

116TH CONGRESS
1ST SESSION

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.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Ms. ESCOBAR (for herself, Mr. CASTRO of Texas, Mr. ESPAILLAT, and Ms. GARCIA of Texas) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Homeland Security
3 Improvement Act”.

4 **SEC. 2. STAKEHOLDER AND COMMUNITY ENGAGEMENT.**

5 (a) DEPARTMENT OF HOMELAND SECURITY BORDER
6 OVERSIGHT COMMISSION.—

7 (1) ESTABLISHMENT.—There is established an
8 independent commission, which shall be known as
9 the “Department of Homeland Security Border
10 Oversight Commission” (in this Act referred to as
11 the “Commission”).

12 (2) ORGANIZATION.—

13 (A) LEADERSHIP.—The Commission shall
14 be led by a Chair and Vice Chair.

15 (B) MEMBERSHIP.—

16 (i) IN GENERAL.—The Commission
17 shall be composed of 30 members, rec-
18 ommended by Congress, in consultation
19 with the President, who have expertise in
20 migration, local crime indices, civil and
21 human rights, community relations, cross-
22 border trade and commerce, quality of life
23 indicators, or other pertinent experience, of
24 whom—

1 (I) 13 members shall be from the
2 northern border region and shall in-
3 clude—

4 (aa) two local government
5 elected officials;

6 (bb) two local law enforce-
7 ment officials;

8 (cc) two civil rights advo-
9 cates;

10 (dd) one business represent-
11 ative;

12 (ee) one higher education
13 representative;

14 (ff) one representative of a
15 faith community;

16 (gg) two representatives of
17 the U.S. Border Patrol; and

18 (hh) two tribal officials; and

19 (II) 17 members shall be from
20 the southern border region and shall
21 include—

22 (aa) three local government
23 elected officials;

24 (bb) three local law enforce-
25 ment officials;

1 (cc) three civil rights advo-
2 cates;

3 (dd) two business represent-
4 atives;

5 (ee) one higher education
6 representative;

7 (ff) one representative of a
8 faith community;

9 (gg) two representatives of
10 the U.S. Border Patrol; and

11 (hh) two tribal officials.

12 (ii) CHAIR, VICE CHAIR.—The mem-
13 bers of the Commission shall elect a Chair
14 and a Vice Chair from among its members
15 by a majority vote of at least 16 members.

16 (iii) TERMS OF SERVICE.—The Chair
17 and Vice Chair of the Commission shall
18 serve for terms of four years. Members of
19 the Commission shall serve for terms of
20 four years.

21 (iv) APPOINTMENT DEADLINE.—Mem-
22 bers of the Commission shall be appointed
23 not later than 180 days after the date of
24 the enactment of this Act.

25 (3) MEETINGS.—

1 (A) COMMISSION.—The Commission shall
2 meet at least semiannually, and may convene
3 additional meetings as necessary.

4 (B) SUBCOMMITTEES.—The northern bor-
5 der and southern border subcommittees shall
6 meet at least quarterly, and may convene addi-
7 tional meetings as necessary.

8 (4) DUTIES.—The Commission, and the north-
9 ern border and southern border subcommittees,
10 shall—

11 (A) develop recommendations for improve-
12 ments regarding border enforcement policies,
13 strategies, and programs that take into consid-
14 eration their impact on border communities;

15 (B) evaluate policies, strategies, and pro-
16 grams of Federal agencies operating along the
17 northern and southern borders to—

18 (i) protect—

19 (I) due process;

20 (II) the civil and human rights of
21 border residents and visitors; and

22 (III) private property rights of
23 land owners;

24 (ii) reduce the number of migrant
25 deaths; and

(iii) improve the safety of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement;

(C) develop recommendations for improvements regarding the safety of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement when such agents and officers are in the field; and

(D) evaluate training, including establishing training courses related to management and leadership skills for supervisors in each U.S. Border Patrol sector, at each port of entry on the northern and southern borders, and at each U.S. Immigration and Customs Enforcement field office and the extent to which supervisory and management personnel practices at U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement encourage and facilitate workforce development for agents and officers, promote agent and officer field safety, and post-FLETC training of border enforcement personnel in accordance with section 6.

1 (5) ADDITIONAL RESPONSIBILITIES.—

2 (A) IN GENERAL.—In carrying out the du-
3 ties specified in paragraph (5), the Commission
4 shall take into consideration any recommenda-
5 tions and evaluations agreed upon by the north-
6 ern border and southern border subcommittees.

7 (B) SUBCOMMITTEE REPORTS.—The
8 northern border and southern border sub-
9 committees shall annually submit to the Chair
10 and Vice Chair of the Commission a publicly
11 available report containing the recommenda-
12 tions and evaluations of the subcommittees pur-
13 suant to paragraph (5).

14 (6) PROHIBITION ON COMPENSATION.—Mem-
15 bers of the Commission and the northern border and
16 southern border subcommittees may not receive pay,
17 allowances, or benefits from the Government by rea-
18 son of their service on the Commission or the sub-
19 committees.

20 (b) HEARINGS AND EVIDENCE.—The Commission or,
21 on the authority of the Commission, any subcommittee or
22 member thereof, may, for the purpose of carrying out this
23 Act hold such hearings, and sit and act at such times and
24 places, take such testimony, receive such evidence, and ad-
25 minister such oaths as the Commission or such designated

1 subcommittee or designated member determines necessary
2 to carry out its duties under subsection (a)(5).

3 (c) SAVINGS PROVISION.—Nothing in this Act may
4 be construed as affecting in any manner the investigative
5 and disciplinary procedures of U.S. Customs and Border
6 Protection, U.S. Immigration and Customs Enforcement,
7 or the Department of Homeland Security with respect to
8 agents and officers of U.S. Customs and Border Protec-
9 tion or U.S. Immigration and Customs Enforcement.

10 (d) REPORTS.—

11 (1) ANNUAL REPORTS.—The Commission shall
12 annually submit to the Secretary of Homeland Secu-
13 rity a publicly available report containing informa-
14 tion on the activities, findings, and recommendations
15 of the Commission, including the northern border
16 and southern border subcommittees, for the pre-
17 ceding year.

18 (2) CONGRESSIONAL NOTIFICATION.—The Sec-
19 retary of Homeland Security shall brief the Com-
20 mittee on Homeland Security and the Committee on
21 the Judiciary of the House of Representatives and
22 the Committee on Homeland Security and Govern-
23 mental Affairs and the Committee on the Judiciary
24 of the Senate on each report required under para-
25 graph (1).

1 **SEC. 3. ESTABLISHMENT OF THE OFFICE OF THE OMBUDS-**
2 **MAN FOR BORDER AND IMMIGRATION RE-**
3 **LATED CONCERNS.**

4 (a) IN GENERAL.—Section 452 of the Homeland Se-
5 curity Act of 2002 (6 U.S.C. 272) is amended to read
6 as follows:

7 **“SEC. 452. OMBUDSMAN FOR BORDER AND IMMIGRATION**
8 **RELATED CONCERNS.**

9 “(a) IN GENERAL.—There shall be within the De-
10 partment an Ombudsman for Border and Immigration Re-
11 lated Concerns (in this section referred to as the ‘Ombuds-
12 man’). The individual appointed as Ombudsman shall have
13 a background in immigration or civil liberties law or law
14 enforcement. The Ombudsman shall report directly to the
15 Secretary.

16 “(b) ORGANIZATIONAL INDEPENDENCE.—The Sec-
17 retary shall take appropriate action to ensure the inde-
18 pendence of the Ombudsman’s office from other officers
19 or employees of the Department engaged in border secu-
20 rity or immigration activities.

21 “(c) STAFFING.—The Secretary shall take appro-
22 priate action to ensure that the Ombudsman’s office is
23 sufficiently staffed and resourced to carry out its duties
24 effectively and efficiently.

25 “(d) FUNCTIONS.—The functions of the Ombudsman
26 shall be as follows:

1 “(1) To establish an independent, neutral, and
2 appropriately confidential process to receive, inves-
3 tigate, resolve, and provide redress, including immi-
4 gration relief, monetary damages, or any other ac-
5 tion determined appropriate, for complaints, griev-
6 ances, or requests for assistance from individuals,
7 associations, and employers regarding the border se-
8 curity and immigration activities of the Department.

9 “(2) To conduct inspections of the facilities, in-
10 cluding privately-owned or operated contract facili-
11 ties, of U.S. Customs and Border Protection, U.S.
12 Immigration and Customs Enforcement, and United
13 States Citizenship and Immigration Services.

14 “(3) To assist individuals and families who
15 have been victims of crimes committed by aliens un-
16 lawfully present in the United States or of violence
17 near the United States border, and individuals and
18 families impacted by situations in which the Depart-
19 ment has exercised force against an individual, in-
20 cluding by use of a firearm, taser, explosive device,
21 chemical agent, baton, projectile, blunt instrument,
22 body part, canine, or vehicle.

23 “(4) To identify areas in which individuals, as-
24 sociations, and employers have identified concerns
25 with respect to interacting with U.S. Customs and

1 Border Protection, U.S. Immigration and Customs
2 Enforcement, or United States Citizenship and Im-
3 migration Services.

4 “(5) To propose changes in the administrative
5 practices of U.S. Customs and Border Protection,
6 U.S. Immigration and Customs Enforcement, and
7 United States Citizenship and Immigration Services
8 to mitigate problems identified under this section.

9 “(6) To review, examine, and make rec-
10 ommendations regarding the border security and im-
11 migration and enforcement activities of U.S. Cus-
12 toms and Border Protection, U.S. Immigration and
13 Customs Enforcement, and United States Citizen-
14 ship and Immigration Services.

15 “(7) To establish a uniform and standardized
16 complaint process regarding complaints against any
17 individual employed by U.S. Customs and Border
18 Protection or U.S. Immigration and Customs En-
19 forcement for violations of standards of professional
20 conduct. Such complaint process shall have the fol-
21 lowing components:

22 “(A) Require that all complaints receive an
23 independent review and investigation completed
24 not later than one year from the date of receipt
25 of each such complaint.

1 “(B) Require that complainants receive
2 written confirmation of receipt of their com-
3 plaints not later than 60 days from the date of
4 receipt of each such complaint, and a written
5 summary regarding the outcome of such com-
6 plaints not later than 30 days after the review
7 and investigation under subparagraph (A) is
8 complete, including findings of fact, rec-
9 ommended action, and available redress.

10 “(C) Feature a centralized multilingual on-
11 line complaint form that includes street ad-
12 dress, toll-free telephone number, and electronic
13 mailbox address to permit an individual to file
14 an immigration or border-related complaint and
15 submit supporting evidence through the portal
16 of choice of any such individual. Multilingual
17 information relating to such form shall be visi-
18 ble at ports of entry and at U.S. Border Patrol
19 interior checkpoints.

20 “(D) Include procedures for referring com-
21 plaints to the Office for Civil Rights and Civil
22 Liberties, Office of the Inspector General, or
23 other appropriate agency of the Department.

24 “(E) Establish a publicly accessible na-
25 tional, standardized database capable of track-

1 ing and analyzing complaints and their resolu-
2 tion.

3 “(F) Provide publicly accessible records,
4 with copies of complaints, and their resolutions
5 permanently preserved and available for inspec-
6 tion, while maintaining the confidentiality of
7 complainants’ identities.

8 “(8) To establish an online detainee locator sys-
9 tem for individuals held in U.S. Customs and Border
10 Protection custody.

11 “(e) OTHER RESPONSIBILITIES.—In addition to the
12 functions specified in subsection (d), the Ombudsman
13 shall—

14 “(1) monitor the coverage and geographic allo-
15 cation of local offices of the Ombudsman, including
16 appointing local ombudsmen for border and immi-
17 gration related concerns;

18 “(2) evaluate and take personnel actions (in-
19 cluding dismissal) with respect to any employee of
20 the Ombudsman;

21 “(3) recommend disciplinary action, including
22 contract termination, suspension, and debarment, or
23 termination, suspension, and sanctions, to the appro-
24 priate departmental entity regarding any contractor
25 proven to have violated departmental policies or pro-

1 cedures while executing any border security or immi-
2 gration activity;

3 “(4) refer to the Inspector General of the De-
4 partment any complaints of the violation of depart-
5 mental policies or procedures by any Department
6 employee relating to border security or immigration
7 activity; and

8 “(5) provide a complainant with a summary of
9 the outcome of any action taken in response to a
10 complaint, grievance, or request for assistance from
11 such complainant, including any findings of fact,
12 recommended action, and available redress.

13 “(f) COMPLAINANTS.—The following shall apply to
14 all complainants:

15 “(1) Any interested party, including a legal rep-
16 resentative, may file a complaint through the com-
17 plaint process established pursuant to subsection
18 (d)(7).

19 “(2) Complainants and other individuals identi-
20 fied in a complaint shall be protected from retalia-
21 tory action by law enforcement or by any officer of
22 the United States based on the content of such com-
23 plaint, and no information contained in a complaint
24 that is germane to such complaint may be used as
25 evidence in any removal or criminal proceedings

1 against the complainant or any individual identified
2 in such complaint.

3 “(3) Neither the filing of a complaint nor the
4 contents of a complaint shall in any way confer im-
5 munity or otherwise impact any removal or criminal
6 proceedings against a complainant or an individual
7 identified in such complaint.

8 “(4) No personally identifiable information re-
9 lated to an individual involved in a complaint which
10 would result in identification of such individual may
11 be published.

12 “(5) Complainants shall receive full assistance
13 from the Department in filing complaints, including
14 language assistance, accommodations for disabilities,
15 and accurate and complete responses to their ques-
16 tions.

17 “(g) REQUEST FOR INVESTIGATIONS.—The Ombuds-
18 man is authorized to request the Inspector General of the
19 Department to conduct inspections, investigations, and
20 audits related to subsections (d), (e), and (f).

21 “(h) COORDINATION WITH DEPARTMENT COMPO-
22 NENTS.—

23 “(1) IN GENERAL.—The Director of United
24 States Citizenship and Immigration Services, the As-
25 sistant Secretary of U.S. Immigration and Customs

1 Enforcement, and the Commissioner of U.S. Cus-
2 toms and Border Protection shall each establish pro-
3 cedures to provide formal responses to recommenda-
4 tions submitted to such officials by the Ombudsman
5 within 60 days of receiving such recommendations.

6 “(2) ACCESS TO INFORMATION.—The Secretary
7 shall establish procedures to provide the Ombuds-
8 man access to all departmental records necessary to
9 execute the responsibilities of the Ombudsman under
10 subsection (d) or (e) not later than 60 days after a
11 request from the Ombudsman for such information.

12 “(i) PUBLIC OUTREACH.—The Secretary shall—

13 “(1) take all appropriate action to advise the
14 public regarding the existence, duties, responsibil-
15 ities, and grievance processes of the Ombudsman’s
16 office; and

17 “(2) shall promulgate regulations to ensure—

18 “(A) the public’s ability to file grievances
19 with the Ombudsman’s office electronically; and

20 “(B) that absent written permission of all
21 affected parties, all documents submitted to the
22 Ombudsman’s office are used solely by the Om-
23 budsman’s office to advance the purposes de-
24 scribed in this section.

1 “(j) ANNUAL REPORTING.—Not later than June 30
2 of each year beginning in the year after the date of the
3 enactment of this subsection, the Ombudsman shall sub-
4 mit to the Committee on Homeland Security and the Com-
5 mittee on the Judiciary of the House of Representatives
6 and the Committee on Homeland Security and Govern-
7 mental Affairs and the Committee on the Judiciary of the
8 Senate a report that includes the following:

9 “(1) The number and type of complaints re-
10 ceived under this section, the demographics of com-
11 plainants, the results of investigations, including vio-
12 lations of standards and any disciplinary actions
13 taken, and an identification of any complaint pat-
14 terns that could be prevented or reduced by policy
15 training or practice changes.

16 “(2) An inventory of complaints referred to in
17 paragraph (1) for which action has been taken and
18 the time between receipt and resolution of each such
19 complaint.

20 “(3) An inventory of complaints referred to in
21 paragraph (1) for which action has not been taken
22 after one year, the period during which each com-
23 plaint has been open, and the reason for failure to
24 resolve each such complaint.

1 “(4) Recommendations the Ombudsman has
2 made to improve the services and responsiveness of
3 United States Citizenship and Immigration Services,
4 U.S. Immigration and Customs Enforcement, and
5 U.S. Customs and Border Protection, and any re-
6 sponses received from each such component or the
7 Department regarding such recommendations.

8 “(5) Other information as the Ombudsman de-
9 termines advisable.

10 “(k) ESTABLISHMENT OF BORDER COMMUNITIES LI-
11 AISON OFFICE.—

12 “(1) IN GENERAL.—The Ombudsman, in con-
13 junction with the Office for Civil Rights and Civil
14 Liberties of the Department, shall establish a Bor-
15 der Community Liaison Office (in this subsection re-
16 ferred to as the ‘Liaison Office’) in each U.S. Bor-
17 der Patrol sector on the northern and southern bor-
18 ders.

19 “(2) PURPOSES.—Each Liaison Office under
20 this subsection shall—

21 “(A) foster cooperation between the U.S.
22 Border Patrol, the Office of Field Operations of
23 the Department, U.S. Immigration and Cus-
24 toms Enforcement, and border communities;

1 “(B) consult with border communities on
2 the development of policies, directives, and pro-
3 grams of the U.S. Border Patrol, the Office of
4 Field Operations, and U.S. Immigration and
5 Customs Enforcement; and

6 “(C) receive feedback from border commu-
7 nities on the performance of the U.S. Border
8 Patrol, the Office of Field Operations, and U.S.
9 Immigration and Customs Enforcement.

10 “(3) MEMBERSHIP.—Each Liaison Office shall
11 be comprised of equal representation from the bor-
12 der community and U.S. Customs and Border Pro-
13 tection and U.S. Immigration and Customs Enforce-
14 ment, including at least:

15 “(A) One member of the community in
16 which each U.S. Border Patrol sector is located
17 who has expertise in migration, local public
18 safety, civil and human rights, the local commu-
19 nity, or community relations.

20 “(B) One member of an Indian tribe (as
21 such term is defined in section 4(e) of the In-
22 dian Self-Determination and Education Assist-
23 ance Act (25 U.S.C. 5304(e)) or tribal organi-
24 zation.

1 “(C) One non-uniformed Border Patrol
2 agent with significant experience working for
3 the U.S. Border Patrol.

4 “(D) One non-uniformed CBP officer with
5 significant experience working for U.S. Customs
6 and Border Protection.

7 “(E) One Enforcement and Removal Oper-
8 ations (ERO) agent with significant experience
9 working for U.S. Immigration and Customs En-
10 forcement.

11 “(I) REPORT ON THE IMPACT OF BORDER ENFORCE-
12 MENT TECHNOLOGIES AND OPERATIONS ON BORDER
13 COMMUNITIES.—Not later than 180 days after the date
14 of the enactment of this subsection, the Secretary shall
15 submit to the Committee on Homeland Security and the
16 Committee on the Judiciary of the House of Representa-
17 tives and the Committee on Homeland Security and Gov-
18 ernmental Affairs and the Committee on the Judiciary of
19 the Senate a report that assesses current efforts and tech-
20 nologies used at United States borders, and the impact
21 on border communities of such efforts and technologies on
22 civil rights, private property rights, privacy rights, and
23 civil liberties.

24 “(m) GAO REPORT ON THE EXTENT OF CBP AC-
25 TIVITIES, OPERATIONS, AND CLAIMED AUTHORITY.—Not

1 later than one year after the date of the enactment of this
2 subsection, the Comptroller General of the United States
3 shall submit to the Committee on Homeland Security and
4 the Committee on the Judiciary of the House of Rep-
5 resentatives and the Committee on Homeland Security
6 and Governmental Affairs and the Committee on the Judi-
7 ciary of the Senate a report that assesses the following
8 issues:

9 “(1) How far into the United States interior
10 the current activities, operations (including check-
11 points), and claimed authority of U.S. Customs and
12 Border Protection extend.

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

16 “(3) The effectiveness of U.S. Customs and
17 Border Protection’s interior enforcement and its im-
18 pact on civil, constitutional, and private property
19 rights.”.

20 (b) CLERICAL AMENDMENT.—The table of contents
21 of the Homeland Security Act of 2002 is amended by
22 amending the item relating to section 452 to read as fol-
23 lows:

“Sec. 452. Ombudsman for Border and Immigration Related Concerns.”.

1 **SEC. 4. TRAINING AND CONTINUING EDUCATION.**

2 (a) MANDATORY TRAINING AND CONTINUING EDU-
3 CATION TO PROMOTE CBP AGENT AND OFFICER SAFETY
4 AND PROFESSIONALISM.—The Secretary of Homeland Se-
5 curity shall establish policies and guidelines to ensure that
6 every agent and officer of U.S. Customs and Border Pro-
7 tection receives a minimum of 19 weeks of training that
8 are directly related to the mission of the U.S. Border Pa-
9 trol and the Office of Field Operations of the Department
10 of Homeland Security before the initial assignment of such
11 agents and officers, and eight hours of training and con-
12 tinuing education annually thereafter. Such training and
13 continuing education shall be conducted by attorneys who
14 have experience with the Fourth Amendment to the Con-
15 stitution, including appropriate application of the use of
16 force by agents and officers of U.S. Customs and Border
17 Protection. Such attorneys shall be members of the De-
18 partment of Homeland Security’s Office of General Coun-
19 sel, and all instruction provided shall be in alignment with
20 curriculum developed and endorsed by FLETC.

21 (b) FLETC.—The Secretary of Homeland Security
22 shall establish policies and guidelines governing training
23 with FLETC and continuing education of agents and offi-
24 cers of U.S. Customs and Border Protection and U.S. Im-
25 migration and Customs Enforcement regarding border
26 awareness, accountability, and oversight. Such training

1 with FLETC shall include individual courses for each of
2 the following issues:

3 (1) Community relations, including the fol-
4 lowing:

5 (A) Best practices in community policing.

6 (B) Policies limiting location of enforce-
7 ment and cooperation with local law enforce-
8 ment.

9 (C) Best practices in responding to griev-
10 ances and how to refer complaints to the Om-
11 budsman for Border and Immigration Related
12 Concerns in accordance with section 452 of the
13 Homeland Security Act of 2002, as amended by
14 section 3 of this Act.

15 (2) Interdiction, including the following:

16 (A) Instruction on formal and proper com-
17 mand language.

18 (B) Situational awareness of what lan-
19 guage is appropriate.

20 (C) Legal application of use of force poli-
21 cies and guidelines.

22 (D) Policies and training scenarios nec-
23 essary to ensure the agent or officer and the
24 community is safe when intervening in situa-
25 tions in urban areas, including—

1 (i) scenario-based training and guide-
2 lines; and

3 (ii) non-lethal force training and cer-
4 tification on at least one non-lethal force
5 instrument, including tasers.

6 (E) Policies necessary to ensure the agent
7 or officer and the community is safe when in-
8 tervening in situations in rural and remote loca-
9 tions.

10 (3) Vulnerable populations, including instruc-
11 tion on screening, identifying, and responding to vul-
12 nerable populations, such as children, victims of
13 human trafficking, and the acutely ill.

14 (4) Cultural and societal issues, including the
15 following:

16 (A) Understanding of the diversity of im-
17 migrant communities.

18 (B) Language and basic cultural aware-
19 ness of major migrant-sending countries.

20 (C) Natural resource protection and envi-
21 ronmental policies along the border.

22 (D) Privacy considerations regarding bor-
23 der-related technologies.

24 (E) History and ethics of asylum law.

1 (5) Standards of professional conduct, including
2 the following:

3 (A) Lawful use of force.

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

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

8 (D) Respect for civil rights and protection
9 of the well-being of individuals.

10 (E) Non-racially biased questioning.

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

13 (c) SUPERVISOR TRAINING.—In addition to the train-
14 ing and continuing education required under subsections
15 (a) and (b), the Secretary of Homeland Security shall es-
16 tablish policies and guidelines governing the continuing
17 education of agents and officers of U.S. Customs and Bor-
18 der Protection and U.S. Immigration and Customs En-
19 forcement who attain a supervisory or management posi-
20 tion. Such training and continuing education shall include
21 the following:

22 (1) Instruction relating to management and
23 leadership best practices.

24 (2) Refresher instruction or in-service training
25 relating to legal application of use of force policies

1 and guidelines, intervention, community relations,
2 and professional conduct.

3 (3) Mitigation training to identify, diagnose,
4 and address issues within such supervisory and man-
5 agement roles.

6 (d) REVIEW PROCESS.—The Secretary of Homeland
7 Security shall establish a review process to ensure that
8 port supervisors and managers of U.S. Customs and Bor-
9 der Protection and U.S. Immigration and Customs En-
10 forcement, as the case may be, are evaluated annually on
11 their actions and standards of conduct, and on the actions,
12 situational and educational development, and standards of
13 conduct of their staffs.

14 (e) CONTINUING EDUCATION.—

15 (1) IN GENERAL.—The Secretary of Homeland
16 Security shall annually require all agents and offi-
17 cers of U.S. Customs and Border Protection and
18 U.S. Immigration and Customs Enforcement who
19 are required to undergo training under subsections
20 (a) through (c) to participate in continuing edu-
21 cation to maintain and update understanding of
22 Federal legal rulings, court decisions, and Depart-
23 ment of Homeland Security policies, procedures, and
24 guidelines related to the subject matters described in
25 such subsections.

1 (2) CONSTITUTIONAL AUTHORITY SUBJECT
2 MATTER.—Continuing education under this sub-
3 section shall include a course on protecting the civil,
4 constitutional, human, and privacy rights of individ-
5 uals, with special emphasis on the scope of enforce-
6 ment authority, including chain of evidence practices
7 and document seizure, and use of force policies
8 available to agents and officers.

9 (3) ADDITIONAL SUBJECT MATTERS.—Con-
10 tinuing education under this subsection shall also in-
11 clude a course on the following:

12 (A) Scope of authority to conduct immigra-
13 tion enforcement activities, including interviews,
14 interrogations, stops, searches, arrests, and de-
15 tentions, in addition to identifying and detect-
16 ing fraudulent documents.

17 (B) Identifying, screening, and responsi-
18 bility for vulnerable populations, such as chil-
19 dren and victims of trafficking.

20 (C) Cultural and societal issues, including
21 understanding of the diversity of immigrant
22 communities, language and basic cultural
23 awareness of major migrant-sending countries,
24 and natural resource protection and environ-
25 mental policies along the border.

1 (4) ADMINISTRATION.—Courses offered as part
2 of continuing education under this subsection
3 shall—

4 (A) be administered in consultation with
5 FLETC by the individual U.S. Border Patrol
6 sectors and the Office of Field Operations of
7 the Department of Homeland Security in order
8 to provide such sectors' field offices with flexi-
9 bility to design or tailor such courses to the
10 specific needs and conditions of each such sec-
11 tor and field office; and

12 (B) be approved by the Secretary of Home-
13 land Security before being offered to ensure
14 that such courses satisfy the requirements for
15 training under this section.

16 (5) ROTATION.—Courses offered as part of con-
17 tinuing education under this subsection shall in-
18 clude—

19 (A) a yearly course focusing on the cur-
20 riculum described in paragraph (2); and

21 (B) an additional course to be rotated on
22 a three-year basis focusing on curriculum de-
23 scribed in paragraph (3).

24 (f) ASSESSMENT.—Not later than six years after the
25 date of the enactment of this Act, the Comptroller General

1 of the United States shall submit to the Committee on
2 Homeland Security of the House of Representatives and
3 the Committee on Homeland Security and Governmental
4 Affairs of the Senate a report that assesses the training
5 and education, including continuing education, required
6 under this section.

7 **SEC. 5. MANAGEMENT OF PORTS OF ENTRY.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of the enactment of this Act, the Secretary of Home-
10 land Security shall submit to the Committee on Homeland
11 Security of the House of Representatives and the Com-
12 mittee on Homeland Security and Governmental Affairs
13 of the Senate a report that contains an assessment of the
14 current standards and guidelines for managing ports of
15 entry under the control of the Department of Homeland
16 Security. Such assessment shall include information relat-
17 ing to the following:

18 (1) Staffing levels and the need for additional
19 staffing.

20 (2) Rules governing the actions of Office of
21 Field Operations agents.

22 (3) Average delays for transit through air, land,
23 and sea ports of entry.

24 (4) An assessment of existing efforts and tech-
25 nologies used for border security, and the effect of

1 the use of such efforts and technologies on facili-
2 tating trade at ports of entry and their impact on
3 civil rights, private property rights, privacy rights,
4 and civil liberties.

5 (5) The economic impact of the policies and
6 practices of CBP Agricultural Specialists and Office
7 of Field Operations work.

8 (6) Physical infrastructure and technological
9 needs at ports of entry.

10 (7) A plan for increasing the number of Border
11 Patrol officers certified as EMTs.

12 (8) An assessment for implementing body worn
13 cameras for Border Patrol agents, including relating
14 to storage and public availability of associated data.

15 (b) UPDATES.—Based upon the information and as-
16 sessment contained in the report required under sub-
17 section (a), the Secretary of Homeland Security shall es-
18 tablish updated guidelines and standards for managing
19 ports of entry under the control of the Department of
20 Homeland Security to address any identified needs or
21 shortcomings at such ports of entry, including, if applica-
22 ble, the following:

23 (1) Increasing levels of staffing of CBP Agricul-
24 tural Specialists at ports of entry at which delays

1 hinder or negatively impact the local or national
2 economies.

3 (2) Increasing the use of or updating tech-
4 nology at ports of entry at which there are average
5 delays of over two hours based on U.S. Customs and
6 Border Protection data collected during the previous
7 fiscal year.

8 (3) Publishing rules on the handling of docu-
9 ments at ports of entry.

10 (4) Establishing standards of conduct and de-
11 meanor when interacting with vulnerable popu-
12 lations, such as children and victims of human traf-
13 ficking, and individuals with border crossing cards.

14 (5) Establishing training courses relating to
15 management and leadership skills for supervisors
16 and managers at ports of entry.

17 **SEC. 6. REPORTING REQUIREMENTS.**

18 (a) ANNUAL CBP REPORT ON MISSION AND PER-
19 SONNEL BY BORDER PATROL SECTOR.—Not later than
20 one year after the date of the enactment of this Act and
21 annually thereafter, the Commissioner of U.S. Customs
22 and Border Protection shall submit to the Committee on
23 Homeland Security of the House of Representatives and
24 the Committee on Homeland Security and Governmental

1 Affairs of the Senate a report that includes the following
2 for each Border Patrol sector:

3 (1) An assessment of the most appropriate,
4 practical, and cost effective means of defending the
5 land borders of the United States against threats to
6 security and illegal transit, including intelligence ca-
7 pacities, technology, equipment, personnel, and
8 training needed to address security vulnerabilities.

9 (2) An assessment of staffing needs for all bor-
10 der security functions, including an assessment of
11 efforts to take into account asylum seekers, traf-
12 ficking victims, unaccompanied children, and other
13 vulnerable populations.

14 (3) A description of the border security roles
15 and missions of Federal, State, regional, local, and
16 Tribal authorities, and recommendations regarding
17 actions the Commissioner can carry out to improve
18 coordination with such authorities to enable border
19 security activities to be carried out in a more effi-
20 cient and effective manner.

21 (4) A description of ways to ensure that the
22 free flow of travel and commerce is not diminished
23 by efforts, activities, and programs aimed at secur-
24 ing the land borders of the United States.

1 (5) An impact assessment of the loss of trade
2 and commerce due to inadequate staffing at land
3 ports of entry by U.S. Customs and Border Protec-
4 tion agents and officers.

5 (b) REPORT ON MIGRANT DEATHS.—

6 (1) CBP AND ICE.—Not later than 180 days
7 after the date of the enactment of this Act, the
8 Commissioner of U.S. Customs and Border Protec-
9 tion and the Director of U.S. Immigration and Cus-
10 toms Enforcement shall jointly submit to the Comp-
11 troller General of the United States, the Committee
12 on Homeland Security of the House of Representa-
13 tives, and the Committee on Homeland Security and
14 Governmental Affairs of the Senate a report relating
15 to deaths occurring along the United States-Mexico
16 border, including information on the following:

17 (A) The number of documented migrant
18 deaths.

19 (B) A geographical breakdown of where
20 such migrant deaths occur.

21 (C) To the extent possible, the cause of
22 death for each migrant.

23 (D) The extent to which border technology,
24 physical barriers, and enforcement programs
25 have contributed to such migrant deaths.

1 (E) A detailed description of U.S. Customs
2 and Border Protection and U.S. Immigration
3 and Customs Enforcement programs or plans to
4 reduce the number of migrant deaths along the
5 border, including an assessment on the effec-
6 tiveness of water supply sites and rescue bea-
7 cons.

8 (2) GAO.—Not later than 90 days after the
9 submission of the report required under paragraph
10 (1), the Comptroller General of the United States
11 shall review such report to determine the following:

12 (A) The validity of U.S. Customs and Bor-
13 der Protection's and U.S. Immigration and
14 Customs Enforcement's statistical analysis of
15 migrant deaths.

16 (B) The extent to which U.S. Customs and
17 Border Protection and U.S. Immigration and
18 Customs Enforcement have adopted simple and
19 low-cost measures, such as water supply sites
20 and rescue beacons, to reduce the frequency of
21 migrants deaths.

22 (C) The extent to which U.S. Customs and
23 Border Protection and U.S. Immigration and
24 Customs Enforcement measures the effective-

1 ness of its programs to address the frequency
2 of migrant deaths.

3 (D) The extent of data and information
4 sharing and cooperation between U.S. Customs
5 and Border Protection, U.S. Immigration and
6 Customs Enforcement, local and State law en-
7 forcement, foreign diplomatic and consular
8 posts, and nongovernmental organizations to
9 accurately identify deceased individuals and no-
10 tify family members and compare information
11 to missing persons registries.

12 (c) GAO REPORT ON USE OF FORCE.—

13 (1) IN GENERAL.—Not later than one year
14 after the date of the enactment of this Act, the
15 Comptroller General of the United States shall ex-
16 amine the extent to which U.S. Customs and Border
17 Protection and U.S. Immigration and Customs En-
18 forcement have clarified use of force policies, includ-
19 ing the following (and any recommendations related
20 to the following):

21 (A) The extent to which U.S. Customs and
22 Border Protection and U.S. Immigration and
23 Customs Enforcement have implemented new
24 training tactics to improve use of force policies,
25 including how the use of force policy conforms

1 to Department of Homeland Security and Fed-
2 eral law enforcement best practices.

3 (B) The extent to which U.S. Customs and
4 Border Protection and U.S. Immigration and
5 Customs Enforcement have identified additional
6 or alternative weapons and equipment to im-
7 prove agents' and officers' abilities to de-esca-
8 late confrontations, including protective gear.

9 (C) Efforts to review and enhance current
10 training and tactics related to use of force, and
11 to implement reforms to ensure agents and offi-
12 cers are better equipped to assess and respond
13 to threats.

14 (D) The extent to which U.S. Customs and
15 Border Protection and U.S. Immigration and
16 Customs Enforcement have established a stake-
17 holder engagement framework to better inform
18 and enhance U.S. Customs and Border Protec-
19 tion's use of force training.

20 (E) The extent to which U.S. Customs and
21 Border Protection and U.S. Immigration and
22 Customs Enforcement have established metrics
23 to track the effectiveness of use of force train-
24 ing and to ensure the reporting of all uses of
25 force for review to determine whether the force

1 used was justified and whether it could have
2 been avoided through different tactics or train-
3 ing, better supervision, different tools, adher-
4 ence to policy, or changes in policy.

5 (F) How U.S. Customs and Border Protec-
6 tion and U.S. Immigration and Customs En-
7 forcement could implement best law enforce-
8 ment practices to improve policies for trans-
9 parent communication with family members of
10 individuals injured or killed by U.S. Customs
11 and Border Protection or U.S. Immigration and
12 Customs Enforcement agent's and officer's use
13 of force, including updates on any pending in-
14 vestigations, and policies for timely notification
15 of such injuries and deaths following such uses
16 of force to the Commissioner of U.S. Customs
17 and Border Protection or the Director of U.S.
18 Immigration and Customs Enforcement (as the
19 case may be), the Joint Intake Center of the
20 Department of Homeland Security, the Office
21 of Inspector General of the Department, the Of-
22 fice for Civil Rights and Civil Liberties of the
23 Department, the Offices of Public Affairs of the
24 Department, Congress, and the applicable con-
25 sulates, if appropriate.

1 (G) How recommendations and requests
2 made by agents and officers of U.S. Customs
3 and Border Protection and U.S. Immigration
4 and Customs Enforcement have been received,
5 reviewed, and if possible implemented into U.S.
6 Customs and Border Protection and Depart-
7 ment of Homeland Security use of force policies
8 and best practices.

9 (H) The extent to which U.S. Customs and
10 Border Protection and U.S. Immigration and
11 Customs Enforcement electronically track per-
12 sonal searches and seizures of personal items at
13 the border, and an assessment of how such in-
14 formation is used to inform U.S. Customs and
15 Border Protection and U.S. Immigration and
16 Customs Enforcement policies and procedures.

17 (2) IMPLEMENTATION OF GAO FINDINGS.—The
18 Secretary of Homeland Security shall direct the
19 Commissioner of U.S. Customs and Border Protec-
20 tion and the Director of U.S. Immigration and Cus-
21 toms Enforcement to implement any recommenda-
22 tions contained in the report required under para-
23 graph (1). If the Secretary does not so implement
24 such recommendations, the Secretary shall submit to
25 the Committee on Homeland Security of the House

1 of Representatives and the Committee on Homeland
 2 Security and Governmental Affairs of the Senate a
 3 written notification explaining why such rec-
 4 ommendations are not being so implemented.

5 (d) GAO REPORT ON BODY WORN CAMERAS.—Not
 6 later than one year after the date of the enactment of this
 7 Act, the Comptroller General of the United States shall
 8 assess the potential implementation by U.S. Customs and
 9 Border Protection and U.S. Immigration and Customs
 10 Enforcement of body worn cameras for all agents and offi-
 11 cers of U.S. Customs and Border Protection and U.S. Im-
 12 migration and Customs Enforcement, including relating to
 13 storage and public availability of associated data.

14 **SEC. 7. DEPARTMENT OF HOMELAND SECURITY ACCOUNT-**
 15 **ABILITY AND TRANSPARENCY.**

16 (a) DEFINITIONS.—In this section:

17 (1) BORDER SECURITY.—The term “border se-
 18 curity” means the prevention of unlawful entries
 19 into the United States, including entries by individ-
 20 uals, instruments of terrorism, narcotics, and other
 21 contraband.

22 (2) CHECKPOINT.—The term “checkpoint”
 23 means a location—

24 (A) at which vehicles or individuals trav-
 25 eling through the location are stopped by a law

1 enforcement official for the purposes of enforce-
2 ment of United States laws and regulations;
3 and

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

7 (3) LAW ENFORCEMENT OFFICIAL.—The term
8 “law enforcement official” means—

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

11 (B) an agent or officer of U.S. Immigra-
12 tion and Customs Enforcement; or

13 (C) an officer or employee of a State, or a
14 political subdivision of a State, who is carrying
15 out the functions of an immigration officer pur-
16 suant to—

17 (i) an agreement entered into under
18 section 287(g) of the Immigration and Na-
19 tionality Act (8 U.S.C. 1357(g));

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

23 (iii) any other agreement with the De-
24 partment of Homeland Security, including
25 any Federal grant program.

1 (4) PATROL STOP.—The term “patrol stop”
2 means search, seizure, or interrogation of a motor-
3 ist, passenger, or pedestrian initiated anywhere ex-
4 cept as part of an inspection at a port of entry or
5 a primary inspection at a checkpoint.

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

9 (6) SECONDARY INSPECTION.—The term “sec-
10 ondary inspection” means a further inspection of a
11 vehicle or individual that is conducted following a
12 primary inspection.

13 (b) DATA COLLECTION BY LAW ENFORCEMENT OF-
14 FICIALS ENFORCING UNITED STATES LAWS AND REGU-
15 LATIONS AND MAKING BORDER SECURITY STOPS.—

16 (1) REQUIREMENT FOR DATA COLLECTION RE-
17 GARDING STOPS AND SEARCHES.—A law enforce-
18 ment official who initiates a patrol stop or who de-
19 tains any individual beyond a brief and limited in-
20 quiry, such as a primary inspection at a checkpoint,
21 shall record—

22 (A) the date, time, and location of the con-
23 tact;

24 (B) the law enforcement official’s basis for,
25 or circumstances surrounding, the contact, in-

1 including if such individual's perceived race or
2 ethnicity contributed to the basis for, and cir-
3 cumstances surrounding, the contact;

4 (C) the identifying characteristics of such
5 individual, including the individual's perceived
6 race, gender, ethnicity, and approximate age;

7 (D) the duration of the stop, detention, or
8 search, whether consent was requested and ob-
9 tained for the contact, including any search;

10 (E) a description of any articulable facts
11 and behavior by the individual that justify initi-
12 ating the contact or probable cause to justify
13 any search pursuant to such contact;

14 (F) a description of any items seized dur-
15 ing such search, including contraband or
16 money, and a specification of the type of search
17 conducted;

18 (G) whether any arrest, detention, warn-
19 ing, or citation resulted from such contact and
20 the basis for such action;

21 (H) the immigration status of the indi-
22 vidual, if obtained during the ordinary course of
23 the contact without additional questioning in
24 accordance with this section, and whether re-

1 moval proceedings were subsequently initiated
2 against the individual;

3 (I) whether a body-worn camera or any
4 other video or audio recording exists that re-
5 corded the stop or detention;

6 (J) whether force was used by the law en-
7 forcement official and, if so, the type of force,
8 justification for using force, and whether the
9 use of force resulted in injury or death;

10 (K) whether any complaint was made by
11 the individual subject to the contact, and if
12 so—

13 (i) which oversight components within
14 or outside of the Department of Homeland
15 Security investigated the complaint;

16 (ii) how long the investigation lasted;

17 (iii) a description of the methods of
18 investigation used; and

19 (iv) the badge number of the law en-
20 forcement official involved in the com-
21 plaint;

22 (L) if the contact was initiated by a State
23 or local law enforcement agency—

24 (i) the reason for involvement of a
25 Federal law enforcement official;

1 (ii) the duration of the contact prior
2 to contact with any Federal law enforce-
3 ment official;

4 (iii) the method by which a Federal
5 law enforcement official was informed of
6 the stop; and

7 (iv) whether the individual was being
8 held by State or local officials on State
9 criminal charges at the time of such con-
10 tact;

11 (M) if the contact was initiated by a State
12 or local law enforcement agency of a State,
13 whether such agency was acting pursuant to—

14 (i) an agreement entered into under
15 section 287(g) of the Immigration and Na-
16 tionality Act (8 U.S.C. 1357(g));

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

20 (iii) pursuant to any other agreement
21 with the Department of Homeland Secu-
22 rity, including any Federal grant program;

23 (N) if the contact involved an individual
24 whose primary language of communication is
25 not English, the means of communication used;

1 (O) if the contact occurred at a location
2 proximate to a place of worship or religious
3 ceremony, school or education-related place or
4 event, courthouse or other civic building pro-
5 viding services accessible to the public, hospital,
6 medical treatment, or health care facility, at a
7 public demonstration, or an attorney's office,
8 including a public defender or legal aid office;
9 and

10 (P) if the contact occurred at a location
11 described in subparagraph (O), why that loca-
12 tion was chosen and any supervisory approval
13 that was sought to carry out the contact at the
14 location.

15 (2) REQUIREMENT FOR U.S. CUSTOMS AND
16 BORDER PROTECTION DATA COLLECTION REGARD-
17 ING CHECKPOINTS.—The Commissioner of U.S. Cus-
18 toms and Border Protection shall collect data on—

19 (A) the number of permanent and tem-
20 porary checkpoints utilized by agents and offi-
21 cers of U.S. Customs and Border Protection;

22 (B) the location of each such checkpoint;

23 (C) the dates on which a temporary check-
24 point was used; and

1 (D) a description of each such checkpoint,
2 including the presence of any other law enforce-
3 ment agencies and the use of law enforcement
4 resources, such as canines and surveillance
5 technologies, including license plate readers.

6 (3) RULEMAKING.—Not later than 180 days
7 after the date of the enactment of this Act, the Sec-
8 retary of Homeland Security, in consultation with
9 stakeholders, including research, civil, and human
10 rights organizations, shall promulgate regulations re-
11 lating to the collection and reporting of data re-
12 quired under paragraphs (1) and (2), which shall—

13 (A) specify all data to be reported; and

14 (B) provide standards, definitions, and
15 technical specifications to ensure uniform re-
16 porting.

17 (4) COMPILATION OF DATA.—

18 (A) DEPARTMENT OF HOMELAND SECU-
19 RITY LAW ENFORCEMENT OFFICIALS.—The
20 Secretary of Homeland Security shall compile—

21 (i) the data collected under paragraph
22 (1) by agents and officers of U.S. Immi-
23 gration and Customs Enforcement and
24 U.S. Customs and Border Protection;

1 (ii) the data collected under para-
2 graph (2) by the Commissioner of U.S.
3 Customs and Border Protection; and

4 (iii) an analysis for all incidents inves-
5 tigated by the Department of Homeland
6 Security's Office of Inspector General,
7 U.S. Customs and Border Protection's Of-
8 fice of Professional Responsibility, or U.S.
9 Immigration and Customs Enforcement's
10 Office of Professional Responsibility to de-
11 termine whether the data required to be
12 collected under this Act were properly re-
13 corded and, if not, the corrective measures
14 that were or will be taken.

15 (B) OTHER LAW ENFORCEMENT OFFI-
16 CIALS.—The head of each agency, department,
17 or other entity that employs law enforcement
18 officials other than agents and officers referred
19 to in subparagraph (A) shall—

20 (i) compile the data collected by such
21 law enforcement officials pursuant to para-
22 graph (1); and

23 (ii) submit the compiled data to the
24 Secretary of Homeland Security.

1 (5) USE OF DATA.—The Secretary of Homeland
2 Security shall consider the data compiled under
3 paragraph (4) in making policy and program deci-
4 sions.

5 (6) AUDIT AND REPORT.—Not later than one
6 year after the effective date of the regulations pro-
7 mulgated under paragraph (3), the Comptroller Gen-
8 eral of the United States shall—

9 (A) conduct an audit of the data compiled
10 under paragraph (4) to determine whether law
11 enforcement officials are complying with the
12 data collection requirements under paragraph
13 (1); and

14 (B) submit to Congress a report that con-
15 tains a summary of the findings of such audit.

16 (c) ANNUAL REPORT.—

17 (1) REQUIREMENT.—Not later than one year
18 after the date of the enactment of this Act and an-
19 nually thereafter, the Secretary of Homeland Secu-
20 rity shall submit to Congress a report on the data
21 compiled under subsection (b)(4), including all such
22 data for the previous year.

23 (2) AVAILABILITY.—Each report submitted
24 under paragraph (1) shall be made available to the

1 public, except for particular data if the Secretary of
2 Homeland Security—

3 (A) explicitly invokes an exemption con-
4 tained in paragraphs (1) through (9) of section
5 552(b) of title 5, United States Code; and

6 (B) provides a written explanation for the
7 exemption’s applicability.

8 (3) PRIVACY.—The Secretary may not report
9 unique personal identifying information of persons
10 stopped, searched, or subjected to a property sei-
11 zure, for purposes of this section.

12 (4) PUBLICATION.—The data compiled under
13 subsection (b)(4) shall be made available to the pub-
14 lic to the extent the release of such data is permis-
15 sible under Federal law.

16 **SEC. 8. LIMITATION ON THE SEPARATION OF FAMILIES.**

17 (a) IN GENERAL.—An agent or officer of a des-
18 ignated agency shall be prohibited from removing a child
19 from his or her parent or legal guardian, at or near the
20 port of entry or within 100 miles of a border of the United
21 States, unless one of the following has occurred:

22 (1) A State court, authorized under State law,
23 terminates the rights of the parent or legal guard-
24 ian, determines that it is in the best interests of the
25 child to be removed from the parent or legal guard-

1 ian, in accordance with the Adoption and Safe Fam-
2 ilies Act of 1997 (Public Law 105–89), or makes
3 any similar determination that is legally authorized
4 under State law.

5 (2) An official from the State or county child
6 welfare agency with expertise in child trauma and
7 development makes a best interests determination
8 that it is in the best interests of the child to be re-
9 moved from the parent or legal guardian because the
10 child is in danger of abuse or neglect at the hands
11 of the parent or legal guardian, or is a danger to
12 herself or others.

13 (3) The Chief Patrol Agent or the Area Port
14 Director in their official and undelegated capacity,
15 authorizes separation upon the recommendation by
16 an agent or officer, based on a finding that—

17 (A) the child is a victim of trafficking or
18 is at significant risk of becoming a victim of
19 trafficking;

20 (B) there is a strong likelihood that the
21 adult is not the parent or legal guardian of the
22 child; or

23 (C) the child is in danger of abuse or ne-
24 glect at the hands of the parent or legal guard-
25 ian, or is a danger to themselves or others,

1 except that, in the case that a child is removed from
2 his or her parent or legal guardian under this sec-
3 tion, an independent child welfare expert licensed by
4 the State or county in which the child was so re-
5 moved, authorizes the separation not later than 48
6 hours after such removal, and if such expert does
7 not authorize such separation, the child shall be re-
8 united with his or her parent or legal guardian not
9 later than 48 hours after such determination.

10 (b) PROHIBITION ON SEPARATION.—

11 (1) IN GENERAL.—A designated agency may
12 not remove a child from a parent or legal guardian
13 solely for the policy goal of deterring individuals
14 from migrating to the United States or for the pol-
15 icy goal of promoting compliance with civil immigra-
16 tion laws.

17 (2) PENALTY FOR FAMILY SEPARATION.—Any
18 person who knowingly separates a child from his or
19 her parent or legal guardian in violation of this sec-
20 tion, shall be fined not more than \$10,000.

21 (c) DOCUMENTATION REQUIRED.—The Secretary
22 shall ensure that a separation under subsection (a)(3) is
23 documented in writing and includes, at a minimum, the
24 reason for such separation, together with the stated evi-
25 dence for such separation.

1 **SEC. 9. ELECTRONIC TRACKING.**

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

6 (1) shall be accessible to agents and officials of
7 U.S. Customs and Border Protection, U.S. Immigra-
8 tion and Customs Enforcement, and the Office of
9 Refugee Resettlement; and

10 (2) shall be used to track the location of a child
11 who has been removed pursuant to section 8 and the
12 parent or legal guardian of the child.

13 (b) TRACKING NUMBER.—The Secretary of Home-
14 land Security shall assign to a child who has been removed
15 pursuant to section 8 and the parent or legal guardian
16 of the child a tracking number that—

17 (1) is transferrable;

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

21 (A) U.S. Customs and Border Protection;

22 (B) U.S. Immigration and Customs En-
23 forcement; and

24 (C) the Office of Refugee Resettlement;
25 and

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

3 (c) **CONTACT INFORMATION.**—The Secretary of
4 Homeland Security and the Secretary of Health and
5 Human Services shall advise a child who has been removed
6 pursuant to section 8 and the parent or legal guardian
7 of the child on the manner in which the child and the par-
8 ent or legal guardian may be contacted during the term
9 of the removal.

10 **SEC. 10. INDEPENDENCE OF IMMIGRATION JUDGES.**

11 Not later than 1 year after the date of enactment
12 of this Act, the Comptroller General of the United States
13 shall submit to Congress a report, which shall be published
14 and made available to the public, on the feasibility of es-
15 tablishing an immigration court outside the executive
16 branch composed of judges appointed for a fixed term with
17 jurisdiction over cases arising out of the Immigration and
18 Nationality Act (8 U.S.C. 1101 et seq.) or any other immi-
19 gration law of the United States and the appeal of such
20 cases, the impact that such an immigration court will have
21 on the case backlog of immigration judges, barriers to the
22 creation of such an immigration court, and recommenda-
23 tions for Congress.

○