

HOMELAND SECURITY IMPROVEMENT ACT

JULY 19, 2019.—Committee to the Committee of the Whole House on the State of the Union and Ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland Security, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 2203]

The Committee on Homeland Security, to whom was referred the bill (H.R. 2203) to increase transparency, accountability, and community engagement within the Department of Homeland Security, provide independent oversight of border security activities, improve training for agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Improvement Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

**TITLE I—NATIONAL COMMISSION TO INVESTIGATE THE TREATMENT OF THE MIGRANT FAMILIES AND CHILDREN BY THE TRUMP ADMINISTRATION**

- Sec. 101. Establishment of commission.
- Sec. 102. Purposes.
- Sec. 103. Composition of the Commission; qualifications.
- Sec. 104. Functions of commission.
- Sec. 105. Powers of commission.
- Sec. 106. Public meetings and release of public version of reports.
- Sec. 107. Staff of commission.
- Sec. 108. Compensation and travel expenses.
- Sec. 109. Security clearances for commission members and staff.
- Sec. 110. Reports of commission; termination.
- Sec. 111. Funding.

**TITLE II—OMBUDSMAN, BORDER COMMUNITY LIAISONS, TRAINING AND MANAGEMENT**

- Sec. 201. Establishment of the Office of the Ombudsman for Border and Immigration Related Concerns.
- Sec. 202. Establishment of border community stakeholder advisory committee.
- Sec. 203. Training and continuing education.
- Sec. 204. Body-worn cameras.
- Sec. 205. Limitation on the separation of families.
- Sec. 206. Prohibition on exceeding 72 hours in short-term detention.
- Sec. 207. Electronic tracking.
- Sec. 208. Preventing implementation of anti-asylum access interim final rule; Termination of remain in Mexico protocol and metering policy.
- Sec. 209. Surge support for care of families and unaccompanied children.
- Sec. 210. Port of entry temporary duty assignments.
- Sec. 211. Prohibition on physical restraints for women who are pregnant or post-delivery.

**TITLE III—OVERSIGHT**

- Sec. 301. GAO report on the extent of CBP activities, operations, and claimed authority.
- Sec. 302. Migrant deaths reporting.
- Sec. 303. Review of the use of force.
- Sec. 304. Accountability and transparency within the border zone.
- Sec. 305. Audit and inspections of detention facilities.

## **TITLE I—NATIONAL COMMISSION TO INVESTIGATE THE TREATMENT OF THE MIGRANT FAMILIES AND CHILDREN BY THE TRUMP ADMINISTRATION**

**SEC. 101. ESTABLISHMENT OF COMMISSION.**

There is established in the legislative branch the National Commission to Investigate the Treatment of Migrant Families and Children By the Trump Administration (in this Act referred to as the “Commission”).

**SEC. 102. PURPOSES.**

The purposes of the Commission are to—

- (1) examine the handling of migrant families and children apprehended along the United States-Mexico border by U.S. Customs and Border Protection since January 2017;
- (2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the handling by the Departments of Homeland Security and Health and Human Services of migrant families and children who were apprehended at the southern border since January 2017;
- (3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—
  - (A) Department of Homeland Security Office of Inspector General;
  - (B) Department of Health and Human Services Office of Inspector General; and
  - (C) other executive branch, congressional, or independent investigations into the treatment of and detention conditions for migrant families and chil-

dren apprehended at the southern border by the Department of Homeland Security since January 2017;

(4) make a full and complete accounting of the handling of the migrant families and children apprehended at the southern border since January 2017; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures.

**SEC. 103. COMPOSITION OF THE COMMISSION; QUALIFICATIONS.**

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) one member shall be appointed by the leader of the Democratic Party (majority or minority leader, as the case may be) in the House of Representatives, with the concurrence of the leader of the Democratic party (majority or minority leader as the case may be) in the Senate, who shall serve as chairman of the Commission;

(2) two members shall be appointed by the senior member of the leadership of the Democratic party in Senate;

(3) three members shall be appointed by the senior member of the leadership of the Republican party in the Senate;

(4) three members shall be appointed by the senior member of the leadership of the Democratic party in the House of Representatives; and

(5) one member shall be appointed by the senior member of the leadership of the Republican party in of the House of Representatives.

(b) QUALIFICATIONS.—Each individual appointed to the Commission shall have expertise and experience in at least one of the following areas:

(1) Immigration law, particularly experience representing asylees.

(2) Public health.

(3) Child welfare.

(4) Civil rights.

(5) As a representative of a humanitarian organization that gives assistance to individuals crossing the southern border.

(6) As a local official from a border community on the southern border of the United States.

**SEC. 104. FUNCTIONS OF COMMISSION.**

The functions of the Commission are to—

(1) investigate the relevant facts and circumstances related to the handling by the Departments of Homeland Security and Health and Human Services of the migrant families and children apprehended at the southern border since January 2017, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure;

(2) identify, review, and evaluate the lessons learned from the handling by the Departments of Homeland Security and Health and Human Services of the migrant families and children apprehended at the southern border since January 2017, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to providing timely, effective and humane treatment of migrant families and unaccompanied alien children seeking asylum in the United States; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

**SEC. 105. POWERS OF COMMISSION.**

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

**SEC. 106. PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSION OF REPORTS.**

(a) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 110(a) and

(b).

(b) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

**SEC. 107. STAFF OF COMMISSION.**

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chap-

ter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

**(2) PERSONNEL AS FEDERAL EMPLOYEES.—**

**(A) IN GENERAL.**—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

**(B) MEMBERS OF COMMISSION.**—Subparagraph (A) shall not be construed to apply to members of the Commission.

**(b) DETAILEES.**—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

**(c) CONSULTANT SERVICES.**—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

**SEC. 108. COMPENSATION AND TRAVEL EXPENSES.**

Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

**SEC. 109. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.**

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

**SEC. 110. REPORTS OF COMMISSION; TERMINATION.**

**(a) INTERIM REPORTS.**—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

**(b) REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

**(c) TERMINATION.—**

**(1) IN GENERAL.**—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

**(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.**—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

**SEC. 111. FUNDING.**

**(a) IN GENERAL.**—There is authorized \$3,000,000 for purposes of carrying out the activities of the Commission under this title.

**(b) DURATION OF AVAILABILITY.**—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

## **TITLE II—OMBUDSMAN, BORDER COMMUNITY LIAISONS, TRAINING AND MANAGEMENT**

**SEC. 201. ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR BORDER AND IMMIGRATION RELATED CONCERNS.**

**(a) IN GENERAL.**—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following new section:

**“SEC. 437. ESTABLISHMENT OF THE OFFICE OF OMBUDSMAN FOR BORDER AND IMMIGRATION RELATED CONCERNS.**

“(a) **IN GENERAL.**—The Secretary shall appoint an Ombudsman for Border and Immigration Related Concerns (hereinafter referred to as the ‘Ombudsman’), who shall—

- “(1) be independent of Department agencies and officers;
- “(2) report directly to the Secretary; and
- “(3) have a background in immigration, civil rights, and law enforcement.

“(b) **FUNCTIONS.**—The functions of the Ombudsman shall be to—

“(1) establish an independent, neutral, and confidential process to receive, investigate, resolve, and provide redress, including referral for investigation to the Office of the Inspector General, referral to the Office of Civil Rights and Civil Liberties to investigate complaints and information indicating possible abuses of civil rights or civil liberties, referral to U.S. Citizenship and Immigration Services for immigration relief, or any other action determined appropriate, in cases in which Department employees, or subcontracted or cooperating entity personnel, are alleged to have engaged in misconduct or violated the rights of individuals, associations, or employers;

“(2) establish an accessible and standardized complaint process regarding complaints against any employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law; and

“(3) identify and thereafter review, examine, and make recommendations to the Secretary or designee to address chronic concerns in border security and enforcement activities of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

“(c) **ANNUAL REPORT.**—On an annual basis, starting one year after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report prepared by the Ombudsman that provides information regarding the Office of the Ombudsman’s activities for the prior year, including information relating to the following:

“(1) The number of complaints received in the period, with information on each complaint including whether it is against any employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law, when and where the incident that gave rise to the complaint occurred, including, where possible, identification of the port of entry, U.S. Border Patrol station, or detention facility where the alleged incident occurred.

“(2) The number of investigations commenced or carried out in the period, with information on each investigation including whether it involves any employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law.

“(3) The number of complaints resolved in the period, with information on how each complaint was resolved, including for those complaints that were—

- “(A) referred for investigation to the Office of the Inspector General;
- “(B) referred to the Office of Civil Rights and Civil Liberties;
- “(C) referred to U.S. Citizenship and Immigration Services for immigration relief; and
- “(D) resolved in some other manner.

“(4) Findings and recommendations for the period that address chronic concerns in border security and enforcement activities of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including the impact of such activities on border communities and the civil rights, property rights, privacy rights, and civil liberties of residents of such communities.

“(5) Any actions taken by the Department to implement recommendations that address chronic concerns in border security and enforcement activities.

“(d) **PUBLICATION.**—Not later than 30 days after receiving the annual report required pursuant to subsection (c), the Secretary shall publish the annual report on the website of the Department and in the Federal Register, together with any feedback from the Secretary regarding the report.

“(e) CONFIDENTIALITY.—In the absence of the written consent of an individual who submits a complaint, the Ombudsman shall keep confidential the identity of and any identifying information relating to that individual.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by striking the items relating to sections 435 and 436 and inserting the following new items:

“Sec. 435. Maritime operations coordination plan.

“Sec. 436. Maritime security capabilities assessments.

“Sec. 437. Establishment of the Office of Ombudsman for Border and Immigration Related Concerns.”.

**SEC. 202. ESTABLISHMENT OF BORDER COMMUNITY STAKEHOLDER ADVISORY COMMITTEE.**

(a) IN GENERAL.—Subtitle C of title IV of the Homeland Security Act of 2002, as amended by section 201 of this Act, is further amended by adding at the end the following new section:

**“SEC. 438. ESTABLISHMENT OF BORDER COMMUNITY STAKEHOLDER ADVISORY COMMITTEE.**

“(a) ESTABLISHMENT.—The Secretary shall establish within the Department a border community stakeholders advisory committee pursuant to section 871 of this Act.

“(b) DUTIES.—

“(1) IN GENERAL.—The Secretary shall consult with the Advisory Committee, as appropriate, on border security and immigration enforcement matters, including on the development, refinement, and implementation of policies, protocols, programs, and rulemaking pertaining to border security and immigration enforcement that may impact border communities.

“(2) RECOMMENDATIONS.—The Advisory Committee shall develop, at the request of the Secretary, recommendations regarding policies, protocols, programs and rulemaking pertaining to border security and immigration enforcement that may impact border communities.

“(3) PERIODIC REPORTS.—The Advisory Committee shall periodically submit to the Secretary—

“(A) reports on matters identified by the Secretary; and

“(B) reports on other matters identified by a majority of the members of the Advisory Committee.

“(4) ANNUAL REPORT.—The Advisory Committee shall submit to the Secretary an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year. Not later than six months after the date on which the Secretary receives the annual report, the Secretary shall publish a public version describing the Advisory Committee’s activities and such related matters as would be informative to the public, consistent with section 552(b) of title 5, United States Code.

“(5) FEEDBACK.—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (4), the Secretary shall respond in writing to the Advisory Committee with feedback on each of the recommendations, an action plan to implement any of the recommendations with which the Secretary concurs, and a justification for why any of the recommendations have been rejected.

“(6) CONGRESSIONAL NOTIFICATION.—Not later than 30 days after providing written feedback to the Advisory Committee under paragraph (5), the Secretary shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on such feedback, and provide a briefing upon request.

“(7) REPORT TO CONGRESS.—Prior to briefing the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate under paragraph (6), the Secretary shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

“(c) MEMBERSHIP.—

“(1) APPOINTMENT.—

“(A) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall appoint the members of the Advisory Committee.

“(B) COMPOSITION.—The membership of the Advisory Committee shall consist of a border community stakeholder from each of the nine U.S. Border Patrol sectors and three individuals with significant expertise and experience in immigration law, civil rights, and civil liberties, particularly as relates to interests of residents of border communities.

“(2) TERM OF OFFICE.—

“(A) TERMS.—The term of each member of the Advisory Committee shall be two years. A member of the Advisory Committee may be reappointed.

“(B) REMOVAL.—The Secretary may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

“(3) PROHIBITION ON COMPENSATION.—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

“(4) MEETINGS.—

“(A) IN GENERAL.—The Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

“(B) PUBLIC MEETINGS.—At least one of the meetings described in subparagraph (A) shall be within a Border Patrol sector and open to the public.

“(C) ATTENDANCE.—The Advisory Committee shall maintain a record of the persons present at each meeting.

“(5) MEMBER ACCESS TO SENSITIVE SECURITY INFORMATION.—Not later than 60 days after the date of a member’s appointment, the Secretary shall determine if there is cause for the member to be restricted from possessing sensitive security information. Without such cause, and upon the member voluntarily signing a non-disclosure agreement, the member may be granted access to sensitive security information that is relevant to the member’s advisory duties. The member shall protect the sensitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

“(6) CHAIRPERSON.—A stakeholder representative on the Advisory Committee who is elected by the appointed membership of the Advisory Committee shall chair the Advisory Committee.

“(d) NONAPPLICABILITY OF FACAA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee and its subcommittees.

“(e) DEFINITIONS.—In this section:

“(1) ADVISORY COMMITTEE.—The term ‘Advisory Committee’ means the border community stakeholder advisory committee established under subsection (a).

“(2) BORDER COMMUNITY STAKEHOLDER.—The term ‘border community stakeholder’ means individuals who have ownership interests or reside in the land borders of the United States and who have not publicly taken positions on the Trump Administration’s border security and immigration enforcement actions, including—

“(A) a landowner within 10 miles of a land border of the United States;

“(B) a business leader in a company operating within 10 miles of a land border of the United States;

“(C) a local official from a community on a land border of the United States; and

“(D) a representative of Indian tribes on a land border of the United States.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002, as amended by section 201 of this Act, is further amended by inserting after the item relating to section 437 the following new item:

“Sec. 438. Establishment of Border Community Stakeholder Advisory Committee.”.

#### **SEC. 203. TRAINING AND CONTINUING EDUCATION.**

(a) MANDATORY TRAINING AND CONTINUING EDUCATION TO PROMOTE CBP AGENT AND OFFICER SAFETY AND PROFESSIONALISM.—The Secretary of Homeland Security shall establish policies and guidelines to ensure that every agent and officer of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement receives a minimum of 20 weeks of training upon onboarding that is directly related to the mission and 40 hours of training and continuing education annually thereafter, to include personnel in a supervisory or management position. Such training shall include training provided by attorneys outside of the Department of Homeland Security.

(b) CURRICULUM.—The Secretary of Homeland Security shall establish policies and guidelines governing training and continuing education of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement regarding accountability, standards for professional and ethical conduct, and oversight. Such training shall address the following:

(1) Community relations, including the following:

(A) Best practices in community policing, cultural awareness, and carrying out enforcement actions near sensitive locations such as places of worship or religious ceremony, school or education-related place or event, courthouse or other civic building providing services accessible to the public, hos-



pital, medical treatment, or health care facility, a public demonstration, or an attorney's office, including a public defender or legal aid office.

(B) Policies limiting location of enforcement and cooperation with local law enforcement.

(C) Best practices in responding to grievances and how to refer complaints to the Ombudsman for Border and Immigration Related Concerns in accordance with section 437 of the Homeland Security Act of 2002, as added by section 201 of this Act.

(2) Interaction with vulnerable populations, including instruction on screening, identifying, and responding to vulnerable populations, such as children, victims of human trafficking, and the acutely ill.

(3) Standards of professional and ethical conduct, including the following:

(A) Lawful use of force, de-escalation tactics, and alternatives to the use of force.

(B) Complying with chain of command and lawful orders.

(C) Conduct and ethical behavior toward the public in a civil and professional manner.

(D) Civil rights and legal protections.

(E) Non-racially biased questioning.

(F) De-escalation tactics and alternatives to use of force.

(G) Permissible and impermissible social media activity.

(c) **PERFORMANCE REVIEW PROCESS.**—The Secretary of Homeland Security shall establish a review process to ensure that port supervisors and managers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, as the case may be, are evaluated annually on their actions and standards of conduct, and on the actions, situational and educational development, and standards of conduct of their staffs.

(d) **CONTINUING EDUCATION.**—

(1) **IN GENERAL.**—The Secretary of Homeland Security shall annually require all agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement who are required to undergo training under subsections (a) through (c) to participate in continuing education to maintain and update understanding of Federal legal rulings, court decisions, and Department of Homeland Security policies, procedures, and guidelines related to the subject matters described in such subsections.

(2) **CONSTITUTIONAL AUTHORITY SUBJECT MATTER.**—Continuing education under this subsection shall include a course on protecting the civil, constitutional, human, and privacy rights of individuals, with special emphasis on the scope of enforcement authority, including chain of evidence practices and document seizure, and use of force policies available to agents and officers.

(3) **ADDITIONAL SUBJECT MATTERS.**—Continuing education under this subsection shall also include a course on the following:

(A) Scope of authority to conduct immigration enforcement activities, including interviews, interrogations, stops, searches, arrests, and detentions, in addition to identifying and detecting fraudulent documents.

(B) Identifying, screening, and responsibility for vulnerable populations, such as children and victims of trafficking.

(C) Permissible and impermissible social media activity.

(4) **ADMINISTRATION.**—Courses offered as part of continuing education under this subsection shall be administered by the Federal Law Enforcement Training Centers.

(e) **TRAINING ASSESSMENT.**—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that assesses the training and education, including continuing education, required under this section as well as its implementation.

#### **SEC. 204. BODY-WORN CAMERAS.**

(a) **REQUIREMENT.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, shall submit to the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate a plan for requiring not later than one year after such date of enactment the use of body-worn cameras by U.S. Border Patrol agents and U.S. Immigration and Customs Enforcement officers whenever engaged in border security or immigration enforcement activities.

(b) **ELEMENTS.**—The plan shall include the following:

- (1) Benchmarks for implementation within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.
- (2) Policies, procedures, and training modules for the use of body-worn cameras by agents and officers, including training modules relating to the appropriate use of such cameras and adverse action for non-compliance.
- (3) Mechanisms for enforcement of body-worn camera policies and procedures by agents and officers within U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

**SEC. 205. LIMITATION ON THE SEPARATION OF FAMILIES.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, a child may not be removed from a parent, legal guardian, or family member of such child, at or near the port of entry or within 100 miles of a border of the United States, unless one of the following has occurred:

- (1) A State court, authorized under State law, terminates the rights of the parent or legal guardian, determines that it is in the best interests of the child to be removed from the parent or legal guardian, in accordance with the Adoption and Safe Families Act of 1997 (Public Law 105–89), or makes any similar determination that is legally authorized under State law.
- (2) An official from the State or county child welfare agency with expertise in child trauma and development makes a best interests determination that it is in the best interests of the child to be removed from the parent, legal guardian, or family member because the child is in danger of abuse or neglect at the hands of the parent, legal guardian, or family member or is a danger to herself or others.

(b) **PROHIBITION ON SEPARATION.**—

(1) **IN GENERAL.**—A designated agency may not remove a child from a parent, legal guardian, or family member solely for the policy goal of deterring individuals from migrating to the United States or for the policy goal of promoting compliance with civil immigration laws.

(2) **PENALTY FOR FAMILY SEPARATION.**—Any person who knowingly separates a child from his or her parent, legal guardian, or family member in violation of this section, shall be fined not more than \$10,000.

(c) **FAMILY MEMBER DEFINED.**—For purposes of this section, the term “family member” means an individual who is any of the following:

- (1) A parent or legal guardian.
- (2) A spouse.
- (3) A child.
- (4) A step-family member.
- (5) An immediate family member, to include adult siblings.
- (6) An extended family member, to include aunts, uncles, adult cousins, and grandparents.

**SEC. 206. PROHIBITION ON EXCEEDING 72 HOURS IN SHORT-TERM DETENTION.**

Notwithstanding any other provision of law, the Secretary of Homeland Security shall ensure that each individual apprehended by U.S. Customs and Border Protection is released, paroled, or transferred to an appropriate long-term facility operated by a non-profit organization, U.S. Immigration and Customs Enforcement, or the Department of Health and Human Services not later than 72 hours after such apprehension absent an exigent circumstance that is beyond the Secretary’s control, such as a natural disaster. The Secretary shall inform the Committees on Homeland Security and the Judiciary of the House of Representatives and Committees on Homeland Security and Governmental Affairs and the Judiciary of the Senate within three days of the Secretary determining such an exigent circumstance exists, and provide information on when the impacted individuals will be so released, paroled, or transferred.

**SEC. 207. ELECTRONIC TRACKING.**

(a) **ESTABLISHMENT.**—The Secretary of Homeland Security and the Secretary of Health and Human Services shall establish an electronic tracking system on a single interface, which shall be—

- (1) accessible to agents and officials of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and the Office of Refugee Resettlement; and
- (2) used to track the location of a child who has been separated under section 205 and the parent or legal guardian of the child.

(b) **TRACKING NUMBER.**—The Secretary of Homeland Security shall assign to a child who has been separated under section 205 and the parent or legal guardian of the child a tracking number that—

- (1) is transferrable;

(2) may be shared easily on the electronic tracking system described in subsection (a) by agents and officials of—

- (A) U.S. Customs and Border Protection;
- (B) U.S. Immigration and Customs Enforcement; and
- (C) the Office of Refugee Resettlement; and

(3) is included on the paperwork of the child and the parent or legal guardian of the child.

(c) **CONTACT INFORMATION.**—The Secretary of Homeland Security and the Secretary of Health and Human Services shall advise a child who has been separated under section 205 and the parent or legal guardian of the child on the manner in which the child and the parent or legal guardian may be contacted during the term of the separation .

**SEC. 208. PREVENTING IMPLEMENTATION OF ANTI-ASYLUM ACCESS INTERIM FINAL RULE; TERMINATION OF REMAIN IN MEXICO PROTOCOL AND METERING POLICY.**

(a) **PREVENTION OF IMPLEMENTATION OF ANTI-ASYLUM ACCESS RULE.**—Notwithstanding any other provision of law, the joint interim final rule published in the Federal Register on July 16, 2019, by the Secretary of Homeland Security and Attorney General that would restrict eligibility for aliens seeking asylum in the United States may not be implemented, enforced, or otherwise carried out by the Secretary or the Attorney General.

(b) **MPP AND METERING TERMINATION.**—Not later than 30 days after enactment of this Act, the following shall terminate:

(1) The Migrant Protection Protocols that were announced by the Secretary of Homeland Security on December 20, 2018, any subsequent revisions to such protocols, or any successor protocols in which certain individuals seeking asylum in the United States are required to wait outside of the United States for the duration of their immigration proceedings.

(2) The U.S. Customs and Border Protection metering policy to regulate the flow of asylum seekers at ports of entry by denying asylum seekers access to ports of entry or any successor policy that impedes access to ports of entry.

(c) **ADDITIONAL CAPACITY AT PORTS OF ENTRY.**—For the purposes of increasing processing capacity at ports of entry, the Commissioner of U.S. Customs and Border Protection shall every fiscal year hire, train, and assign not fewer than 600 new officers above the level as of September 30 of the immediately preceding fiscal year until the total number of such officers equals the requirements identified each year in the Workload Staffing Model developed by the Commissioner.

(d) **PROHIBITION ON CERTAIN INTERVIEWS.**—No personnel employed by U.S. Customs and Border Protection may carry out credible fear interviews pursuant to the Immigration and Nationality Act.

(e) **OFFICE OF PROFESSIONAL RESPONSIBILITY.**—The Commissioner of U.S. Customs and Border Protection shall every fiscal year hire, train, and assign 30 new full-time investigators within the Office of Professional Responsibility of U.S. Customs and Border Protection until the total number of investigators enables the Office to fulfill its mission proportionate to the number of new personnel hired in accordance with subsection (c).

(f) **TRAFFIC FORECASTS.**—In calculating the number of Office of Field Operations officers needed at each port of entry through the Workload Staffing Model, the Office of Field Operations shall—

(1) rely on data collected regarding the inspections and other activities conducted at each such port of entry; and

(2) consider volume associated with the increase in the volume of individuals from El Salvador, Guatemala, and Honduras seeking asylum in the United States and seasonal surges, other projected changes in commercial and passenger volumes, the most current commercial forecasts, and other relevant information.

(g) **AMENDMENT.**—Subparagraph (A) of section 411(g)(5) of the Homeland Security Act of 2002 (6 U.S.C. 211(g)(5)) is amended—

(1) by striking “model” and inserting “models”; and

(2) by inserting before the period at the end the following: “, and information concerning the progress made toward meeting officer hiring targets, while accounting for attrition”.

**SEC. 209. SURGE SUPPORT FOR CARE OF FAMILIES AND UNACCOMPANIED CHILDREN.**

(a) **IN GENERAL.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall enter into memoranda of understanding with appropriate Federal agencies and applicable emergency government relief services, and contracts with State-licensed, vetted, and qualified contractors with health care, public health, social work, and transportation professionals, for purposes of providing care for individuals, including unaccompanied alien children,

apprehended at the southern border during the period of increased volume since January 2017.

(b) **STRATEGIC DEPLOYMENT.**—The Secretary of Homeland Security shall ensure that the memoranda of understanding and contracts entered into pursuant to subsection (a) ensure core capacity within the Department of Homeland Security to provide adequate care to individuals in short-term detention that includes physicians specializing in pediatrics, family medicine, emergency medicine, obstetrics and gynecology, geriatric medicine, internal medicine, and infectious diseases, nurse practitioners, other nurses, physician assistants, licensed social workers, mental health professionals, public health professionals, and dietitians.

(c) **PROCESSING COORDINATOR.**—The Commissioner of U.S. Customs and Border Protection may, on a case-by-case basis, hire and train a processing coordinator to operate within U.S. Border Patrol station to—

(1) facilitate the provision of services pursuant to a memorandum of understanding or contract entered into pursuant to subsection (a) within a U.S. Border Patrol station;

(2) perform administrative tasks related to the intake and processing of individuals apprehended by U.S. Border Patrol agents, where necessary;

(3) transport individuals in U.S. Border Patrol custody, where necessary; and

(4) perform custodial watch duties of individuals in such custody who have been admitted to a hospital, except that neither the coordinator nor a U.S. Border Patrol agent may be physically present in a hospital room of such an individual.

(d) **MONTHLY REPORTS.**—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a monthly report on the memoranda of understanding and contracts entered into pursuant to subsection (a) as of such date, together with the following:

(1) Information on the deployment of physicians specializing in pediatrics, family medicine, emergency medicine, obstetrics and gynecology, geriatric medicine, internal medicine, and infectious diseases; nurse practitioners, other nurses, physician assistants, licensed social workers, mental health professionals, public health professionals, and dietitians within each U.S. Border Patrol sector.

(2) For each U.S. Border Patrol sector, the degree to which responsibilities have been transferred from Department of Homeland Security personnel, particularly law enforcement personnel, for the provision of care of migrant families and unaccompanied alien children apprehended at the southern border of the United States to personnel under a memorandum of understanding or contract.

#### **SEC. 210. PORT OF ENTRY TEMPORARY DUTY ASSIGNMENTS.**

(a) **QUARTERLY REPORT.**—Not later than 60 days after the date of the enactment of this Act and quarterly thereafter, the Commissioner of U.S. Customs and Border Protection shall submit to the appropriate congressional committees a report that includes, for each such reporting period, the following:

(1) The number of temporary duty assignments of U.S. Customs and Border Protection officers and support personnel from a port of entry to a temporary duty assignment in response to the Northern Triangle Migrant Surge.

(2) The ports of entry from which such employees were reassigned.

(3) The ports of entry to which such employees were reassigned.

(4) The ports of entry at which reimbursable service agreements have been entered into that may be affected by such temporary duty assignments.

(5) The duration of each temporary duty assignment.

(6) The specific duties personnel will be undertaking during each temporary duty assignment.

(7) The cost of each temporary duty assignment.

(b) **NOTICE.**—Not later than 10 days before redeploying employees from one port of entry to another in response to the Northern Triangle Migrant Surge, absent emergency circumstances—

(1) the Commissioner of U.S. Customs and Border Protection shall notify the director of the port of entry from which employees will be reassigned of the intended redeployments; and

(2) the port director shall notify impacted facilities (including airports, sea ports, and land ports) of the intended redeployments.

(c) **WORKFORCE BRIEFING.**—The Commissioner of U.S. Customs and Border Protection shall brief all affected U.S. Customs and Border Protection employees re-

garding plans to mitigate vulnerabilities created by any planned staffing reductions at ports of entry.

**SEC. 211. PROHIBITION ON PHYSICAL RESTRAINTS FOR WOMEN WHO ARE PREGNANT OR POST-DELIVERY.**

(a) **IN GENERAL.**—Except as provided in subsection (b), no officer or agent of the U.S. Customs and Border Protection or Immigration and Customs Enforcement may place physical restraints on a woman in the custody of the Department of Homeland Security (including during transport, in a detention facility, or at an outside medical facility) who is pregnant or in post-delivery recuperation.

(b) **EXCEPTION.**—Subsection (a) shall not apply with respect to a pregnant woman if—

(1) a supervisory official of the Department of Homeland Security makes an individualized determination that the woman—

(A) is a serious flight risk, and such risk cannot be prevented by other means; or

(B) poses an immediate and serious threat to harm herself or others that cannot be prevented by other means; or

(2) a medical professional responsible for the care of the pregnant woman determines that the use of therapeutic restraints is appropriate for the medical safety of the woman.

(c) **LIMITATIONS.**—If a pregnant woman is restrained pursuant to subsection (b), only the safest and least restrictive restraints, as determined by the appropriate medical professional treating the woman, may be used. In no case may restraints be used on a woman who is in active labor or delivery, and in no case may a pregnant woman be restrained in a face-down position with four-point restraints, on her back, or in a restraint belt that constricts the area of the pregnancy. A pregnant woman who is immobilized by restraints shall be positioned, to the maximum extent feasible, on her left side.

(d) **RECORDKEEPING.**—If a pregnant woman is restrained pursuant to subsection (b), the supervisory official of the Department of Homeland Security shall document the basis for an individualized determination that restraints should be used in the Departmental records maintained on that woman.

## **TITLE III—OVERSIGHT**

**SEC. 301. GAO REPORT ON THE EXTENT OF CBP ACTIVITIES, OPERATIONS, AND CLAIMED AUTHORITY.**

Not later than one year after the date of the enactment of this subsection, the Comptroller General of the United States shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report that assesses the following issues:

(1) How far into the United States interior the current activities, operations (including checkpoints), and claimed authority of U.S. Customs and Border Protection extend.

(2) The extent to which the area of activities, operations, and claimed authority referred to in paragraph (1) is necessary.

(3) The effectiveness of U.S. Customs and Border Protection's interior enforcement and its impact on civil, constitutional, and private property rights.

**SEC. 302. MIGRANT DEATHS REPORTING.**

(a) **IMMEDIATE REPORTS.**—Not later than 24 hours after a migrant death, the Secretary of Homeland Security shall report such death to the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate.

(b) **ANNUAL REPORT ON MIGRANT DEATHS.**—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement shall jointly submit to the Comptroller General of the United States, the Committees on Homeland Security and Judiciary of the House of Representatives, and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate a report on migrant deaths that occurred in the preceding year along the United States-Mexico border, including information on the following:

(1) The total number of documented migrant deaths within the preceding year of the report.

(2) A geographical breakdown of where such migrant deaths occur.

(3) To the extent possible, the cause of death for each migrant.

(4) A detailed description of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement programs or plans to reduce the number of migrant deaths along the border, including an assessment on the effectiveness of water supply sites and rescue beacons.

(5) Criteria and methodology for collecting such data within each sector.

(c) GAO REPORT ON MIGRANT DEATHS.—Not later than one year after the submission of the first report required under subsection (a), the Comptroller General of the United States shall publish a review on the extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have—

(1) adopted measures, such as programs or plans, to reduce migrants deaths;

(2) the effectiveness of its efforts to reduce migrant deaths; and

(3) collected data and information sharing as well as cooperation between U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, local and State law enforcement, foreign diplomatic and consular posts, and nongovernmental organizations to accurately identify deceased individuals and notify family members and compare information to missing persons registries.

#### SEC. 303. REVIEW OF THE USE OF FORCE.

Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall examine the extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have trained their workforces regarding use of force policies, including the following (and any recommendations related to the following):

(1) Implementation of new training to improve use of force policies, including how the use of force policy conforms to Department of Homeland Security and Federal law enforcement best practices.

(2) Identified additional or alternative weapons and equipment to improve agents' and officers' abilities to de-escalate confrontations, including protective gear.

(3) Established metrics to track the effectiveness of use of force training and to ensure the reporting of all incidents of use of force to determine whether such force was justified.

#### SEC. 304. ACCOUNTABILITY AND TRANSPARENCY WITHIN THE BORDER ZONE.

(a) DEFINITIONS.—In this section:

(1) BORDER SECURITY.—The term “border security” means the prevention of unlawful entries into the United States, including entries by individuals, instruments of terrorism, narcotics, and other contraband.

(2) BORDER ZONE.—The term “border zone” means the 100-mile of land from a United States international land and coastal border into the interior of the United States, as established by Federal regulation in 1953.

(3) CHECKPOINT.—The term “checkpoint” means a location—

(A) at which vehicles or individuals traveling through the location are stopped by a law enforcement official for the purposes of enforcement of United States laws and regulations; and

(B) that is not located at a port of entry along an international border of the United States.

(4) LAW ENFORCEMENT OFFICIAL.—The term “law enforcement official” means—

(A) an agent or officer of U.S. Customs and Border Protection;

(B) an agent or officer of U.S. Immigration and Customs Enforcement; or

(C) an officer or employee of a State, or a political subdivision of a State, who is carrying out the functions of an immigration officer pursuant to—

(i) an agreement entered into under section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g));

(ii) authorization under title IV of the Tariff Act of 1930 (19 U.S.C. 1401 et seq.); or

(iii) any other agreement with the Department of Homeland Security, including any Federal grant program.

(5) PATROL STOP.—The term “patrol stop” means search, seizure, or interrogation of a motorist, passenger, or pedestrian initiated anywhere except as part of an inspection at a port of entry or a primary inspection at a checkpoint.

(6) PRIMARY INSPECTION.—The term “primary inspection” means an initial inspection of a vehicle or individual at a checkpoint.

(7) SECONDARY INSPECTION.—The term “secondary inspection” means a further inspection of a vehicle or individual that is conducted following a primary inspection.

(b) DATA COLLECTION BY LAW ENFORCEMENT OFFICIALS FOR BORDER SECURITY AND IMMIGRATION ENFORCEMENT ACTIVITIES WITHIN THE BORDER ZONE.—

(1) **DATA COLLECTION REGARDING STOPS AND SEARCHES AND ACTIVITY AT INTERIOR CHECKPOINTS.**—A law enforcement official who initiates a patrol stop or who detains any individual beyond a brief and limited inquiry, such as a primary inspection at a checkpoint, shall record the following:

- (A) The date, time, and location of the contact.
- (B) The law enforcement official's basis for, or circumstances surrounding, the contact, including if such individual's perceived race or ethnicity contributed to the basis for, and circumstances surrounding, the contact.
- (C) The identifying characteristics of such individual, including the individual's perceived race, gender, ethnicity, and approximate age.
- (D) The duration of the stop, detention, or search, whether consent was requested and obtained for the contact, including any search.
- (E) A description of any articulable facts and behavior by the individual that justify initiating the contact or probable cause to justify any search pursuant to such contact.
- (F) A description of any items seized during such search, including contraband or money, and a specification of the type of search conducted.
- (G) Whether any arrest, detention, warning, or citation resulted from such contact and the basis for such action.
- (H) The immigration status of the individual, if obtained during the ordinary course of the contact without additional questioning in accordance with this section, and whether removal proceedings were subsequently initiated against the individual.
- (I) If the contact involved an individual whose primary language of communication is not English, the means of communication used.
- (J) If the contact occurred at a location proximate to a place of worship or religious ceremony, school or education-related place or event, courthouse or other civic building providing services accessible to the public, hospital, medical treatment, or health care facility, at a public demonstration, or an attorney's office, including a public defender or legal aid office.
- (K) If the contact occurred at a location described in subparagraph (J), why that location was chosen and any supervisory approval that was sought to carry out the contact at the location.

(2) **GAO AUDIT.**—Not later than one year after the enactment of this Act, the Comptroller General of the United States shall conduct an audit of the data compiled under paragraph (1) to determine whether law enforcement officials are complying with data collection requirements and submit to Congress a report that contains a summary of the findings of such audit.

(3) **OPEN GAO RECOMMENDATIONS.**—Not later than 180 days after the date of enactment of this Act, the Commissioner of U.S. Customs and Border Protection shall submit to the Committee on Homeland Security and the Committee on Homeland Security and Governmental Affairs of the Senate a plan to address any open recommendations made by the Comptroller General on checkpoint performance and the impact of checkpoint operations on nearby communities. Within 180 days after the submission of the report to the Committees, the Comptroller General shall issue a report to the committees evaluating the Commissioner's plan to address the open recommendations.

(c) **ANNUAL REPORT.**—

(1) **REQUIREMENT.**—Not later than one year after the date of the enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit to Congress a report on the data compiled under subsection (b)(1), including all such data for the previous year.

(2) **AVAILABILITY.**—Each report submitted under paragraph (1) shall be made available to the public, except for particular data if the Secretary of Homeland Security—

- (A) explicitly invokes an exemption contained in paragraphs (1) through (9) of section 552(b) of title 5, United States Code; and
- (B) provides a written explanation for the exemption's applicability.

(3) **PRIVACY.**—The Secretary of Homeland Security may not report unique personal identifying information of persons stopped, searched, or subjected to a property seizure, for purposes of this section.

(4) **PUBLICATION.**—The data compiled under subsection (b) shall be made available to the public to the extent the release of such data is permissible under Federal law.

**SEC. 305. AUDIT AND INSPECTIONS OF DETENTION FACILITIES.**

(a) **OIG AND GAO.**—The Inspector General of the Department of Homeland Security and the Comptroller General shall carry out regular audits and inspections, including unannounced audits and inspections, of processes (including recordkeeping)

utilized by U.S. Customs and Border Protection to conduct intake and process individuals apprehended by U.S. Customs and Border Protection, as well as any facility operated by or for the Department of Homeland Security used to detain or otherwise house individuals in custody of the Department of Homeland Security. The Inspector General and Comptroller General shall, to the extent possible, share information and coordinate to ensure that Congress is provided timely audit and inspection information.

(b) CONGRESSIONAL ACCESS.—

(1) IN GENERAL.—The Commissioner of U.S. Customs and Border Protection may not—

(A) prevent a Member of Congress or an employee of the United States House of Representatives or the United States Senate designated by such a Member for the purposes of this section from entering, for the purpose of conducting oversight, any such facility; and

(B) make any temporary modification at any such facility that in any way alters what is observed by a visiting member of Congress or such designated employee, compared to what would be observed in the absence of such modification.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a Member of Congress to provide prior notice of the intent to enter such facility for the purpose of conducting oversight.

(3) REQUIREMENT.—With respect to individuals described in paragraph (1), the Department of Homeland Security may require that a request be made at least 24 hours in advance of an intent to enter a facility.

(c) PHOTOGRAPHS.—The Inspector General of the Department of Homeland Security, Comptroller General, a Member of Congress, or an employee of the United States House of Representatives or United States Senate shall be authorized to take photographs or video or audio recordings of conditions in a facility but may not publish photographs or video or audio recordings with personally identifiable information without permission.

#### PURPOSE AND SUMMARY

The purpose of H.R. 2203, the “Homeland Security Improvement Act” is to help alleviate the humanitarian crisis at the southern border by creating additional mechanisms to improve oversight, instituting new trainings, and putting an end to harmful U.S. Customs and Border Protection policies and practices which include family separation and metering.

Under the Act, an independent Commission is established by Congress to conduct a thorough investigation of the Trump Administration’s handling of migrant families and children, to include the conditions at Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) facilities. The Act also creates (1) an Ombudsman for Border and Immigration Related Concerns, who would be responsible for investigating and resolving complaints related to border security and immigration enforcement activities, and (2) a border community stakeholder advisory committee to provide recommendations to the Secretary with respect to border and immigration policies. This legislation further improves oversight by instituting several new public reporting requirements, including reports to Congress on ports of entry, migrant deaths in custody, use of force training, and CBP and ICE stops and searches. H.R. 2203 also improves transparency by prohibiting the Department of Homeland Security (DHS) from barring Members of Congress or their staff from entering facilities holding migrant detainees and taking photographs of the conditions of those facilities. It also requires the Department to develop a plan for requiring the use of body-worn cameras by Border Patrol Agents and ICE Officers.

The Act also mandates 20 weeks of training for new Border Patrol agents, CBP Officers, and ICE agents with 40 hours of training



and continuing education annually thereafter that addresses community policing practices, use of force and de-escalation tactics, and the history and ethics of asylum law.

Critically, H.R. 2203 terminates facetious and harmful policies including the placing of physical restraints on pregnant and post-delivery women. It also bans the separation of children from their parents or legal guardian except under extremely limited circumstances. It also requires that the Homeland Security and Health and Human Services (HHS) Secretaries establish a tracking system interface so that any child who is separated under those limited circumstances will not be lost. Finally, the Act also puts an end to CBP's metering policy to regulate the flow of asylum seekers at ports of entry and limits detention in CBP facilities to 72 hours absent exigent circumstances.

#### BACKGROUND AND NEED FOR LEGISLATION

The nation currently faces a humanitarian crisis at its southern border. It is a crisis in which children and families have been subjected to inhumane conditions, asylum seekers have been denied access to our nation's legal ports of entry, and thousands of children have been separated from family members.

Recognizing that Americans need a full accounting for DHS' poor management of this humanitarian crisis, the Act creates an independent Commission, modeled after the National Commission on the Terrorist Attacks Upon the United States, to conduct a full investigation. Over the course of the last year, independent oversight bodies have called attention to the terrible conditions of confinement at CBP and ICE facilities. Most recently, the DHS Office of Inspector General (OIG) found that conditions at CBP facilities in the Rio Grande Valley were dangerously overcrowded, putting the health and safety of children, families and Border Patrol Agents at risk.<sup>1</sup> Additional reports have found appalling conditions at ICE detention facilities. They have found moldy food and walls, nooses hanging in holding cells, and several other conditions threatening the health and safety of migrant detainees.<sup>2</sup> A DHS OIG report also found that ICE's own inspection processes were not adequate to hold contractors accountable for failing to meet performance standards.<sup>3</sup>

While these reports have been informative, they only provide a snapshot in time of the conditions at a limited number of facilities and do not answer major questions about decision-making that caused children and families to be held by DHS in unsafe and poor conditions. An independent Commission will shine greater light on the conditions at these facilities and assist Congress in determining what further action to take. Additional reporting requirements will do the same. The creation of an independent ombudsman for border

<sup>1</sup>DHS Office of Inspector General. *Management Alert—DHS Needs to Address Dangerous Overcrowding and Prolonged Detention of Children and Adults in the Rio Grande Valley*. OIG–19–51, July 2, 2019.

<sup>2</sup>DHS Office of Inspector General. *Issues Requiring Action at the Essex County Correctional Facility in Newark, New Jersey*. OIG–19–20, February 13, 2019; *Concerns about ICE Detainee Treatment and Care at Four Detention Facilities*. OIG–19–47, June 3, 2019; *Management Alert—Issues Requiring Action at the Adelanto ICE Processing Center in Adelanto, California*. OIG–18–86, September 27, 2018.

<sup>3</sup>DHS Office of Inspector General. *ICE Does Not Fully Use Contracting Tools to Hold Detention Facility Contractors Accountable for Failing to Meet Performance Standards*. OIG–19–18, January 29, 2019.

and immigration-related concerns, furthermore, will help hold CBP and ICE accountable in providing a new outlet for complaints, and input into border policymaking from a newly-created border community stakeholder advisory committee would help ensure that perspectives of border communities inform policy.

This Act seeks to put an end to several of the Department's most senseless and harmful policies to migrant families and children. First, it bars the practice of separating families except in limited circumstances and ensures that any separated families will remain linked in a newly-created tracked system. The Administration's Zero Tolerance family separation policy has caused lifelong harm to children. To date, according to the HHS OIG, the number of children separated from their families under that policy is still unknown and continues to grow (currently to more than 2,700).<sup>4</sup> Even in just the three months following the end of Zero Tolerance, more than 100 additional children were separated from their parents.<sup>5</sup> Both the Government Accountability Office (GAO) and the DHS OIG found that once those children were separated from their parents, the Department was woefully unprepared to track, link, and reunite those families.<sup>6</sup> Accordingly, a policy that limits this practice is necessary.

Second, H.R. 2203 prohibits CBP from continuing the practice of metering to regulate the flow of asylum seekers at ports of entry. Reports suggest that this practice puts children and families in danger by pushing asylum seekers, who would otherwise seek legal entry into the United States, to cross the border illegally in more remote locations.<sup>7</sup> Those who wait in Juarez, Mexico, one of the most dangerous cities in the world, are often living on the streets, as shelters are full and are at risk of assault, theft, kidnapping, and rape.<sup>8</sup> In recognition of the need for additional capacity at ports of entry with the termination of metering, the Act increases the number of CBP Officers by 600 over the prior year. Importantly, together with this staffing increase, the measure proportionally increases (by 30 positions) staffing within the Office of Professional Responsibility to effectively address any misconduct issues.

Third, as previously noted, CBP facilities at the border have become dangerously overcrowded. Codifying CBP's written policy of not holding migrants in short term detention for more than 72 hours absent exigent circumstances outside the Secretary's control is necessary to alleviate this safety hazard. To ensure appropriate care of children, families and other individuals in short-term custody, the Act directs DHS to enter into memoranda of agreement and contracts to procure the services of State-licensed, vetted, and qualified contractors with health care, public health, social work,

<sup>4</sup> U.S. Department of Health and Human Services Office of Inspector General. *Separated Children Placed in Office of Refugee Resettlement Care*. OEI-BL-18-005111. January 2019.

<sup>5</sup> *Id.*

<sup>6</sup> Government Accountability Office. *Unaccompanied Children: Agency Efforts to Reunify Children Separated from Parents at the Border*. GAO-19-163. October 24, 2018; DHS Office of Inspector General. *Special Review—Initial Observations Regarding Family Separation Issues Under the Zero Tolerance Policy*. OIG-18-84. September 27, 2018.

<sup>7</sup> OIG-18-84.

<sup>8</sup> Nathan, Debbie, "Trump's 'Remain in Mexico' Policy Exposes Migrants to Rape, Kidnapping, and Murder in Dangerous Border Cities." *The Intercept*, July 14, 2019. <https://theintercept.com/2019/07/14/trump-remain-in-mexico-policy/>; Joung, Madeleine, "Do Not Travel Due to Crime and Kidnapping: Here's Where the U.S. is Sending Asylum Seekers." *Time*, July 11, 2019. <https://time.com/5624551/remain-mexico-asylum-doctors-borders/>

and transportation professionals to care for migrant families and children within 60 days of enactment of this Act.

#### HEARINGS

On March 6, 2019, the Committee held a hearing entitled “The Way Forward on Border Security.” The Committee received testimony from Kirstjen Nielsen, Secretary of Homeland Security.

On March 26, 2019 the Subcommittee on Border Security, Facilitation, and Operations held a hearing entitled “The Department of Homeland Security’s Family Separation Policy: Perspectives from the Border.” The Subcommittee received testimony from Jennifer Podkul, Director of Policy, Kids in Need of Defense; Michelle Brané, Director for Migrant Rights and Justice, Women’s Refugee Commission; Dr. Julie M. Lintion, Co-Chair, Immigrant Health Special Interest Group, American Academy of Pediatrics; Tim Ballard, Founder and CEO, Operation Underground Railroad.

On April 30, 2019 the Subcommittee on Border Security, Facilitation, and Operations held a hearing entitled “The Impacts of Trump Policies on Border Communities.” The Subcommittee received testimony from Jon Barela, Chief Executive Officer, The Borderplex Alliance; Efrén Olivares, Racial and Economic Justice Director, Texas Civil Rights Project; Mark Seitz, Most Reverend Bishop, Catholic Diocese of El Paso, Texas, U.S. Conference of Catholic Bishops; Mark Napier, Sheriff of Pima County, Southwestern Border Sheriff’s Coalition.

On May 9, 2019, the Subcommittee on Border Security, Facilitation, and Operations held a hearing entitled “A Review of the FY 2020 Budget Request for U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services.” The Subcommittee received testimony from Robert E. Perez, Deputy Commissioner, U.S. Customs and Border Protection; Matthew T. Albence, Acting Director, U.S. Immigration and Customs Enforcement; Tracy Renaud, Acting Deputy Director, U.S. Citizenship and Immigration Services.

On May 22, 2019, the Committee held a hearing entitled “A Review of the Fiscal Year 2020 Budget Request for the Department of Homeland Security.” The Committee received testimony from Kevin K. McAleenan, Acting Secretary of Homeland Security.

On June 20, 2019, the Subcommittee on Border Security, Facilitation, and Operations held a hearing entitled “Examining the Department of Defense’s Deployment to the U.S.-Mexico Border.” The Subcommittee received testimony from Carlo Provost, Chief, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security; Robert Salesses, Deputy Assistant Secretary of Defense for Homeland Defense Integration and Defense Support of Civil Authorities, Office of the Under Secretary of Defense for Policy, Department of Defense; Major General Michael T. McGuire, Adjutant General for Arizona, Director, Arizona Department of Emergency and Military Affairs.

#### COMMITTEE CONSIDERATION

The Committee met on July 17, 2019, with a quorum being present, to consider H.R. 2203 and ordered the measure to be re-

ported to the House with a favorable recommendation, with amendment, by a recorded vote of 16 yeas and 13 nays.

The following amendments were offered:

An amendment in the nature of a substitute offered by Mr. Thompson was AGREED TO by a recorded vote of 16 yeas and 12 nays (Roll call Vote No. 9).

An amendment to the amendment in the nature of a substitute offered by Mrs. Lesko was NOT AGREED TO by a recorded vote of 11 yeas and 16 nays (Roll call Vote No. 5).

On page 48, after line 5 insert the following new paragraphs:

“(4) Impact of U.S. Customs and Border Protection rescue operations on migrant deaths.

“(5) Impact of Department of Defense support operations on improving availability and response times of U.S. Customs and Border Protection officers on the border.”;

At the end of title II, insert the following new section:

“Sec. 212 Penalty for Child Smuggling.—Any alien interdicted by U.S. Border Patrol between ports of entry who falsely claims that a child brought to the United States is such alien’s biological child or under the alien’s legal guardianship, shall be fined not more than \$10,000. The Secretary may use rapid DNA testing or other appropriate methods to expeditiously verify relationships.”; and Strike Section 205.

An amendment to the amendment in the nature of a substitute offered by Mr. Joyce was NOT AGREED TO by a recorded vote of 11 yeas and 16 nays (Roll call Vote No. 6).

Strike Title I.

An amendment to the amendment in the nature of a substitute offered by Mr. Higgins was NOT AGREED TO by a recorded vote of 11 yeas and 16 nays (Roll call Vote No. 7).

On page 19, after line 19 insert the following new subsection “(f) The filing of a complaint under this section shall not confer immunity in any removal or criminal proceeding against a complainant.”;

On page 23, line 10 insert “border security,” after “law,”;

On page 46, after line 3 insert the following new paragraphs:

“(4) the impact of transnational criminal organizations conducting mass human smuggling operations designed to exploit US immigration laws.”;

Strike Section 206;

Strike Section 208; and

Strike Section 304.

An amendment to the amendment in the nature of a substitute offered by Mr. Green was NOT AGREED TO by a recorded vote of 12 yeas and 16 nays (Roll call Vote No. 8).

Strike Section 201;

Page 19, insert “and shall keep confidential and protect from public release the personally identifiable information of any U.S. Department of Homeland Security officers or

employees, contractors, subcontractors, or cooperating entity personnel included in a complaint”;

Page 28, after line 24 insert the following new paragraph:

“(4) Managing officer and workforce wellness during migrant surges.”; Page 30, after line 16 insert the following new subparagraphs:

“(D) Innovations in border security technology, including biometric capabilities and advanced sensors, that improve agent effectiveness and apprehension rates.

(E ) Advanced self-defense techniques.”; and

On page 47, after line 12 insert the following new paragraph:

“(6) The extent to which natural barriers, border terrain, smuggler abuse, duration of migrant travel, and migrant health conditions on arrival in the United States have contributed to such migrant deaths.”.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

The Committee on Homeland Security considered H.R. 2203 on July 17, 2019 and took the following votes:

Ordering to be reported to the House with a favorable recommendation

#### Roll No. 10

Yeas	Nays
Mr. Thompson of Mississippi .....	Mr. Rogers of Alabama
Mr. Langevin .....	Mr. King of New York
Mr. Richmond .....	Mr. McCaul
Mr. Payne .....	Mr. Katko
Miss Rice .....	Mr. Ratcliffe
Mr. Correa .....	Mr. Walker
Ms. Torres Small of New Mexico .....	Mr. Higgins of Louisiana
Mr. Rose of New York .....	Mrs. Lesko
Ms. Underwood .....	Mr. Green of Tennessee
Ms. Slotkin .....	Mr. Taylor
Mr. Green of Texas .....	Mr. Crenshaw
Ms. Clarke of New York .....	Mr. Guest
Ms. Titus .....	
Mrs. Watson Coleman .....	
Ms. Barragán .....	
Mrs. Demings .....	
Total 16	13

An amendment in the nature of a substitute offered by Mr. Thompson

#### Roll No. 9

Yeas	Nays
Mr. Thompson of Mississippi .....	Mr. Rogers of Alabama
Mr. Langevin .....	Mr. King of New York
Mr. Richmond .....	Mr. Katko
Mr. Payne .....	Mr. Ratcliffe
Miss Rice .....	Mr. Walker
Mr. Correa .....	Mr. Higgins of Louisiana

**Roll No. 9—Continued**

Yeas	Nays
Ms. Torres Small of New Mexico .....	Mrs. Lesko
Mr. Rose of New York .....	Mr. Green of Tennessee
Ms. Underwood .....	Mr. Joyce
Ms. Slotkin .....	Mr. Taylor
Mr. Green of Texas .....	Mr. Crenshaw
Ms. Clarke of New York .....	Mr. Guest
Ms. Titus .....	
Mrs. Watson Coleman .....	
Ms. Barragán .....	
Mrs. Demings .....	
Total 16	12

An amendment to the amendment in the nature of a substitute offered by Mrs. Lesko

**Roll No. 5**

Yeas	Nays
Mr. Rogers of Alabama .....	Mr. Thompson of Mississippi
Mr. King of New York .....	Ms. Jackson Lee
Mr. Katko .....	Mr. Langevin
Mr. Walker .....	Mr. Payne
Mr. Higgins of Louisiana .....	Miss Rice
Mrs. Lesko .....	Mr. Correa
Mr. Green of Tennessee .....	Ms. Torres Small of New Mexico
Mr. Taylor .....	Mr. Rose of New York
Mr. Joyce .....	Ms. Underwood
Mr. Crenshaw .....	Ms. Slotkin
Mr. Guest .....	Mr. Green of Texas
	Ms. Clarke of New York
	Ms. Titus
	Mrs. Watson Coleman
	Ms. Barragán
	Mrs. Demings
Total 11	16

An amendment to the amendment in the nature of a substitute offered by Mr. Joyce

**Roll No. 6**

Yeas	Nays
Mr. Rogers of Alabama .....	Mr. Thompson of Mississippi
Mr. King of New York .....	Ms. Jackson Lee
Mr. Katko .....	Mr. Langevin
Mr. Walker .....	Mr. Payne
Mr. Higgins of Louisiana .....	Miss Rice
Mrs. Lesko .....	Mr. Correa
Mr. Green of Tennessee .....	Ms. Torres Small of New Mexico
Mr. Taylor .....	Mr. Rose of New York
Mr. Joyce .....	Ms. Underwood
Mr. Crenshaw .....	Ms. Slotkin
Mr. Guest .....	Mr. Green of Texas
	Ms. Clarke of New York
	Ms. Titus
	Mrs. Watson Coleman
	Ms. Barragán
	Mrs. Demings
Total 11	16

An amendment to the amendment in the nature of a substitute offered by Mr. Higgins

**Roll No. 7**

Yeas	Nays
Mr. Rogers of Alabama .....	Mr. Thompson of Mississippi
Mr. King of New York .....	Ms. Jackson Lee
Mr. Katko .....	Mr. Langevin
Mr. Walker .....	Mr. Payne
Mr. Higgins of Louisiana .....	Miss Rice
Mrs. Lesko .....	Mr. Correa
Mr. Green of Tennessee .....	Ms. Torres Small of New Mexico
Mr. Taylor .....	Mr. Rose of New York
Mr. Joyce .....	Ms. Underwood
Mr. Crenshaw .....	Ms. Slotkin
Mr. Guest .....	Mr. Green of Texas
	Ms. Clarke of New York
	Ms. Titus
	Mrs. Watson Coleman
	Ms. Barragán
	Mrs. Demings
Total 11	16

An amendment to the amendment in the nature of a substitute offered by Mr. Green of Tennessee

**Roll No. 8**

Yeas	Nays
Mr. Rogers of Alabama .....	Mr. Thompson of Mississippi
Mr. King of New York .....	Mr. Langevin
Mr. Katko .....	Mr. Richmond
Mr. Ratcliffe .....	Mr. Payne
Mr. Walker .....	Miss Rice
Mr. Higgins of Louisiana .....	Mr. Correa
Mrs. Lesko .....	Ms. Torres Small of New Mexico
Mr. Green of Tennessee .....	Mr. Rose of New York
Mr. Taylor .....	Ms. Underwood
Mr. Joyce .....	Ms. Slotkin
Mr. Crenshaw .....	Mr. Green of Texas
Mr. Guest .....	Ms. Clarke of New York
	Ms. Titus
	Mrs. Watson Coleman
	Ms. Barragán
	Mrs. Demings
Total 12	16

**COMMITTEE OVERSIGHT FINDINGS**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

**CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET  
AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES**

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of

1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office.

#### FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 3256 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

#### PERFORMANCE GOALS AND OBJECTIVES

The goals and objectives of H.R. 2203 include helping to alleviate the humanitarian crisis at the southern border, improve oversight of the Department of Homeland Security's border security and immigration operations, authorize an independent investigation of the handling of children and migrant families by the Trump Administration, institute new trainings, and put an end to harmful policies, like family separation, metering, and the Remain in Mexico Protocol.

#### ADVISORY ON EARMARKS

In compliance with rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of the rule XXI.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This section provides that this bill may be cited as the “Homeland Security Improvement Act”.

##### Title I—National Commission To Investigate the Treatment of the Migrant Families and Children by the Trump Administration

##### *Sec. 101. Establishment of Commission*

This section requires the establishment of “The National Commission to Investigate the Treatment of Migrant Families and Children By the Trump Administration” in the legislative branch.

##### *Sec. 102. Purposes*

The purposes of the Commission are to (1) examine the handling of migrant families and children by CBP that were apprehended since 2017; (2) ascertain, evaluate, and report on the evidence developed by other governmental agencies regarding the facts and circumstances surrounding the handling by of migrant families and children by HHS and DHS; (3) build upon the investigations of



other entities, such as the Office of Inspector General, among other things; (4) make a full and complete accounting of the handling of migrant families and children; and (5) report to the President and Congress on findings, conclusions, and recommendations for corrective measures.

*Sec. 103. Composition of Commission; qualifications*

This section requires that the Commission be made of up 10 members that will be appointed by senior leadership in the House of Representatives and Senate.

The Commission shall be comprised of individuals with expertise and experience in the fields of immigration law, public health, child welfare, civil rights, a local representative of a humanitarian organization, and a local official from a southern border community.

*Sec. 104. Functions of Commission*

The functions of the Commission are to: (1) investigate relevant facts and circumstances relating to the handling of the migrant families and children apprehended on the southern border, (2) identify, review and evaluate lessons learned from the handling of migrants, and (3) submit reports with findings, conclusions and recommendations to the President and Congress.

*Sec. 105. Powers of Commission*

The Commission may hold hearings and require by subpoena testimony and document productions. A subpoena may be issued by agreement of the chairman and vice chairman or the affirmative vote of 6 members of the Commission. Enforcement actions include contempt of court, among others.

This section also allows that departments and agencies may provide to the Commission services, funds, facilities, staff, and other support services.

*Sec. 106. Public meetings and release of public version of reports*

This section requires that the Commission shall hold public hearings, meetings, and release public versions of the report submitted to the President and Congress.

*Section 107. Staff of Commission*

This section allows the Commission to compensate a staff director and other personnel to carry out the Commission's functions. Additionally, any Federal Government employee may be detailed to the Commission without reimbursement from the Commission. Further, the Commission is also authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

*Sec. 108. Compensation and travel expenses*

Each member of the Commission may be compensated for each day during which that member is engaged in the performance of duties of the Commission.

*Sec. 109. Security clearances for Commission members and staff*

This section requires that the appropriate federal agencies cooperate with the Commission to expeditiously provide members and staff security clearances.

*Sec. 110. Reports of Commission; termination*

This section provides that the Commission may submit to the President and Congress interim reports containing findings, conclusions, and recommendations for corrective measures agreed upon by the Commission members.

Not later than 18 months after the date of the enactment of the Act, the Commission shall submit to the President and Congress a final report containing findings, conclusions, and recommendations for corrective measures agreed to by the Commission.

This section also requires that after 60 days of report issuance, the Commission shall terminate.

*Sec. 111. Funding*

This section authorizes \$3 million for purposes of carrying out the Commission.

Title II—Ombudsman, Border Community Liaisons, Training and Management

*Sec. 201. Establishment of the office of Ombudsman for Border and Immigration Related Concerns*

This section amends the Homeland Security Act of 2002 to require—

(a) the Secretary of Homeland Security appoint an Ombudsman for Border and Immigration Related Concerns who will be independent of Department agencies, officers; report directly to the Secretary; and have a background in immigration, civil rights, and law enforcement.

(b) the Ombudsman to establish an independent, neutral, and confidential process to receive, investigate, resolve and provide redress for complaints, grievances, or requests for assistance regarding DHS border security activities; and make recommendations to the Secretary to address chronic concerns in border security and enforcement activities.

(c) the Secretary to submit a report prepared by the Ombudsman to the Homeland Security and Judiciary Committees in the House and Senate on (1) the number of complaints received in the period, with additional information such as whether the complaint was made against CBP or ICE personnel; (2) the number of investigations commenced, carried out; and (3) the number of complaints resolved in the period.

(d) that no later than 30 days after receiving the report from the Ombudsman, the Secretary shall publish the report on DHS's website.

*Sec. 202. Establishment of border community stakeholder advisory committee*

This section amends the Homeland Security Act of 2002 to require—

(a) the Secretary of Homeland Security establish a border community stakeholder advisory committee within the Department;

(b) the Secretary to consult with the Advisory Committee on border security and immigration enforcement matters; the Committee to develop recommendations regarding policies, protocols, programs and rulemaking pertaining to border security and immigration enforcement that may impact border communities; and the Advisory Committee shall submit to the Secretary an annual report on the activities, findings and recommendations of the Committee; and

(c) not later than 90 days after enactment that the Secretary appoint members of the Advisory Committee. Membership shall consist of a border community stakeholder from each of the nine Border Patrol sectors and three individuals with experience in immigration law, civil rights and civil liberties. Each member shall serve two years, may be reappointed, and may be removed for cause.

The committee is not subject to the Federal Advisory Committee Act (5 U.S.C. App.) and “border community stakeholder” is defined as any individual that has ownership interests or resides on the land borders of the United States that has not taken a position on the Administration’s border security and immigration enforcement actions.

#### *Sec. 203. Training and continuing education*

This section requires that the Secretary of Homeland Security establish policies and guidelines to ensure that agents and officers of CBP and ICE receive 20 weeks of training related to the mission and 40 hours of training and continuing education annually thereafter.

This section also requires that the Secretary establish policies and guidelines governing the training and continuing education of CBP and ICE agents and officers regarding accountability, ethical conduct, and oversight. The training shall address: 1) community relations, including best practices in community policing and carrying out enforcement actions near sensitive locations; 2) limiting location of enforcement and cooperation with local law enforcement; 3) interaction with vulnerable populations; and 4) standards of professional conduct.

Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report that assesses the training and education, including continuing education, required under this section as well as its implementation.

#### *Sec. 204. Body-worn cameras*

This section requires that no later than 60 days after the enactment of the Act, the Secretary of Homeland Security submit a plan to the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate for requiring the use of body worn cameras by Border Patrol agents and

ICE officers when engaged in border security or immigration enforcement activities.

The section also requires that the plan include (1) benchmarks for implementation; (2) policies, procedures and training; and (3) mechanisms for enforcement of body-worn camera policies.

*Sec. 205. Limitation on the separation of families*

This section prohibits the separation of child from a parent, legal guardian, or family member, at or near the port of entry or within 100 miles of a border of the United States unless (1) a State court or (2) a State or county welfare agency determines that it is in the best interests of the child.

This section provides a penalty of \$10,000 to anyone who knowingly separates a child from his or her parent, legal guardian, or family member.

*Sec. 206. Prohibition on exceeding 72 hours in short term detention*

This section requires the Secretary of Homeland Security ensure that each individual apprehended by CBP is released, paroled or transferred to an appropriate facility no later than 72 hours after an apprehension except for exigent circumstances, such as a natural disaster. The Secretary is required to inform Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate within 3 days of determining exigent circumstances exist and provide information on when any impacted individuals will be released, paroled, or transferred.

*Sec. 207. Electronic tracking*

This section requires the DHS and HHS Secretaries to establish an electronic tracking system that is accessible to CBP, ICE and ORR agents and officials; and shall be used to track the location of a child who has been removed from their parent or legal guardian.

This section also requires that each separated child shall receive a tracking number that is transferrable and can be easily shared.

*Sec. 208. Preventing implementation of anti-asylum access interim final Rule; termination of remain in Mexico protocol and metering policy*

This section requires that the interim final rule published in the Federal Register on July 16, 2019 restricting eligibility for aliens seeking asylum not be implemented, enforced or otherwise carried out.

This section requires that no later than 30 days after enactment of the Act, the Migrant Protection Protocols announced on December 20, 2018 and CBP's metering policy are to be terminated.

For purposes of increasing processing capacity at ports of entry, this section requires that every fiscal year, CBP hire, train, and assign at least 600 new officers above the prior fiscal year level until the total number of officers equals the requirements identified in the agency's Workload Staffing Model. In developing the Workload Staffing Model, CBO is to rely on data collected regarding inspections and other activities conducted at each port of entry and take into consideration increases in volume associated with individuals

from El Salvador, Guatemala, and Honduras seeking asylum and seasonal surges.

This section requires that every fiscal year CBP hire, train and assign 30 new investigators to the Office of Professional Responsibility to fulfill its mission of investigating any misconduct within the CBP workforce.

*Sec. 209. Surge support for care of families and unaccompanied children*

This section requires that no later than 60 days after enactment of the Act, the Secretary of Homeland Security enter into a memorandum of understanding with appropriate Federal agencies and applicable government relief services; and contracts with state-licensed, vetted, and qualified contractors for providing care for individuals apprehended on the southern border since 2017.

This section requires that the Secretary ensure that the memorandum of understanding and contracts ensures core capacity within DHS to provide adequate care for individuals in short-term detention that includes physicians and nurses, among others.

CBP is authorized to hire and train a processing coordinator to operate within Border Patrol stations to facilitate the memoranda of understanding, perform administrative tasks, transport individuals in custody, and perform custodial watch duties of individuals in custody who have been admitted to a hospital.

This section requires that beginning 90 days after enactment of the Act, the Secretary submit a monthly report to appropriate congressional committees on the memoranda of understanding and contracts to include information on deployment of the physicians and nurse practitioner specialists with each border sector.

*Sec. 210. Port of entry temporary duty assignments*

This section requires that not later than 60 days after enactment of the Act, CBP issue a report to the appropriate congressional committees on the number of temporary duty assignments of CBP officers and support personnel from a port of entry to a temporary duty assignment in response to the Northern Triangle Migrant Surge.

This section requires that no later than 10 days before redeploying employees from one port of entry to another, the CBP Commissioner shall notify impacted facilities of the intended redeployments. It also requires that the CBP Commissioner brief all affected CBP employees regarding plans to mitigate vulnerabilities created by any planned staffing reductions at ports of entry.

*Sec. 211. Prohibition on physical restraints for women who are pregnant or post delivery*

This section requires that no CBP or ICE officer or agent place physical restraints on a woman in custody of DHS who is pregnant or in post-delivery recuperation. Except if (1) a supervisory official determines that the woman is a serious flight risk or poses threat to harm herself or others; or (2) a medical professional determines that the use of therapeutic restraints is necessary for the medical safety of the woman.

This section requires that if a pregnant woman is restrained, only the safest and least restrictive restraints may be used. Re-

straints may not be used on a woman who is in labor or delivery nor may the restraints result in the woman being face-down, on her back, or restrained so that the belt constricts the area of the pregnancy.

This section requires that if a woman is restrained, the supervisory official shall document in the Departmental records the basis for the restraints.

### Title III—Oversight

#### *Sec. 301. GAO report on the extent of CBP activities, operations, and claimed authority*

This section requires that not later than one year after the date of enactment, the Comptroller General shall submit a report to the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate that assesses (1) how far into the U.S. interior the current activities, operations, and claimed authority of CBP extend; (2) the extent that this claimed authority is necessary; and (3) the effectiveness of CBP's interior enforcement and its impact on civil, constitutional, and private property rights.

#### *Sec. 302. Migrant deaths reporting*

This section requires that not later than 24 hours after a migrant death, the Secretary of Homeland Security report a migrant death to the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate.

It also requires that no later than 180 days after the date of the enactment of the Act, the Commissioner of CBP and the Director of ICE jointly submit to the Comptroller General and the Committees on Homeland Security and Judiciary of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Judiciary of the Senate a report on migrant deaths including information on (1) the total number of migrant deaths; (2) a geographical breakdown of where such deaths occur; (3) to the extent possible, the cause of death; and (4) a detailed description of programs or plans to reduce the number of deaths along the border.

This section requires that not later than one year after the submission of the first migrant death report, the Comptroller General publish a review on the extent to which ICE and CBP have (1) adopted measures to reduce migrant deaths; (2) the effectiveness of its efforts to reduce migrant deaths; (3) collected data and information sharing as well as cooperation between CBP, ICE, and local and State law enforcement, among others, to identify deceased individuals and notify family members.

#### *Sec. 303. Review of the use of force*

This section requires that not later than one year after the date of enactment of the Act, the Comptroller General examine the extent to which ICE and CBP have trained their workforces regarding use of force policies, including (1) implementation of new training to improve use of force policies; (2) identified additional or al-

ternative weapons and equipment to improve de-escalation confrontation; and (3) established metrics to track the effectiveness of use of force training to ensure all incidents of use of force was justified.

*Sec. 304. Accountability and transparency within the border zone*

This section requires that that a law enforcement official who initiates a patrol stop or who detains any individual beyond a brief or limited inquiry record the following: (1) the date, time, and location of the contact; (2) the official's basis for the contact; (3) the identifying characteristics of the individual; (4) the duration of the stop; (5) a description of articulable facts or behavior that justify initiating the contact; (6) a description of any items seized; (7) whether any arrest, detention, warning, or citation resulted; (8) the immigration status of the individual; (9) the means of communication used if the individual's primary language is not English; and (10) if the contact occurred at a location proximate to a place of worship, school, or courthouse, among others; and (11) why that location was chosen.

This section requires that not later than one year after the enactment of the Act, the Comptroller General conduct an audit of the data compiled and submit a report to Congress to determine whether law enforcement officials are complying with the patrol stop data collection requirements.

This section requires that not later than 180 days after the enactment of the Act, the CBP Commissioner submit to the Committee on Homeland Security and the Committee on Homeland Security and Governmental Affairs of the Senate a plan to address open recommendations made by the Comptroller General on checkpoint performance and the impact of checkpoint operations on nearby communities. Within 180 days after the submission of the report to the Committees, the Comptroller General shall issue a report to the Committees evaluating the Commissioner's plan to address the open recommendations.

This section requires that not later than on year after the date of the enactment of the Act, the Secretary of Homeland Security submit a report to Congress on the data compiled under this section. The report shall be made available to the public except if the Secretary (1) invokes an exemption in 552(b) of title 5, United States Code; and (2) provides a written explanation.

*Sec. 305. Audit and inspections of detention facilities*

This section requires that the DHS Inspector General and the Comptroller General carry out regular audits and inspections, including unannounced audits and inspections of apprehension processes and facilities operated to detain or otherwise house individuals in custody of DHS.

This section requires that the Commissioner of CBP may not (1) prevent a Member of Congress or an employee of the House or Senate from entering a facility for the purposes of conducting oversight.

This section requires that the DHS Inspector General, Comptroller General, Member of Congress, or employee of the House or Senate be authorized to take photographs, video, or audio record-

ings of conditions in a facility but may not publish those without permission if there is personally identifiable information.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

### HOMELAND SECURITY ACT OF 2002

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

#### TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

\* \* \* \* \*

##### Subtitle C—Miscellaneous Provisions

\* \* \* \* \*

**[435. Maritime operations coordination plan.**

**[436. Maritime security capabilities assessments.]**

*Sec. 435. Maritime operations coordination plan.*

*Sec. 436. Maritime security capabilities assessments.*

*Sec. 437. Establishment of the Office of Ombudsman for Border and Immigration Related Concerns.*

*Sec. 438. Establishment of Border Community Stakeholder Advisory Committee.*

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### TITLE IV—BORDER, MARITIME, AND TRANSPORTATION SECURITY

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#### Subtitle B—U.S. Customs and Border Protection

#### SEC. 411. ESTABLISHMENT OF U.S. CUSTOMS AND BORDER PROTECTION; COMMISSIONER, DEPUTY COMMISSIONER, AND OPERATIONAL OFFICES.

(a) **IN GENERAL.**—There is established in the Department an agency to be known as U.S. Customs and Border Protection.

(b) **COMMISSIONER OF U.S. CUSTOMS AND BORDER PROTECTION.**—

(1) **IN GENERAL.**—There shall be at the head of U.S. Customs and Border Protection a Commissioner of U.S. Customs and Border Protection (in this section referred to as the “Commissioner”).



(2) COMMITTEE REFERRAL.—As an exercise of the rulemaking power of the Senate, any nomination for the Commissioner submitted to the Senate for confirmation, and referred to a committee, shall be referred to the Committee on Finance.

(c) DUTIES.—The Commissioner shall—

(1) coordinate and integrate the security, trade facilitation, and trade enforcement functions of U.S. Customs and Border Protection;

(2) ensure the interdiction of persons and goods illegally entering or exiting the United States;

(3) facilitate and expedite the flow of legitimate travelers and trade;

(4) direct and administer the commercial operations of U.S. Customs and Border Protection, and the enforcement of the customs and trade laws of the United States;

(5) detect, respond to, and interdict terrorists, drug smugglers and traffickers, human smugglers and traffickers, and other persons who may undermine the security of the United States, in cases in which such persons are entering, or have recently entered, the United States;

(6) safeguard the borders of the United States to protect against the entry of dangerous goods;

(7) ensure the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland;

(8) in coordination with U.S. Immigration and Customs Enforcement and United States Citizenship and Immigration Services, enforce and administer all immigration laws, as such term is defined in paragraph (17) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)), including—

(A) the inspection, processing, and admission of persons who seek to enter or depart the United States; and

(B) the detection, interdiction, removal, departure from the United States, short-term detention, and transfer of persons unlawfully entering, or who have recently unlawfully entered, the United States;

(9) develop and implement screening and targeting capabilities, including the screening, reviewing, identifying, and prioritizing of passengers and cargo across all international modes of transportation, both inbound and outbound;

(10) in coordination with the Secretary, deploy technology to collect the data necessary for the Secretary to administer the biometric entry and exit data system pursuant to section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1365b);

(11) enforce and administer the laws relating to agricultural import and entry inspection referred to in section 421;

(12) in coordination with the Under Secretary for Management of the Department, ensure U.S. Customs and Border Protection complies with Federal law, the Federal Acquisition Regulation, and the Department's acquisition management directives for major acquisition programs of U.S. Customs and Border Protection;

(13) ensure that the policies and regulations of U.S. Customs and Border Protection are consistent with the obligations of the United States pursuant to international agreements;

(14) enforce and administer—

(A) the Container Security Initiative program under section 205 of the Security and Accountability for Every Port Act of 2006 (6 U.S.C. 945); and

(B) the Customs–Trade Partnership Against Terrorism program under subtitle B of title II of such Act (6 U.S.C. 961 et seq.);

(15) conduct polygraph examinations in accordance with section 3(1) of the Anti-Border Corruption Act of 2010 (Public Law 111–376; 124 Stat. 4105);

(16) establish the standard operating procedures described in subsection (k);

(17) carry out the training required under subsection (l);

(18) carry out section 418, relating to the issuance of Asia-Pacific Economic Cooperation Business Travel Cards; and

(19) carry out other duties and powers prescribed by law or delegated by the Secretary.

(d) DEPUTY COMMISSIONER.—There shall be in U.S. Customs and Border Protection a Deputy Commissioner who shall assist the Commissioner in the management of U.S. Customs and Border Protection.

(e) U.S. BORDER PATROL.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection the U.S. Border Patrol.

(2) CHIEF.—There shall be at the head of the U.S. Border Patrol a Chief, who shall—

(A) be at the level of Executive Assistant Commissioner within U.S. Customs and Border Protection; and

(B) report to the Commissioner.

(3) DUTIES.—The U.S. Border Patrol shall—

(A) serve as the law enforcement office of U.S. Customs and Border Protection with primary responsibility for interdicting persons attempting to illegally enter or exit the United States or goods being illegally imported into or exported from the United States at a place other than a designated port of entry;

(B) deter and prevent the illegal entry of terrorists, terrorist weapons, persons, and contraband; and

(C) carry out other duties and powers prescribed by the Commissioner.

(f) AIR AND MARINE OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an office known as Air and Marine Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of Air and Marine Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—Air and Marine Operations shall—

(A) serve as the law enforcement office within U.S. Customs and Border Protection with primary responsibility to detect, interdict, and prevent acts of terrorism and the unlawful movement of people, illicit drugs, and other contra-

band across the borders of the United States in the air and maritime environment;

(B) conduct joint aviation and marine operations with U.S. Immigration and Customs Enforcement;

(C) conduct aviation and marine operations with international, Federal, State, and local law enforcement agencies, as appropriate;

(D) administer the Air and Marine Operations Center established under paragraph (4); and

(E) carry out other duties and powers prescribed by the Commissioner.

(4) AIR AND MARINE OPERATIONS CENTER.—

(A) IN GENERAL.—There is established in Air and Marine Operations an Air and Marine Operations Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the Air and Marine Operations Center an Executive Director, who shall report to the Executive Assistant Commissioner of Air and Marine Operations.

(C) DUTIES.—The Air and Marine Operations Center shall—

(i) manage the air and maritime domain awareness of the Department, as directed by the Secretary;

(ii) monitor and coordinate the airspace for unmanned aerial systems operations of Air and Marine Operations in U.S. Customs and Border Protection;

(iii) detect, identify, and coordinate a response to threats to national security in the air domain, in coordination with other appropriate agencies, as determined by the Executive Assistant Commissioner;

(iv) provide aviation and marine support to other Federal, State, tribal, and local agencies; and

(v) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(g) OFFICE OF FIELD OPERATIONS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Field Operations.

(2) EXECUTIVE ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Field Operations an Executive Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Field Operations shall coordinate the enforcement activities of U.S. Customs and Border Protection at United States air, land, and sea ports of entry to—

(A) deter and prevent terrorists and terrorist weapons from entering the United States at such ports of entry;

(B) conduct inspections at such ports of entry to safeguard the United States from terrorism and illegal entry of persons;

(C) prevent illicit drugs, agricultural pests, and contraband from entering the United States;

(D) in coordination with the Commissioner, facilitate and expedite the flow of legitimate travelers and trade;

(E) administer the National Targeting Center established under paragraph (4);

(F) coordinate with the Executive Assistant Commissioner for the Office of Trade with respect to the trade fa-

cilitation and trade enforcement activities of U.S. Customs and Border Protection; and

(G) carry out other duties and powers prescribed by the Commissioner.

(4) NATIONAL TARGETING CENTER.—

(A) IN GENERAL.—There is established in the Office of Field Operations a National Targeting Center.

(B) EXECUTIVE DIRECTOR.—There shall be at the head of the National Targeting Center an Executive Director, who shall report to the Executive Assistant Commissioner of the Office of Field Operations.

(C) DUTIES.—The National Targeting Center shall—

(i) serve as the primary forum for targeting operations within U.S. Customs and Border Protection to collect and analyze traveler and cargo information in advance of arrival in the United States to identify and address security risks and strengthen trade enforcement;

(ii) identify, review, and target travelers and cargo for examination;

(iii) coordinate the examination of entry and exit of travelers and cargo;

(iv) develop and conduct commercial risk assessment targeting with respect to cargo destined for the United States;

(v) coordinate with the Transportation Security Administration, as appropriate;

(vi) issue Trade Alerts pursuant to section 111(b) of the Trade Facilitation and Trade Enforcement Act of 2015; and

(vii) carry out other duties and powers prescribed by the Executive Assistant Commissioner.

(5) ANNUAL REPORT ON STAFFING.—

(A) IN GENERAL.—Not later than 30 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, and annually thereafter, the Executive Assistant Commissioner shall submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate a report on the staffing ~~model~~ *models* for the Office of Field Operations, including information on how many supervisors, front-line U.S. Customs and Border Protection officers, and support personnel are assigned to each Field Office and port of entry, *and information concerning the progress made toward meeting officer hiring targets, while accounting for attrition.*

(B) FORM.—The report required under subparagraph (A) shall, to the greatest extent practicable, be submitted in unclassified form, but may be submitted in classified form, if the Executive Assistant Commissioner determines that such is appropriate and informs the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on

Homeland Security and Governmental Affairs and the Committee on Finance of the Senate of the reasoning for such.

(h) OFFICE OF INTELLIGENCE.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Intelligence.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Intelligence an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Intelligence shall—

(A) develop, provide, coordinate, and implement intelligence capabilities into a cohesive intelligence enterprise to support the execution of the duties and responsibilities of U.S. Customs and Border Protection;

(B) manage the counterintelligence operations of U.S. Customs and Border Protection;

(C) establish, in coordination with the Chief Intelligence Officer of the Department, as appropriate, intelligence-sharing relationships with Federal, State, local, and tribal agencies and intelligence agencies;

(D) conduct risk-based covert testing of U.S. Customs and Border Protection operations, including for nuclear and radiological risks; and

(E) carry out other duties and powers prescribed by the Commissioner.

(i) OFFICE OF INTERNATIONAL AFFAIRS.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of International Affairs.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of International Affairs an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of International Affairs, in collaboration with the Office of Policy of the Department, shall—

(A) coordinate and support U.S. Customs and Border Protection's foreign initiatives, policies, programs, and activities;

(B) coordinate and support U.S. Customs and Border Protection's personnel stationed abroad;

(C) maintain partnerships and information-sharing agreements and arrangements with foreign governments, international organizations, and United States agencies in support of U.S. Customs and Border Protection's duties and responsibilities;

(D) provide necessary capacity building, training, and assistance to foreign customs and border control agencies to strengthen border, global supply chain, and travel security, as appropriate;

(E) coordinate mission support services to sustain U.S. Customs and Border Protection's global activities;

(F) coordinate with customs authorities of foreign countries with respect to trade facilitation and trade enforcement;

(G) coordinate U.S. Customs and Border Protection's engagement in international negotiations;

(H) advise the Commissioner with respect to matters arising in the World Customs Organization and other international organizations as such matters relate to the policies and procedures of U.S. Customs and Border Protection;

(I) advise the Commissioner regarding international agreements to which the United States is a party as such agreements relate to the policies and regulations of U.S. Customs and Border Protection; and

(J) carry out other duties and powers prescribed by the Commissioner.

(j) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

(1) IN GENERAL.—There is established in U.S. Customs and Border Protection an Office of Professional Responsibility.

(2) ASSISTANT COMMISSIONER.—There shall be at the head of the Office of Professional Responsibility an Assistant Commissioner, who shall report to the Commissioner.

(3) DUTIES.—The Office of Professional Responsibility shall—

(A) investigate criminal and administrative matters and misconduct by officers, agents, and other employees of U.S. Customs and Border Protection;

(B) manage integrity-related programs and policies of U.S. Customs and Border Protection;

(C) conduct research and analysis regarding misconduct of officers, agents, and other employees of U.S. Customs and Border Protection; and

(D) carry out other duties and powers prescribed by the Commissioner.

(k) STANDARD OPERATING PROCEDURES.—

(1) IN GENERAL.—The Commissioner shall establish—

(A) standard operating procedures for searching, reviewing, retaining, and sharing information contained in communication, electronic, or digital devices encountered by U.S. Customs and Border Protection personnel at United States ports of entry;

(B) standard use of force procedures that officers and agents of U.S. Customs and Border Protection may employ in the execution of their duties, including the use of deadly force;

(C) uniform, standardized, and publicly-available procedures for processing and investigating complaints against officers, agents, and employees of U.S. Customs and Border Protection for violations of professional conduct, including the timely disposition of complaints and a written notification to the complainant of the status or outcome, as appropriate, of the related investigation, in accordance with section 552a of title 5, United States Code (commonly referred to as the “Privacy Act” or the “Privacy Act of 1974”);

(D) an internal, uniform reporting mechanism regarding incidents involving the use of deadly force by an officer or agent of U.S. Customs and Border Protection, including an evaluation of the degree to which the procedures required under subparagraph (B) were followed; and

(E) standard operating procedures, acting through the Executive Assistant Commissioner for Air and Marine Operations and in coordination with the Office for Civil Rights and Civil Liberties and the Office of Privacy of the Department, to provide command, control, communication, surveillance, and reconnaissance assistance through the use of unmanned aerial systems, including the establishment of—

(i) a process for other Federal, State, and local law enforcement agencies to submit mission requests;

(ii) a formal procedure to determine whether to approve or deny such a mission request;

(iii) a formal procedure to determine how such mission requests are prioritized and coordinated; and

(iv) a process regarding the protection and privacy of data and images collected by U.S. Customs and Border Protection through the use of unmanned aerial systems.

(2) REQUIREMENTS REGARDING CERTAIN NOTIFICATIONS.—The standard operating procedures established pursuant to subparagraph (A) of paragraph (1) shall require—

(A) in the case of a search of information conducted on an electronic device by U.S. Customs and Border Protection personnel, the Commissioner to notify the individual subject to such search of the purpose and authority for such search, and how such individual may obtain information on reporting concerns about such search; and

(B) in the case of information collected by U.S. Customs and Border Protection through a search of an electronic device, if such information is transmitted to another Federal agency for subject matter assistance, translation, or decryption, the Commissioner to notify the individual subject to such search of such transmission.

(3) EXCEPTIONS.—The Commissioner may withhold the notifications required under paragraphs (1)(C) and (2) if the Commissioner determines, in the sole and unreviewable discretion of the Commissioner, that such notifications would impair national security, law enforcement, or other operational interests.

(4) UPDATE AND REVIEW.—The Commissioner shall review and update every three years the standard operating procedures required under this subsection.

(5) AUDITS.—The Inspector General of the Department of Homeland Security shall develop and annually administer, during each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, an auditing mechanism to review whether searches of electronic devices at or between United States ports of entry are being conducted in conformity with the standard operating procedures required under subparagraph (A) of paragraph (1). Such audits shall be submitted to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate and shall include the following:

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

(B) The number of such searches.

(C) The number of instances in which information contained in such devices that were subjected to such searches was retained, copied, shared, or entered in an electronic database.

(D) The number of such devices detained as the result of such searches.

(E) The number of instances in which information collected from such devices was subjected to such searches and was transmitted to another Federal agency, including whether such transmissions resulted in a prosecution or conviction.

(6) REQUIREMENTS REGARDING OTHER NOTIFICATIONS.—The standard use of force procedures established pursuant to subparagraph (B) of paragraph (1) shall require—

(A) in the case of an incident of the use of deadly force by U.S. Customs and Border Protection personnel, the Commissioner to notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate; and

(B) the Commissioner to provide to such committees a copy of the evaluation pursuant to subparagraph (D) of such paragraph not later than 30 days after completion of such evaluation.

(7) REPORT ON UNMANNED AERIAL SYSTEMS.—The Commissioner shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an annual report, for each of the three calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, that reviews whether the use of unmanned aerial systems is being conducted in conformity with the standard operating procedures required under subparagraph (E) of paragraph (1). Such reports—

(A) shall be submitted with the annual budget of the United States Government submitted by the President under section 1105 of title 31, United States Code;

(B) may be submitted in classified form if the Commissioner determines that such is appropriate; and

(C) shall include—

(i) a detailed description of how, where, and for how long data and images collected through the use of unmanned aerial systems by U.S. Customs and Border Protection are collected and stored; and

(ii) a list of Federal, State, and local law enforcement agencies that submitted mission requests in the previous year and the disposition of such requests.

(1) TRAINING.—The Commissioner shall require all officers and agents of U.S. Customs and Border Protection to participate in a specified amount of continuing education (to be determined by the



Commissioner) to maintain an understanding of Federal legal rulings, court decisions, and departmental policies, procedures, and guidelines.

(m) SHORT-TERM DETENTION STANDARDS.—

(1) ACCESS TO FOOD AND WATER.—The Commissioner shall make every effort to ensure that adequate access to food and water is provided to an individual apprehended and detained at a United States port of entry or between ports of entry as soon as practicable following the time of such apprehension or during subsequent short-term detention.

(2) ACCESS TO INFORMATION ON DETAINEE RIGHTS AT BORDER PATROL PROCESSING CENTERS.—

(A) IN GENERAL.—The Commissioner shall ensure that an individual apprehended by a U.S. Border Patrol agent or an Office of Field Operations officer is provided with information concerning such individual's rights, including the right to contact a representative of such individual's government for purposes of United States treaty obligations.

(B) FORM.—The information referred to in subparagraph (A) may be provided either verbally or in writing, and shall be posted in the detention holding cell in which such individual is being held. The information shall be provided in a language understandable to such individual.

(3) SHORT-TERM DETENTION DEFINED.—In this subsection, the term “short-term detention” means detention in a U.S. Customs and Border Protection processing center for 72 hours or less, before repatriation to a country of nationality or last habitual residence.

(4) DAYTIME REPATRIATION.—When practicable, repatriations shall be limited to daylight hours and avoid locations that are determined to have high indices of crime and violence.

(5) REPORT ON PROCUREMENT PROCESS AND STANDARDS.—Not later than 180 days after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate a report on the procurement process and standards of entities with which U.S. Customs and Border Protection has contracts for the transportation and detention of individuals apprehended by agents or officers of U.S. Customs and Border Protection. Such report should also consider the operational efficiency of contracting the transportation and detention of such individuals.

(6) REPORT ON INSPECTIONS OF SHORT-TERM CUSTODY FACILITIES.—The Commissioner shall—

(A) annually inspect all facilities utilized for short-term detention; and

(B) make publicly available information collected pursuant to such inspections, including information regarding the requirements under paragraphs (1) and (2) and, where appropriate, issue recommendations to improve the conditions of such facilities.

(n) WAIT TIMES TRANSPARENCY.—

(1) IN GENERAL.—The Commissioner shall—

(A) publish live wait times for travelers entering the United States at the 20 United States airports that support the highest volume of international travel (as determined by available Federal flight data);

(B) make information about such wait times available to the public in real time through the U.S. Customs and Border Protection website;

(C) submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate, for each of the five calendar years beginning in the calendar year that begins after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, a report that includes compilations of all such wait times and a ranking of such United States airports by wait times; and

(D) provide adequate staffing at the U.S. Customs and Border Protection information center to ensure timely access for travelers attempting to submit comments or speak with a representative about their entry experiences.

(2) CALCULATION.—The wait times referred to in paragraph (1)(A) shall be determined by calculating the time elapsed between an individual's entry into the U.S. Customs and Border Protection inspection area and such individual's clearance by a U.S. Customs and Border Protection officer.

(o) OTHER AUTHORITIES.—

(1) IN GENERAL.—The Secretary may establish such other offices or positions of Assistant Commissioners (or other similar officers or officials) as the Secretary determines necessary to carry out the missions, duties, functions, and authorities of U.S. Customs and Border Protection.

(2) NOTIFICATION.—If the Secretary exercises the authority provided under paragraph (1), the Secretary shall notify the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate not later than 30 days before exercising such authority.

(p) REPORTS TO CONGRESS.—The Commissioner shall, on and after the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, continue to submit to the Committee on Homeland Security and the Committee on Ways and Means of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on Finance of the Senate any report required, on the day before such date of enactment, to be submitted under any provision of law.

(q) OTHER FEDERAL AGENCIES.—Nothing in this section may be construed as affecting in any manner the authority, existing on the day before the date of the enactment of the Trade Facilitation and Trade Enforcement Act of 2015, of any other Federal agency or component of the Department.

(r) DEFINITIONS.—In this section, the terms “commercial operations”, “customs and trade laws of the United States”, “trade en-

forcement”, and “trade facilitation” have the meanings given such terms in section 2 of the Trade Facilitation and Trade Enforcement Act of 2015.

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## Subtitle C—Miscellaneous Provisions

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### **SEC. 437. ESTABLISHMENT OF THE OFFICE OF OMBUDSMAN FOR BORDER AND IMMIGRATION RELATED CONCERNS.**

(a) *IN GENERAL.*—The Secretary shall appoint an Ombudsman for Border and Immigration Related Concerns (hereinafter referred to as the “Ombudsman”), who shall—

- (1) be independent of Department agencies and officers;
- (2) report directly to the Secretary; and
- (3) have a background in immigration, civil rights, and law enforcement.

(b) *FUNCTIONS.*—The functions of the Ombudsman shall be to—

- (1) establish an independent, neutral, and confidential process to receive, investigate, resolve, and provide redress, including referral for investigation to the Office of the Inspector General, referral to the Office of Civil Rights and Civil Liberties to investigate complaints and information indicating possible abuses of civil rights or civil liberties, referral to U.S. Citizenship and Immigration Services for immigration relief, or any other action determined appropriate, in cases in which Department employees, or subcontracted or cooperating entity personnel, are alleged to have engaged in misconduct or violated the rights of individuals, associations, or employers;

- (2) establish an accessible and standardized complaint process regarding complaints against any employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law; and

- (3) identify and thereafter review, examine, and make recommendations to the Secretary or designee to address chronic concerns in border security and enforcement activities of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement.

(c) *ANNUAL REPORT.*—On an annual basis, starting one year after the date of the enactment of this section, the Secretary shall submit to the Committee on Homeland Security and the Committee on the Judiciary of the House of Representatives and the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate a report prepared by the Ombudsman that provides information regarding the Office of the Ombudsman’s activities for the prior year, including information relating to the following:

- (1) The number of complaints received in the period, with information on each complaint including whether it is against any employee of U.S. Customs and Border Protection or U.S.

*Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law, when and where the incident that gave rise to the complaint occurred, including, where possible, identification of the port of entry, U.S. Border Patrol station, or detention facility where the alleged incident occurred.*

*(2) The number of investigations commenced or carried out in the period, with information on each investigation including whether it involves any employee of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement, or any subcontracted or cooperating entity personnel, for violations of law or violations of standards of professional conduct pertaining to interaction with a United States citizen or non-United States citizen in the course of carrying out any duty under law.*

*(3) The number of complaints resolved in the period, with information on how each complaint was resolved, including for those complaints that were—*

*(A) referred for investigation to the Office of the Inspector General;*

*(B) referred to the Office of Civil Rights and Civil Liberties;*

*(C) referred to U.S. Citizenship and Immigration Services for immigration relief; and*

*(D) resolved in some other manner.*

*(4) Findings and recommendations for the period that address chronic concerns in border security and enforcement activities of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including the impact of such activities on border communities and the civil rights, property rights, privacy rights, and civil liberties of residents of such communities.*

*(5) Any actions taken by the Department to implement recommendations that address chronic concerns in border security and enforcement activities.*

*(d) PUBLICATION.—Not later than 30 days after receiving the annual report required pursuant to subsection (c), the Secretary shall publish the annual report on the website of the Department and in the Federal Register, together with any feedback from the Secretary regarding the report.*

*(e) CONFIDENTIALITY.—In the absence of the written consent of an individual who submits a complaint, the Ombudsman shall keep confidential the identity of and any identifying information relating to that individual.*

**SEC. 438. ESTABLISHMENT OF BORDER COMMUNITY STAKEHOLDER ADVISORY COMMITTEE.**

*(a) ESTABLISHMENT.—The Secretary shall establish within the Department a border community stakeholders advisory committee pursuant to section 871 of this Act.*

*(b) DUTIES.—*

*(1) IN GENERAL.—The Secretary shall consult with the Advisory Committee, as appropriate, on border security and immi-*

gration enforcement matters, including on the development, refinement, and implementation of policies, protocols, programs, and rulemaking pertaining to border security and immigration enforcement that may impact border communities.

(2) *RECOMMENDATIONS.*—The Advisory Committee shall develop, at the request of the Secretary, recommendations regarding policies, protocols, programs and rulemaking pertaining to border security and immigration enforcement that may impact border communities.

(3) *PERIODIC REPORTS.*—The Advisory Committee shall periodically submit to the Secretary—

(A) reports on matters identified by the Secretary; and

(B) reports on other matters identified by a majority of the members of the Advisory Committee.

(4) *ANNUAL REPORT.*—The Advisory Committee shall submit to the Secretary an annual report providing information on the activities, findings, and recommendations of the Advisory Committee, including its subcommittees, for the preceding year. Not later than six months after the date on which the Secretary receives the annual report, the Secretary shall publish a public version describing the Advisory Committee's activities and such related matters as would be informative to the public, consistent with section 552(b) of title 5, United States Code.

(5) *FEEDBACK.*—Not later than 90 days after receiving recommendations transmitted by the Advisory Committee under paragraph (4), the Secretary shall respond in writing to the Advisory Committee with feedback on each of the recommendations, an action plan to implement any of the recommendations with which the Secretary concurs, and a justification for why any of the recommendations have been rejected.

(6) *CONGRESSIONAL NOTIFICATION.*—Not later than 30 days after providing written feedback to the Advisory Committee under paragraph (5), the Secretary shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate on such feedback, and provide a briefing upon request.

(7) *REPORT TO CONGRESS.*—Prior to briefing the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate under paragraph (6), the Secretary shall submit to such committees a report containing information relating to the recommendations transmitted by the Advisory Committee in accordance with paragraph (4).

(c) *MEMBERSHIP.*—

(1) *APPOINTMENT.*—

(A) *IN GENERAL.*—Not later than 90 days after the date of enactment of this section, the Secretary shall appoint the members of the Advisory Committee.

(B) *COMPOSITION.*—The membership of the Advisory Committee shall consist of a border community stakeholder from each of the nine U.S. Border Patrol sectors and three individuals with significant expertise and experience in immigration law, civil rights, and civil liberties, particularly as relates to interests of residents of border communities.

(2) *TERM OF OFFICE.*—

(A) *TERMS.*—The term of each member of the Advisory Committee shall be two years. A member of the Advisory Committee may be reappointed.

(B) *REMOVAL.*—The Secretary may review the participation of a member of the Advisory Committee and remove such member for cause at any time.

(3) *PROHIBITION ON COMPENSATION.*—The members of the Advisory Committee shall not receive pay, allowances, or benefits from the Government by reason of their service on the Advisory Committee.

(4) *MEETINGS.*—

(A) *IN GENERAL.*—The Secretary shall require the Advisory Committee to meet at least semiannually and may convene additional meetings as necessary.

(B) *PUBLIC MEETINGS.*—At least one of the meetings described in subparagraph (A) shall be within a Border Patrol sector and open to the public.

(C) *ATTENDANCE.*—The Advisory Committee shall maintain a record of the persons present at each meeting.

(5) *MEMBER ACCESS TO SENSITIVE SECURITY INFORMATION.*—Not later than 60 days after the date of a member's appointment, the Secretary shall determine if there is cause for the member to be restricted from possessing sensitive security information. Without such cause, and upon the member voluntarily signing a non-disclosure agreement, the member may be granted access to sensitive security information that is relevant to the member's advisory duties. The member shall protect the sensitive security information in accordance with part 1520 of title 49, Code of Federal Regulations.

(6) *CHAIRPERSON.*—A stakeholder representative on the Advisory Committee who is elected by the appointed membership of the Advisory Committee shall chair the Advisory Committee.

(d) *NONAPPLICABILITY OF FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Committee and its subcommittees.

(e) *DEFINITIONS.*—In this section:

(1) *ADVISORY COMMITTEE.*—The term “Advisory Committee” means the border community stakeholder advisory committee established under subsection (a).

(2) *BORDER COMMUNITY STAKEHOLDER.*—The term “border community stakeholder” means individuals who have ownership interests or reside in the land borders of the United States and who have not publicly taken positions on the Trump Administration's border security and immigration enforcement actions, including—

(A) a landowner within 10 miles of a land border of the United States;

(B) a business leader in a company operating within 10 miles of a land border of the United States;

(C) a local official from a community on a land border of the United States; and

(D) a representative of Indian tribes on a land border of the United States.

\* \* \* \* \*

JERROLD NADLER, New York  
CHAIRMAN

COMMITTEE CORRESPONDENCE

DOUG COLLINS, Georgia  
RANKING MINORITY MEMBER

**U.S. House of Representatives**  
**Committee on the Judiciary**  
Washington, DC 20515-6216  
One Hundred Sixteenth Congress

July 18, 2019

The Honorable Bennie G. Thompson  
Chairman  
Committee on Homeland Security  
U.S. House of Representatives  
H2-176 Ford House Office Building  
Washington, DC 20515

Dear Mr. Chairman:

This is to advise you that the Committee on the Judiciary has now had an opportunity to review the provisions in H.R. 2203, the "Homeland Security Improvement Act" that fall within our Rule X jurisdiction. I appreciate your consulting with us on those provisions. The Judiciary Committee has no objection to your including them in the bill for consideration on the House floor, and to expedite that consideration is willing to waive sequential referral, with the understanding that we do not thereby waive any future jurisdictional claim over those provisions or their subject matters.

In the event a House-Senate conference on this or similar legislation is convened, the Judiciary Committee reserves the right to request an appropriate number of conferees to address any concerns with these or similar provisions that may arise in conference.

Please place this letter into the Congressional Record during consideration of the measure on the House floor. Thank you for the cooperative spirit in which you have worked regarding this matter and others between our committees.

Sincerely,



Jerrold Nadler  
Chairman

c: The Honorable Douglas Collins, Ranking Member  
The Honorable Thomas J. Wickham, Jr., Parliamentarian

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

MIKE ROGERS, ALABAMA  
RANKING MEMBER



**One Hundred Sixteenth Congress  
Committee on Homeland Security  
U.S. House of Representatives  
Washington, DC 20515**

July 18, 2019

The Honorable Jerrold Nadler  
Chairman  
Committee on the Judiciary  
2138 Rayburn House Office Building  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Nadler:

Thank you for your letter regarding H.R. 2203, the "Homeland Security Improvement Act." The Committee on Homeland Security recognizes that the Committee on the Judiciary has a jurisdictional interest in H.R. 2203, and I appreciate your effort to allow this bill to be considered on the House floor.

I concur with you that forgoing action on the bill does not in any way prejudice the Committee on the Judiciary with respect to its jurisdictional prerogatives on this bill or similar legislation in the future, and I would support your effort to seek appointment of an appropriate number of conferees to any House - Senate conference involving this legislation.

I will include our letters on H.R. 2203 in the *Congressional Record* during floor consideration of this bill. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

Bennie G. Thompson  
Chairman

cc: The Honorable Nancy Pelosi, Speaker  
The Honorable Michael Rogers, Ranking Member  
The Honorable Tom Wickham, Parliamentarian



## MINORITY VIEWS

The majority is rushing H.R. 2203 to the House floor at the urging of the Speaker. This partisan bill is riddled with absurd policy provisions that undermine border security, endanger the lives of children, malign law enforcement officers, and threaten the safety of our communities. Worst of all, the bill does nothing to address the root cause of the border crisis: our broken immigration system.

In an effort to quickly ram H.R. 2203 through the Committee, the majority violated rules which require Members be provided the legislation 48 hours in advance of its consideration. A new amendment in the nature of a substitute to H.R. 2203 was not provided to Members of the Committee until late in the afternoon on July 16th, just a few hours before the markup on the morning of July 17th. This new amendment heavily modified every substantive provision of the bill and added several new provisions. Ranking Member Rogers raised a point of order against the amendment's consideration and Chairman Thompson sustained that point of order. Chairman Thompson then invoked House rules to force consideration of the amendment.

U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) have repeatedly informed the Committee and the public that criminals are telling migrants in Central America to use children as "visas" because an accompanying child will help expedite the migrant's release into the interior of the United States. This propaganda encourages smuggling and trafficking of migrant children. Rather than providing law enforcement the tools to end the scourge of child smuggling, H.R. 2203 appallingly exacerbates the problem. The bill appears to undermine the ability of trained federal law enforcement officers to remove minors from suspected human traffickers, smugglers, and other harmful criminals. Under section 205 of the bill, only state courts or welfare agencies are authorized to remove a child parent or family member (defined in the bill to include cousins). The bill does not contemplate that the parent or family member may be fraudulently posing as a parent or legal guardian of the minor when in fact they are a smuggler. In May 2019, DHS federal law enforcement officers caught a Honduran man trying to enter the country with an unrelated 6 month-old infant. Had this bill then been law, that 6 month-old infant may have remained in the hands of a smuggler and in immediate danger until a state court could rule on the matter.

H.R. 2203 doubles down on catch and release policies that undermine the safety of our communities. The bill expressly authorizes CBP the option to release migrants in their custody after 72 hours regardless of whether they've been screened to determine criminal history. Mass releases created by this provision could overwhelm border communities and fully degrade DHS' ability to maintain

order along the southwest border. It will also empower smuggler propaganda and fuel more waves of migrants to attempt dangerous border crossings.

Compounding the problem, H.R. 2203 terminates the Migrant Protection Protocol (MPP) with Mexico. This important program launched by DHS in December 2018, has helped alleviate dangerous overcrowding at our ports of entry and provided migrants with a fair and orderly process to request asylum. The bill goes even further by forcing CBP to grant entry to every single migrant that presents at U.S. ports of entry regardless of facility capacity.

H.R. 2203 deliberately slows DHS border security and enforcement operations on and near the border by requiring federal, state, and local law enforcement officers to comply with a dozen new administrative requirements for routine traffic stops or encounters. Officers conduct hundreds of these encounters on a daily basis across the United States. This provision appears designed to shut down border and immigration enforcement operations by drowning law enforcement in paperwork. Law enforcement operations are further hindered by the bill's duplicative training mandates on ICE and CBP officers that would take them off the line of duty for several days when the agencies are already experiencing staffing shortages.

H.R. 2203 assumes the worst about the men and women of Customs and Border Protection. Its array of new mandates are designed to second-guess officers and insert open-border activists into the law enforcement process. Most notably, the bill creates an extra-judicial and unconstitutional Office of the Ombudsman. The office is designed to investigate complaints made by migrants against officers and unilaterally provide whatever remedies the office deems appropriate. The office's complaint process includes no privacy or due process protections for DHS personnel wrongly or frivolously accused of wrongdoing. The office's nebulously drafted "redress" authority could include adjustment of immigration status or monetary damages outside of those contemplated by the Constitution or federal law.

H.R. 2203 creates a partisan investigative commission that undermines Congress' Article I responsibility to oversee the executive. The commission is stacked with Democrat-picked commissioners empowered to "investigate" President Trump's handling of the border crisis. 6 of 10 members would be Democrats, with the Chairman appointed by the Speaker. Commissioners are not required to have the any border security or law enforcement experience. The commission's scope and mission presuppose answers to complex questions and ignore the impact of our broken immigration system on migrant flows. The entire title represents an abdication of the Homeland Security Committee's responsibility for oversight of the Department of Homeland Security (DHS).

Finally, H.R. 2203 contains a number of prejudiced reporting requirements, among them a lopsided report on migrant deaths that ignores the role that smugglers, long journeys, and rugged terrain can play in a migrant's health when they arrive at our border. These biased reporting requirements ignore the fundamental factor driving the current humanitarian and national security crisis on our border: broken immigration laws.

Each provision in H.R. 2203 is designed to restrict DHS' from conducting its critical border security mission. Rather than alleviating the crisis by reforming our broken immigration system and providing law enforcement new authorities and resources to secure our border, the bill exacerbates the crises by enabling the transnational criminal organizations, smugglers, and traffickers that endanger the safety and security of migrants and American citizens.

MIKE ROGERS.

