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

Mr. KHANNA introduced the following bill; which was referred to the Committee on ____________________________

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 Representatives of the United States of America in Congress assembled,

2. SECTION 1. SHORT TITLE.

3. This Act may be cited as the “Police Exercising Absolute Care With Everyone Act of 2019”.

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

(a) Prohibition on Less Lethal Force.—A Federal law enforcement officer may not use any less lethal force unless such less lethal force is necessary and proportional in order to effectuate an arrest of a person who the officer has probable cause to believe has committed a criminal offense, and only after exhausting reasonable alternatives to the use of such force.

(b) Prohibition on Deadly Use of Force.—A Federal law enforcement officer may not use deadly force against a person unless—

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

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

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

(c) Requirement to Give Verbal Warning.—When feasible, prior to using force against a person, a Federal law enforcement officer shall identify himself or herself as a law enforcement officer, and issue a verbal warning to the person that the law enforcement officer seeks to apprehend, which warning includes—
(1) a request that the person surrender to the law enforcement officer; and

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

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

(1) pregnant women;

(2) children and youth under age 21;

(3) elderly persons;

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

(5) persons experiencing perceptual or cognitive impairments due to use of alcohol, narcotics, hallucinogenic, or other drugs;
(6) persons suffering from a serious medical condition; and

(7) persons with limited English proficiency.

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

(f) DEFINITIONS.—In this section:

(1) DEADLY FORCE.—The term “deadly force” means force that creates a substantial risk of causing death or serious bodily injury, including the discharge of a firearm, respiratory chokeholds, and multiple discharges of an electronic control weapon.

(2) FEDERAL LAW ENFORCEMENT OFFICER.—The term “Federal law enforcement officer” means any officer, agent, or employee of the United States authorized by law or by a Government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of Federal criminal law.

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

(4) NECESSARY.—The term “necessary” means that another reasonable Federal law enforcement of-
ficer would objectively conclude, under the totality of the circumstances, that there was no reasonable alternative to the use of force.

(5) **Reasonable Alternatives.**—The term “reasonable alternatives” means tactics and methods used by a law enforcement officer to effectuate an arrest that do not unreasonably increase the risk posed to the law enforcement officer or another person, including verbal communication, distance, warnings, deescalation tactics and techniques, tactical repositioning, and other tactics and techniques intended to stabilize the situation and reduce the immediacy of the risk so that more time, options, and resources can be called upon to resolve the situation without the use of force. With respect to the use of deadly force, such term includes the use of less lethal force.

(6) **Deescalation Tactics and Techniques.**—The term “deescalation tactics and techniques” means proactive actions and approaches used by a law enforcement officer to stabilize the situation so that more time, options, and resources are available to gain a person’s voluntary compliance and reduce or eliminate the need to use force, including verbal persuasion, warnings, tactical tech-
niques, slowing down the pace of an incident, wait-
ing out a subject, creating distance between the offi-
cer and the threat, and requesting additional re-
sources to resolve the incident.

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

(g) LIMITATION ON JUSTIFICATION DEFENSE.—

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

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

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

“(1) whose use of such force was inconsistent
with section 2 of the Police Exercising Absolute
Care With Everyone Act of 2019; or
“(2) whose gross negligence, leading up to and at the time of the use of force, contributed to the necessity of the use of such force.

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

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

“1123. Limitation on justification defense for Federal law enforcement officers.”.

SEC. 3. LIMITATION ON THE RECEIPT OF FUNDS UNDER THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM.

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

(b) SUBSEQUENT ENACTMENT.—In the case that funds described in subsection (a) are withheld from a
State or other jurisdiction pursuant to subsection (a), and the State or other jurisdiction subsequently enacts or puts in place a law described in subsection (a), and demonstrates substantial efforts to enforce such law, the State or other jurisdiction shall be eligible, in the subsequent fiscal year, to receive the total amount that the State or other jurisdiction would have received in each fiscal year for which funds were withheld, not to exceed the total that such State or other jurisdiction would have received for a period of 5 years.

(c) Guidance.—Not later than 120 days after the date of the enactment of this Act, the Attorney General, in consultation with impacted persons, communities, organizations (including representatives of civil and human rights organizations), individuals against whom a law enforcement officer used force, and representatives of law enforcement associations, shall make guidance available to States and other jurisdictions on the criteria that the Attorney General will use in determining whether the State or jurisdiction has in place a law described in subsection (a).

(d) Application.—This section shall apply beginning in the first fiscal year that begins after the date that is one year after the date of the enactment of this Act.
SEC. 4. GRANTS FOR USE OF FORCE POLICY.

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

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

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

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

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each fiscal year, beginning 2020 through 2024.