shall be accessible to—

4 “(i) each Member of Congress rep-
5 resenting the district in which the area of
6 operation is located; or

7 “(ii) a Member of Congress who sits
8 on a relevant committee of jurisdiction.

9 “(B) REDACTED AVAILABILITY.—The Sec-
10 retary of Homeland Security shall make avail-
11 able to the public a version of the database that
12 redacts any sensitive, personal information.

13 “(h) DEFINITIONS.—In this section:

14 “(1) FEDERAL IMMIGRATION ENFORCEMENT
15 PERSONNEL.—The term ‘Federal immigration en-
16 forcement personnel’ includes any immigration agent
17 or officer who is using the authority to conduct ar-
18 rests or enforcement actions under sections 236 and
19 287 or provides support to personnel conducting an
20 enforcement action.

21 “(2) NATIONAL SECURITY THREAT.—The term
22 ‘national security threat’ means any threat, as deter-
23 mined by the Secretary of Homeland Security, posed
24 by transnational criminal organizations, cartels,
25 human trafficking organizations, foreign terrorist or-

1 ganizations, and gangs with a demonstrated inter-
2 national reach.

3 “(3) PUBLIC SAFETY THREAT.—The term ‘pub-
4 lic safety threat’ means an imminent and substantial
5 threat, as determined by the Secretary of Homeland
6 Security, to the safety of others posed by an indi-
7 vidual.”.

8 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion, or the amendments made by this section, shall be
10 construed to—

11 (1) provide Federal immigration enforcement
12 personnel additional authority to exercise deadly
13 force;

14 (2) prevent Federal immigration enforcement
15 personnel from taking action necessary to ensure the
16 safety of themselves, other personnel, or bystanders;
17 or

18 (3) require State and local law enforcement to
19 assist or be involved in Federal immigration enforce-
20 ment activities.

