

116TH CONGRESS
1ST SESSION

H. R. 4359

To provide that a Federal law enforcement officer may not use deadly force or less lethal force unless such force is necessary, to encourage States to adopt similar laws or policies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2019

Mr. KHANNA (for himself, Mr. CLAY, Mr. RUSH, Mr. THOMPSON of Mississippi, Mr. RASKIN, Mr. MEEKS, Ms. CLARKE of New York, Ms. NORTON, Ms. SCHAKOWSKY, Mr. PAYNE, Mr. BUTTERFIELD, Mr. VEASEY, Ms. PRESSLEY, Ms. LEE of California, Mr. HASTINGS, Ms. JACKSON LEE, Mr. GARCÍA of Illinois, Mrs. WATSON COLEMAN, Mr. CARSON of Indiana, Ms. OCASIO-CORTEZ, Mr. POCAN, Ms. WATERS, and Ms. JAYAPAL) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide that a Federal law enforcement officer may not use deadly force or less lethal force unless such force is necessary, to encourage States to adopt similar laws or policies, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Police Exercising Ab-
5 solute Care With Everyone Act of 2019”.

1 **SEC. 2. USE OF FORCE BY FEDERAL LAW ENFORCEMENT**
2 **OFFICERS.**

3 (a) PROHIBITION ON LESS LETHAL FORCE.—A Fed-
4 eral law enforcement officer may not use any less lethal
5 force unless such less lethal force is necessary and propor-
6 tional in order to effectuate an arrest of a person who
7 the officer has probable cause to believe has committed
8 a criminal offense, and only after exhausting reasonable
9 alternatives to the use of such force.

10 (b) PROHIBITION ON DEADLY USE OF FORCE.—A
11 Federal law enforcement officer may not use deadly force
12 against a person unless—

13 (1) such force is necessary, as a last resort, to
14 prevent imminent and serious bodily injury or death
15 to the officer or another person;

16 (2) the use of such forces creates no substantial
17 risk of injury to a third person; and

18 (3) reasonable alternatives to the use of such
19 force have been exhausted.

20 (c) REQUIREMENT TO GIVE VERBAL WARNING.—
21 When feasible, prior to using force against a person, a
22 Federal law enforcement officer shall identify himself or
23 herself as a law enforcement officer, and issue a verbal
24 warning to the person that the law enforcement officer
25 seeks to apprehend, which warning includes—

1 (1) a request that the person surrender to the
2 law enforcement officer; and

3 (2) notifies the person that the law enforcement
4 officer will use force against the person if the person
5 resists arrest or flees.

6 (d) GUIDANCE ON USE OF FORCE.—Not later than
7 120 days after the date of the enactment of this Act, the
8 Attorney General, in consultation with impacted persons,
9 communities, or organizations, including representatives
10 of civil and human rights organizations, victims of police
11 use of force, and representatives of law enforcement asso-
12 ciations, shall provide guidance to Federal law enforce-
13 ment agencies on the types of less lethal force and deadly
14 force that are prohibited under subsections (a) and (b),
15 and how a Federal law enforcement officer can assess
16 whether the use of force is appropriate and necessary, and
17 use the least amount of force when interacting with—

18 (1) pregnant women;

19 (2) children and youth under age 21;

20 (3) elderly persons;

21 (4) persons with mental, behavioral, or physical
22 disabilities or impairments;

23 (5) persons experiencing perceptual or cognitive
24 impairments due to use of alcohol, narcotics, hallu-
25 cinogenic, or other drugs;

1 (6) persons suffering from a serious medical
2 condition; and

3 (7) persons with limited English proficiency.

4 (e) TRAINING.—The Attorney General shall provide
5 training to Federal law enforcement officers on interacting
6 people described in paragraphs (1) through (7) of sub-
7 section (d).

8 (f) DEFINITIONS.—In this section:

9 (1) DEADLY FORCE.—The term “deadly force”
10 means force that creates a substantial risk of caus-
11 ing death or serious bodily injury, including the dis-
12 charge of a firearm, respiratory chokeholds, and
13 multiple discharges of an electronic control weapon.

14 (2) FEDERAL LAW ENFORCEMENT OFFICER.—
15 The term “Federal law enforcement officer” means
16 any officer, agent, or employee of the United States
17 authorized by law or by a Government agency to en-
18 gage in or supervise the prevention, detection, inves-
19 tigation, or prosecution of any violation of Federal
20 criminal law.

21 (3) LESS LETHAL FORCE.—The term “less le-
22 thal force” means any degree of force that is not
23 likely to have lethal effect.

24 (4) NECESSARY.—The term “necessary” means
25 that another reasonable Federal law enforcement of-

1 ficer would objectively conclude, under the totality of
2 the circumstances, that there was no reasonable al-
3 ternative to the use of force.

4 (5) REASONABLE ALTERNATIVES.—The term
5 “reasonable alternatives” means tactics and methods
6 used by a law enforcement officer to effectuate an
7 arrest that do not unreasonably increase the risk
8 posed to the law enforcement officer or another per-
9 son, including verbal communication, distance, warn-
10 ings, deescalation tactics and techniques, tactical
11 repositioning, and other tactics and techniques in-
12 tended to stabilize the situation and reduce the im-
13 mediacy of the risk so that more time, options, and
14 resources can be called upon to resolve the situation
15 without the use of force. With respect to the use of
16 deadly force, such term includes the use of less le-
17 thal force.

18 (6) DEESCALATION TACTICS AND TECH-
19 NIQUES.—The term “deescalation tactics and tech-
20 niques” means proactive actions and approaches
21 used by a law enforcement officer to stabilize the sit-
22 uation so that more time, options, and resources are
23 available to gain a person’s voluntary compliance
24 and reduce or eliminate the need to use force, in-
25 cluding verbal persuasion, warnings, tactical tech-

1 niques, slowing down the pace of an incident, wait-
 2 ing out a subject, creating distance between the offi-
 3 cer and the threat, and requesting additional re-
 4 sources to resolve the incident.

5 (7) TOTALITY OF THE CIRCUMSTANCES.—The
 6 term “totality of the circumstances” means all cred-
 7 ible facts known to the law enforcement officer lead-
 8 ing up to and at the time of the use of force, includ-
 9 ing the actions of the person against whom the law
 10 enforcement officer uses such force and the actions
 11 of the law enforcement officer.

12 (g) LIMITATION ON JUSTIFICATION DEFENSE.—

13 (1) IN GENERAL.—Chapter 51 of title 18,
 14 United States Code, is amended by adding at the
 15 end the following:

16 **“§ 1123. Limitation on justification defense for Fed-**
 17 **eral law enforcement officers**

18 “(a) IN GENERAL.—It is not a defense to an offense
 19 under section 1111 or 1112 that the use of less lethal or
 20 deadly force was justified in the case of a Federal law en-
 21 forcement officer—

22 “(1) whose use of such force was inconsistent
 23 with section 2 of the Police Exercising Absolute
 24 Care With Everyone Act of 2019; or

1 “(2) whose gross negligence, leading up to and
2 at the time of the use of force, contributed to the
3 necessity of the use of such force.

4 “(b) DEFINITION.—In this section, the term ‘Federal
5 law enforcement officer’ has the meaning given such term
6 in section 115.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions for chapter 51 of title 18, United States Code,
9 is amended by inserting after the item related to
10 section 1122 the following:

“1123. Limitation on justification defense for Federal law enforcement offi-
cers.”.

11 **SEC. 3. LIMITATION ON THE RECEIPT OF FUNDS UNDER**
12 **THE EDWARD BYRNE MEMORIAL JUSTICE AS-**
13 **SISTANCE GRANT PROGRAM.**

14 (a) LIMITATION.—A State or other jurisdiction may
15 not receive funds that the State or other jurisdiction would
16 otherwise receive under subpart 1 of part E of title I of
17 the Omnibus Crime Control and Safe Streets Act of 1968
18 (34 U.S.C. 10151 et seq.) for any fiscal year in which
19 the State or other jurisdiction does not have in place a
20 law that is consistent with section 2 of this Act and section
21 1123 of title 18, United States Code, as determined by
22 the Attorney General.

23 (b) SUBSEQUENT ENACTMENT.—In the case that
24 funds described in subsection (a) are withheld from a

1 State or other jurisdiction pursuant to subsection (a), and
2 the State or other jurisdiction subsequently enacts or puts
3 in place a law described in subsection (a), and dem-
4 onstrates substantial efforts to enforce such law, the State
5 or other jurisdiction shall be eligible, in the subsequent
6 fiscal year, to receive the total amount that the State or
7 other jurisdiction would have received in each fiscal year
8 for which funds were withheld, not to exceed the total that
9 such State or other jurisdiction would have received for
10 a period of 5 years.

11 (c) GUIDANCE.—Not later than 120 days after the
12 date of the enactment of this Act, the Attorney General,
13 in consultation with impacted persons, communities, orga-
14 nizations (including representatives of civil and human
15 rights organizations), individuals against whom a law en-
16 forcement officer used force, and representatives of law
17 enforcement associations, shall make guidance available to
18 States and other jurisdictions on the criteria that the At-
19 torney General will use in determining whether the State
20 or jurisdiction has in place a law described in subsection
21 (a).

22 (d) APPLICATION.—This section shall apply begin-
23 ning in the first fiscal year that begins after the date that
24 is one year after the date of the enactment of this Act.

1 **SEC. 4. GRANTS FOR USE OF FORCE POLICY.**

2 (a) AUTHORIZATION.—The Attorney General is au-
3 thorized to make grants to units of local government in
4 States that do not have in place a law that is substantially
5 similar to section 2 of this Act and section 1123 of title
6 18, United States Code, and which State did not receive
7 funds under subpart 1 of part E of title I of the Omnibus
8 Crime Control and Safe Streets Act of 1968 (34 U.S.C.
9 10151 et seq.) pursuant to section 3, if the law enforce-
10 ment agency of that unit of local government has in place
11 a policy related to the use of force by law enforcement
12 officers that is consistent with section 2 of this Act.

13 (b) APPLICATION.—A unit of local government seek-
14 ing a grant under this section may submit to the Attorney
15 General an application at such time, in such manner, and
16 containing such information as the Attorney General may
17 reasonably require.

18 (c) AMOUNT.—The amount of a grant under this sec-
19 tion shall be an amount which is equal to the amount the
20 unit of local government would otherwise have received
21 under subpart 1 of part E of title I of the Omnibus Crime
22 Control and Safe Streets Act of 1968 (34 U.S.C. 10151
23 et seq.), if the State in which the unit of local government
24 is located had received funds under such program.

25 (d) USE OF FUNDS.—A grant under this section may
26 be used for the purposes described in section 501 of title

1 I of the Omnibus Crime Control and Safe Streets Act of
2 1968 (34 U.S.C. 10152).

3 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated such sums as may be nec-
5 essary to carry out this section for each fiscal year, begin-
6 ning 2020 through 2024.

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