

117TH CONGRESS
1ST SESSION

H. R. 4349

To amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 2, 2021

Mr. GREEN of Texas introduced the following bill; which was referred to the Committee on Homeland Security

A BILL

To amend the Homeland Security Act of 2002 to make certain improvements in the Office for Civil Rights and Civil Liberties of the Department of Homeland Security, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Department of Home-
5 land Security Office for Civil Rights and Civil Liberties
6 Authorization Act”.

1 **SEC. 2. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.**

2 (a) IN GENERAL.—Section 705 of the Homeland Se-
3 curity Act of 2002 (6 U.S.C. 345) is amended—

4 (1) in the section heading, by striking “**ESTAB-**
5 **LISHMENT OF**”; and

6 (2) by striking subsections (a) and (b) and in-
7 serting the following new subsections:

8 “(a) IN GENERAL.—There is established within the
9 Department an Office for Civil Rights and Civil Liberties.
10 The head of such Office is the Officer for Civil Rights
11 and Civil Liberties (referred to in this section as the ‘Offi-
12 cer’), who shall report directly to the Secretary.

13 “(b) RESPONSIBILITIES.—The Officer shall carry out
14 the following responsibilities:

15 “(1) Oversee compliance with constitutional,
16 statutory, regulatory, policy, and other requirements
17 relating to the civil rights and civil liberties of indi-
18 viduals affected by the programs and activities of
19 the Department.

20 “(2) Integrate civil rights and civil liberties pro-
21 tections into all programs and activities of the De-
22 partment.

23 “(3) Conduct civil rights and civil liberties im-
24 pact assessments, including, as appropriate, prior to
25 the implementation of new Department regulations,
26 initiatives, programs, or policies.

1 “(4) Conduct periodic reviews and assessments
2 of policies, procedures, and activities of the Depart-
3 ment relating to civil rights and civil liberties, in-
4 cluding reviews initiated by the Officer.

5 “(5) Provide policy advice, recommendations,
6 and other technical assistance relating to civil rights
7 and civil liberties to the Secretary and to heads of
8 components, directorates, and offices and other per-
9 sonnel within the Department.

10 “(6) Review, assess, and investigate complaints,
11 including complaints filed by members of the public,
12 and information indicating possible abuses of civil
13 rights or civil liberties at the Department, unless the
14 Inspector General of the Department determines
15 that any such complaint should be investigated by
16 the Inspector General.

17 “(7) As the Officer determines necessary, ini-
18 tiate reviews, investigations, and assessments of the
19 administration of the programs and activities of the
20 Department relating to civil rights and civil liberties.

21 “(8) Coordinate with the Privacy Officer to en-
22 sure that—

23 “(A) programs, policies, and procedures in-
24 volving civil rights, civil liberties, and privacy

1 considerations are addressed in an integrated
2 and comprehensive manner; and

3 “(B) Congress receives appropriate reports
4 regarding such programs, policies, and proce-
5 dures.

6 “(9) Lead the equal employment opportunity
7 programs of the Department, including complaint
8 management and adjudication, workforce diversity,
9 and promotion of the merit system principles.

10 “(10) On a semi-annual basis, make publicly
11 available through accessible communications chan-
12 nels, including the website of the Department—

13 “(A) information on the responsibilities
14 and functions of, and how to contact, the Of-
15 fice;

16 “(B) summaries of the investigations car-
17 ried out pursuant to paragraph (6) that result
18 in final recommendations that are issued by the
19 Officer; and

20 “(C) summaries of impact assessments
21 carried out pursuant to paragraph (3) or (7)
22 that are issued by the Officer.

23 “(11) Engage with individuals and communities
24 whose civil rights and civil liberties may be affected
25 by programs and activities of the Department, in-

cluding by informing such individuals and communities about report and redress processes and advising the Secretary and heads of components, directorates, and offices and other personnel within the Department of concerns raised by such individuals and communities.

“(12) Lead the Language Access Program for the Department to ensure the Department can effectively communicate with all individuals impacted by programs and activities of the Department, including those with limited English proficiency.

“(c) TRANSPARENCY.—

“(1) COMPLAINTS.—In the case of a complaint made concerning allegations of abuses of civil rights and civil liberties under paragraph (6) of subsection (b), the Officer shall—

“(A) provide to the individual who made the complaint notice of the receipt of such complaint within 30 days of receiving the complaint; and

“(B) inform the complainant of the determination of the Officer regarding the initiation of a review, assessment, or investigation within the Office, a referral to the Inspector General of the Department, or any other action taken.

1 “(2) INVESTIGATIONS.—In the case of an inves-
2 tigation initiated by the Officer pursuant to para-
3 graph (6) or (7) of subsection (b) in which findings
4 or recommendations are issued, the Officer—

5 “(A) shall, on a semi-annual basis, make
6 publicly available through accessible commu-
7 nications channels, including the website of the
8 Department—

9 “(i) the findings and recommenda-
10 tions of the Officer, if any; and

11 “(ii) a summary of the investigations
12 that result in final recommendations that
13 are issued by the Officer; and

14 “(B) shall not include in such findings,
15 recommendations, or summary any personally
16 identifiable information related to any indi-
17 vidual involved in such investigation.

18 “(3) SUBMITTAL TO HEADS OF OPERATIONAL
19 COMPONENTS.—The Officer shall transmit a copy of
20 each summary produced under paragraph (2) to the
21 Secretary and to the head of each relevant oper-
22 ational component of the Department.

23 “(4) REPORTS TO CONGRESS.—Upon the con-
24 clusion of any investigation conducted by the Officer
25 under paragraph (6) or (7) of subsection (b) in

1 which findings or recommendations are issued, the
2 Officer shall submit to Congress a report on the in-
3 vestigation, which shall be prepared and submitted
4 without any prior comment or amendment by the
5 Secretary, Deputy Secretary, or any other officer or
6 employee of the Department or the Office of Man-
7 agement and Budget, unless the Officer seeks such
8 comment.

9 “(d) COMPONENT CIVIL RIGHTS AND CIVIL LIB-
10 ERTIES OFFICER.—The head of each of the operational
11 components of the Department, in consultation with the
12 Officer, shall designate a career appointee (as such term
13 is defined in section 3132 of title 5, United States Code)
14 from such component as the Officer for Civil Rights and
15 Civil Liberties of that component. The Officer for Civil
16 Rights and Civil Liberties of each such component shall
17 coordinate with and provide information to the Officer for
18 Civil Rights and Civil Liberties of the Department on mat-
19 ters related to civil rights and civil liberties within the
20 component.

21 “(e) ACCESS TO INFORMATION.—The Officer—

22 “(1) shall have access in a timely manner to all
23 records, reports, audits, reviews, documents, papers,
24 recommendations, and other materials available to
25 the Department that relate to programs and oper-

1 ations with respect to the responsibilities of the Offi-
2 cer under subsection (b); and

3 “(2) may, to the extent the Officer determines
4 necessary, and subject to the approval of the Sec-
5 retary, administer to or take from any person an
6 oath, affirmation, or affidavit, whenever necessary in
7 the performance of the responsibilities of the Officer
8 under this section.

9 “(f) ANNUAL REPORT.—Not later than March 31 of
10 each year, the Officer shall submit to the appropriate com-
11 mittees and subcommittees of Congress a report on the
12 implementation of this section during the year preceding
13 the year during which the report is submitted. Each such
14 report shall include, for the year covered by the report—

15 “(1) a list of Department programs and activi-
16 ties for which civil rights and civil liberties impact
17 assessments were conducted, or policy advice, rec-
18 ommendations, or other technical assistance was
19 provided;

20 “(2) a list of Department programs and activi-
21 ties relating to civil rights and civil liberties that
22 have not had impact assessments conducted during
23 the 5-year period ending on the date of enactment
24 of the Department of Homeland Security Office of
25 Civil Rights and Civil Liberties Authorization Act;

1 “(3) an assessment of the efforts of the Depart-
2 ment through the Language Access Program to ef-
3 fectively communicate with all individuals impacted
4 by programs and activities of the Department, in-
5 cluding those with limited English proficiency;

6 “(4) a summary of investigations resulting in
7 recommendations issued under paragraph (6) or (7)
8 of subsection (b) by the Officer to the Secretary or
9 the head of a component, directorate, or office, to-
10 gether with information on the status of the compo-
11 nent, directorate, or office’s implementation of such
12 recommendations;

13 “(5) information on the diversity and equal em-
14 ployment opportunity activities of the Department,
15 including information on complaint management and
16 adjudication of equal employment opportunity com-
17 plaints and efforts to ensure compliance throughout
18 the Department with equal employment opportunity
19 requirements;

20 “(6) a description of any efforts to engage with
21 individuals and communities whose civil rights and
22 civil liberties may be affected by activities carried
23 out by the Department, including public meetings;
24 and

1 “(7) information on total staffing for the Office
2 for Civil Rights and Civil Liberties, including—

3 “(A) the number of full-time, part-time
4 and contract support personnel; and

5 “(B) information on the number of em-
6 ployees whose primary responsibilities include
7 supporting the Officer in carrying out para-
8 graph (9) of subsection (b).”.

9 (b) CLERICAL AMENDMENT.—The item relating to
10 section 705 in section 1(b) of the Homeland Security Act
11 of 2002 is amended to read as follows:

“Sec. 705. Officer for Civil Rights and Civil Liberties.”.

12 (c) REPORTING TO CONGRESS.—Section
13 1062(f)(1)(A)(i) of the National Security Intelligence Re-
14 form Act of 2004 (42 U.S.C. 2000ee–1(f)(1)(A)(i)) is
15 amended by striking “the Committee on Oversight and
16 Government Reform of the House of Representatives” and
17 inserting “the Committee on Homeland Security of the
18 House of Representatives, the Committee on Oversight
19 and Reform of the House of Representatives”.

20 **SEC. 3. COMPTROLLER GENERAL REVIEW.**

21 Not later than 2 years after the date of the enact-
22 ment of this Act, the Comptroller General of the United
23 States shall submit to Congress a report on the implemen-
24 tation of subsection (b)(11) of section 705 of the Home-

1 land Security Act of 2002 (6 U.S.C. 345), as amended
2 by section 2.

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