



## SUPPORT – Right to Redress Act (S.3803)

The National Police Accountability Project (“NPAP”) strongly supports the Right to Redress Act (S.3803). If enacted into law, the bill would remove barriers to people suing the federal government under the Federal Tort Claims Act (“FTCA”) for injuries caused by federal law enforcement officers.

### **Federal Law Enforcement Officers Are Violating People’s Constitutional Rights at Unprecedented Rates.**

Since the beginning of Donald Trump’s second term, ICE and CBP agents have violated the constitutional rights of thousands of people in pursuit of the administration’s deportation agenda. This has included using excessive force that violates clearly established Fourth Amendment protections like shooting into vehicles,<sup>1</sup> using chokeholds on restrained people who are not actively resisting,<sup>2</sup> and deploying less lethal force against peaceful protesters without warning.<sup>3</sup> There have also been widespread reports of unconstitutional stops, detentions, and home entries.<sup>4</sup> In addition to the constitutional violations happening in the community, federal detention officers are engaging in horrific abuses in ICE detention centers.<sup>5</sup>

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<sup>1</sup> Seth Stoughton, *The Legality of Deadly Force: Three Critical Questions about the ICE Shooting in Minneapolis*, *The Verdict*, Jan. 6, 2026, <https://verdict.justia.com/2026/01/09/the-legality-of-deadly-force-three-critical-questions-about-the-ice-shooting-in-minneapolis>.

<sup>2</sup> Nicole Foy and McKenzie Funk, *We Found More than 40 Cases of Immigration Agents Using Banned Chokeholds and Other Moves That Can Cutoff Breathing*, *Pro Publica*, Jan. 13, 2026, <https://www.propublica.org/article/videos-ice-dhs-immigration-agents-using-chokeholds-citizens>.

<sup>3</sup> Graham Hurley, *Blood, Pain, Disorientation. Here’s What Protesters Say ‘Less Lethal’ Weapons Feel Like*, *CNN*, Jan. 23, 2026, <https://www.cnn.com/2026/01/20/us/protestors-tear-gas-pepper-balls>.

<sup>4</sup> *How ICE Went Rogue*, *American Immigration Council*, Feb. 11, 2026, <https://www.americanimmigrationcouncil.org/fact-sheet/ice-cbp-legal-analysis/>

<sup>5</sup> Gisela Salomon, *Migrants Face Dire Conditions and Prolonged Waits in US Detention Centers*, *PBS News*, Feb. 9, 2026, <https://www.pbs.org/newshour/nation/migrants-face-dire-conditions-and-prolonged-waits-in-u-s-detention-centers>.

## **There are Multiple Obstacles to Pursuing Legal Accountability for Federal Officers Under the FTCA.**

There are two main ways individuals can pursue legal accountability for federal officers who engage in wrongdoing: pursuing either a *Bivens* claim for Constitutional violations or an FTCA claim for injuries the officers cause while on duty. The FTCA also permits family members of victims of law enforcement misconduct to seek compensation for the loss of their loved one.

When an individual has a possible FTCA claim, however, there are several aspects of the process that make justice elusive. The first is that the FTCA requires claimants to administratively exhaust their claims before initiating litigation. This means that individuals harmed by an ICE officer, for instance, would first have to present their claim to ICE and have that claim be denied by ICE before they can file the claim with the appropriate court.

The second obstacle is that the FTCA also permits the government to use the “discretionary function exception” to avoid accountability. In essence, this exception allows the federal government to claim immunity from FTCA lawsuits for a wide range of situations when federal officers harm individuals because their conduct was based on a policy decision. Officers invoke this exception even when the FTCA is clearly supposed to apply.

The third obstacle is that the FTCA does not permit claimants to have their claims heard before a jury; only a federal judge may hear the claims. Juries often serve as critical backstops against government overreach and wrongdoing, which is necessary in FTCA cases and supported by the Seventh Amendment right to a jury trial in civil cases where the value of the claim is above \$20. . Thus, even when a claimant overcomes the first two obstacles to filing an FTCA claim, they are still prevented from having their claim brought before a jury, which undermines Seventh Amendment protections for us all.

## **The Right to Redress Act Would Make it Easier to Hold ICE Agents and Other Federal Officers Accountable for Causing Harm.**

The Right to Redress Act would amend the FTCA to remove all three of the obstacles discussed above: individuals would be able to (1) file suit in court without administratively exhausting their claim beforehand; (2) eliminate the discretionary function exception; and (3) provide the right to a jury trial. These amendments would make it easier for individuals to hold federal officers accountable for the harm they cause as the federal government continues to abuse its authority.