

**AMENDMENT TO THE RULES COMMITTEE PRINT  
FOR H.R. 399  
OFFERED BY MS. LORETTA SANCHEZ OF  
CALIFORNIA**

Redesignate sections 20 and 21 as sections 21 and 22, respectively.

Insert after section 19 the following:

**1 SEC. 20. STANDARD OPERATING PROCEDURES.**

2 (a) IN GENERAL.—The Commissioner of U.S. Cus-  
3 toms and Border Protection shall establish—

4 (1) standard operating procedures for search-  
5 ing, reviewing, retaining, and sharing information  
6 contained in communication, electronic, or digital de-  
7 vices encountered by U.S. Customs and Border Pro-  
8 tection personnel at United States ports of entry;

9 (2) standard use of force procedures officers  
10 and agents of U.S. Customs and Border Protection  
11 may employ in the execution of their duties, includ-  
12 ing the use of deadly force and procedures for dees-  
13 calating confrontations, where possible;

14 (3) a uniform, standardized, and publically-  
15 available procedure for processing and investigating

1 complaints against officers, agents, and employees of  
2 U.S. Customs and Border Protection for violations  
3 of professional conduct, including the timely disposition  
4 of complaints and a written notification to the  
5 complainant of the status or outcome, as appropriate,  
6 of the related investigation, in accordance  
7 with section 552a of title 5, United States Code  
8 (commonly referred to as the “Privacy Act” or the  
9 “Privacy Act of 1974”);

10 (4) an internal, uniform reporting mechanism  
11 regarding incidents involving the use of deadly force  
12 by an officer or agent of U.S. Customs and Border  
13 Protection, including an evaluation of the degree to  
14 which the procedures required under paragraph (2)  
15 were followed; and

16 (5) standard operating procedures, acting  
17 through the Assistant Commissioner for Air and Marine  
18 and in coordination with the Office of Civil  
19 Rights and Civil Liberties and the Office of Privacy  
20 of the Department of Homeland Security, to provide  
21 command, control, communication, surveillance, and  
22 reconnaissance assistance through the use of un-  
23 manned aerial systems, including the establishment  
24 of—

1 (A) a process for other Federal, State, and  
2 local law enforcement agencies to submit mis-  
3 sion requests;

4 (B) a formal procedure to determine  
5 whether to approve or deny such a mission re-  
6 quest;

7 (C) a formal procedure to determine how  
8 such mission requests are prioritized and co-  
9 ordinated;

10 (D) a process for establishing agreements  
11 with other Federal, State, and local law en-  
12 forcement agencies regarding reimbursement  
13 for such mission costs; and

14 (E) a process regarding the protection and  
15 privacy of data and images collected by U.S.  
16 Customs and Border Protection through the  
17 use of unmanned aerial systems; and

18 (6) continuing education in conjunction with  
19 the Office of Civil Rights and Civil Liberties and the  
20 Office of Privacy of the Department on recent court  
21 rulings regarding the warrantless search of elec-  
22 tronic devices that are password protected or other-  
23 wise locked by the user and adjusting standard oper-  
24 ating procedures pursuant to such court rulings.

1 (b) REQUIREMENTS REGARDING CERTAIN NOTIFICA-  
2 TIONS.—

3 (1) IN GENERAL.—The standard operating pro-  
4 cedures established pursuant to paragraph (1) of  
5 subsection (a) shall require—

6 (A) in the case of a search of information  
7 conducted on an electronic device by U.S. Cus-  
8 toms and Border Protection personnel, the  
9 Commissioner of U.S. Customs and Border  
10 Protection to notify the individual subject to  
11 such search of the purpose and authority for  
12 such search, and how such individual may ob-  
13 tain information on reporting concerns about  
14 such search; and

15 (B) in the case of information collected by  
16 U.S. Customs and Border Protection through a  
17 search of an electronic device, if such informa-  
18 tion is transmitted to another Federal agency  
19 for subject matter assistance, translation, or  
20 decryption, the Commissioner of U.S. Customs  
21 and Border Protection to notify the individual  
22 subject to such search of such transmission.

23 (2) EXCEPTIONS.—

24 (A) IN GENERAL.—The Commissioner of  
25 U.S. Customs and Border Protection may with-

1 hold the notifications required under subpara-  
2 graphs (A) or (B) of paragraph (1) if the Com-  
3 missioner determines that such notifications  
4 would impair national security, law enforce-  
5 ment, or other operational interests.

6 (B) TERRORIST WATCH LISTS.—

7 (i) SEARCHES.—If an individual sub-  
8 ject to a search of an electronic device pur-  
9 suant to subparagraph (A) of paragraph  
10 (1) is included on a Government-operated  
11 or Government-maintained terrorist watch  
12 list, the notifications required under such  
13 paragraph shall not apply.

14 (ii) COMPLAINTS.—If a complainant  
15 using the process established under para-  
16 graph (3) of subsection (a) is included on  
17 a Government-operated or Government-  
18 maintained terrorist watch list, the notifi-  
19 cation required under paragraph (1) of this  
20 subsection shall not apply.

21 (c) UPDATE AND REVIEW.—The Commissioner of  
22 U.S. Customs and Border Protection shall review and up-  
23 date every three years the standard operating procedures  
24 required under subsection (a).

1 (d) AUDITS.—The Inspector General of the Depart-  
2 ment of Homeland Security shall develop and annually ad-  
3 minister an auditing mechanism to review whether  
4 searches of electronic devices at or between United States  
5 ports of entry are being conducted in conformity with the  
6 standard operating procedures required under paragraph  
7 (1) of subsection (a). Such audits shall be submitted to  
8 the appropriate congressional committees and shall in-  
9 clude the following:

10 (1) A description of the activities of officers and  
11 agents of U.S. Customs and Border Protection with  
12 respect to such searches.

13 (2) The number of such searches.

14 (3) The number of instances in which informa-  
15 tion contained in such devices that were subjected to  
16 such searches was retained, copied, shared, or en-  
17 tered in an electronic database.

18 (4) The number of such devices detained as the  
19 result of such searches.

20 (5) The number of instances in which informa-  
21 tion collected from such device was subjected to such  
22 searches was transmitted to a another Federal agen-  
23 cy, including whether such transmission resulted in  
24 a prosecution or conviction.

1           (e) REQUIREMENTS REGARDING OTHER NOTIFICA-  
2 TIONS.—The standard operating procedures established  
3 pursuant to paragraph (2) of subsection (a) shall re-  
4 quire—

5           (1) in the case of an incident of the use of  
6 deadly force by U.S. Customs and Border Protection  
7 personnel, the Commissioner of U.S. Customs and  
8 Border Protection to notify the appropriate congress-  
9 sional committees; and

10           (2) the Commissioner of U.S. Customs and  
11 Border Protection to provide to such committees a  
12 copy of the evaluation pursuant to paragraph (4) of  
13 such subsection not later than 30 days after comple-  
14 tion of such evaluation.

15           (f) REPORT ON UNMANNED AERIAL SYSTEMS.—The  
16 Commissioner of U.S. Customs and Border Protection  
17 shall annually submit to the appropriate congressional  
18 committees a report that reviews whether the use of un-  
19 manned aerial systems are being conducted in conformity  
20 with the standard operating procedures required under  
21 paragraph (5) of subsection (a). Such reports—

22           (1) shall be submitted with the President’s an-  
23 nual budget;

1           (2) may be submitted in classified form if the  
2           Commissioner determines that such is appropriate,  
3           and

4           (3) shall include—

5                 (A) a detailed description of how, where,  
6                 and for how long data and images collected  
7                 through the use of unmanned aerial systems by  
8                 U.S. Customs and Border Protection is col-  
9                 lected and stored; and

10                (B) a list of Federal, State, and local law  
11                enforcement agencies that submitted mission  
12                requests in the previous year and the disposi-  
13                tion of such requests.

