



Prince George's County, Maryland

Inter-Office Memorandum

Office of Law

LEGISLATIVE COMMENT

DATE: March 2, 2026

TO: David Murray, Council Administrator

THRU: Anthony D. Jones, County Attorney

THRU: Jason A. Alston, Deputy County Attorney

FROM: Terry L. Bell, Associate County Attorney

RE: CB-8-2026

The Office of Law has reviewed the above referenced emergency bill as it was presented February 17, 2026, and finds a legal impediment to its enactment as discussed below.

Summarily, the purpose of CB-8-2026 - Prohibition on Facial Coverings for Law Enforcement is to prohibit certain law enforcement officers from wearing face coverings that conceal or obscure their face while interacting with the public in the performance of their official duties in Prince George's County. There are several exceptions noted in the bill on when an officer can wear face coverings to include undercover operations, tactical operations, medical protections, fire or smoke gear, biological or chemical agents, water rescue or as a helmet.

Law Enforcement Agency and Law Enforcement Officer are subsequently defined in the bill as follows:

Law Enforcement Agency – means a **federal**, state, or local agency, department, bureau, office, or unit authorized to enforce criminal, civil, or immigration laws in the County. (emphasis added).

Law Enforcement Officer – means an individual who is:

- (A) A sworn member of a law enforcement agency; and
- (B) Acting in the performance of official duties.

Here, CB-8-2026 seeks to prevent a law enforcement officer of a *federal* agency from wearing face coverings while interacting with a member of the public while performing their duties in the County.

Immigration and Customs Enforcement (ICE) is a federal law enforcement agency under the U.S. Department of Homeland Security. ICE was formed as a part of the Homeland Security Act of 2002. Its purpose is enforcing federal immigration and custom laws across the United States. The duties and responsibilities of ICE agents lie within the U.S. Department of Homeland Security, a federal agency, who enforces federal statutes. Prince George’s County has no authority or jurisdiction to control the actions, conduct, etc., of an ICE agent, even considering when such conduct occurs while in the County. The duties and responsibilities in carrying out the federal statutes lie within the purview of the Secretary of the U.S. Department of Homeland Security, as a part of the President’s cabinet. Most importantly, the Supremacy Clause, Section VI, Clause 2 of the Constitution establishes that the U.S. Constitution and federal law made pursuant to it, and treaties are the supreme law of the land, taking precedent over conflicting state laws.

Several States are in the process of moving legislation forward to prevent ICE agents from wearing facial coverings. It is worth noting that California’s No Secret Police Act (SB 627), was challenged and enjoined in *United States v. California*, No. 2:25-cv-10999 (C.D. Cal.). In that case, a federal district court issued a preliminary injunction blocking California from enforcing the SB 627 prohibition on facial coverings as applied to federal ICE agents. The court held that, to the extent the statute regulated federal officers, it likely violated the Supremacy Clause of the United States Constitution and determined that the state cannot single out federal agents. Specifically, the court granted in part the United States’ motion for a preliminary injunction, ruling that California may not enforce the facial-covering prohibition contained in SB 627 against federal law enforcement officers. The court subsequently stayed the effect of its order until February 19, 2026. An appeal is currently pending.

Here, the legal impediment to the enactment of CB-008-2026 is the County’s lack of legal authority to require ICE agents to refrain from wearing facial coverings, as noted above. However, there are currently efforts by the Maryland General Assembly to address this issue. Currently SB 1 – Public Safety – Law Enforcement Officers – Prohibition on Face Coverings is making its way through the General Assembly and is up for first reading in the House of Delegates. SB-1 requires the Maryland Police Training and Standards Commission (MPTSC) to develop a model policy prohibiting the use of a face covering by a law enforcement officer in the course of duty. Law enforcement agencies with law enforcement officers operating in the State must adopt a policy consistent with the model policy developed by MPTSC. Perhaps the County can align its efforts with policies adopted by the Commission.

The Office of Law also notes that Section 3, which declares a public emergency caused by certain law enforcement officers performing law enforcement functions during encounters with County residents while wearing face coverings that conceal or obscure the face, make the bill vulnerable to a potential legal challenge. The official declaration that constitutes a public health emergency could be viewed by a court as the County's attempt to regulate an area where only the federal government has the ability to regulate in violation of the Constitution's Supremacy Clause.