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.

OCTOBER 17, 2019

Mr. GREEN of Texas (for himself and Mr. THOMPSON of Mississippi) introduced the following bill; which was referred to the Committee on Homeland Security

NOVEMBER –, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 17, 2019]
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.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Hom-
eland Security Office of Civil Rights and Civil Liberties Au-
thorization Act”.

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

(a) IN GENERAL.—Section 705 of the Homeland Secu-
rity Act of 2002 (6 U.S.C. 345) is amended—

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

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

“(a) IN GENERAL.—There is established within the De-
partment an Office for Civil Rights and Civil Liberties. The
head of such Office is the Officer for Civil Rights and Civil
Liberties, who shall report directly to the Secretary.

“(b) RESPONSIBILITIES.—The Officer for Civil Rights
and Civil Liberties shall carry out the following responsibil-
ities:

“(1) Oversee compliance with constitutional,
statutory, regulatory, policy, and other requirements
relating to the civil rights and civil liberties of indi-
viduals affected by the programs and activities of the
Department.
“(2) Integrate civil rights and civil liberties protections into all programs and activities of the Department.

“(3) Conduct civil rights and civil liberties impact assessments, as appropriate.

“(4) Conduct periodic reviews of policies, procedures, and activities of the Department relating to civil rights and civil liberties.

“(5) Provide policy advice, recommendations, and other technical assistance relating to civil rights and civil liberties to the Secretary and to heads of components, directorates, and offices and other personnel within the Department.

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

“(7) Initiate reviews, assessments, inspections, and investigations of the administration of the programs and activities by the Department relating to civil rights and civil liberties, as the Officer determines necessary.
“(8) Coordinate with the Privacy Officer to ensure that—

“(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

“(B) Congress receives appropriate reports regarding such programs, policies, and procedures.

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

“(10) Make publicly available through accessible communications channels, including the website of the Department—

“(A) information on the responsibilities and functions of, and how to contact, the Officer; and

“(B) reports that are issued by the Officer upon completion of investigations carried out pursuant to paragraph (6) or (7).

“(11) Engage with individuals and communities whose civil rights and civil liberties may be affected by programs and activities of the Department, including by informing such individuals and communities
about report and redress processes and advising the Secretary and heads of components, directorates, offices, and other personnel within the Department of any concerns raised by such individuals and communities.

“(c) COORDINATION WITH INSPECTOR GENERAL.—

“(1) AUTHORITY TO INVESTIGATE POSSIBLE ABUSES.—The Officer for Civil Rights and Civil Liberties may investigate any matter referred to in paragraph (6) or (7) of subsection (b) after fulfilling the coordination requirements under paragraph (2) with respect to such matter.

“(2) COORDINATION REQUIREMENTS.—

“(A) REFERRAL OF MATTERS TO INSPECTOR GENERAL.—Before initiating any investigation described under paragraph (1), the Officer for Civil Rights and Civil Liberties shall refer the matter and all related complaints, allegations, and information to the Inspector General of the Department.

“(B) INSPECTOR GENERAL RESPONSIBILITIES.—

“(i) DETERMINATION AND NOTIFICATION.—Not later than 30 days after the re-
receipt of a matter referred under subparagraph (A), the Inspector General shall—

“(I) make a determination regarding whether the Inspector General intends to initiate an audit or investigation of the matter referred under subparagraph (A); and

“(II) notify the Officer of such determination.

“(ii) AUDITS AND INVESTIGATIONS.—If the Inspector General notifies the Officer for Civil Rights and Civil Liberties that the Inspector General intends to initiate an audit or investigation, the Inspector General shall—

“(I) initiate such audit or investigate by not later than 90 days after providing such notification; or

“(II) not later than three days after the end of the 90-day period specified in subclause (I), notify the Officer that such audit or investigation was not initiated.

“(C) PROVISION OF ASSISTANCE.—At the request of the Inspector General, the Officer for
Civil Rights and Civil Liberties may provide assistance to the Inspector General on any investigation or audit initiated by the Inspector General based on a referral under subparagraph (A).

“(D) INVESTIGATION BY OFFICER.—The Officer for Civil Rights and Civil Liberties may investigate a matter referred to the Inspector General under subparagraph (A) only if—

“(i) the Inspector General notifies the Officer for Civil Rights and Civil Liberties that the Inspector General does not intend to initiate an audit or investigation relating to that matter; or

“(ii) the Inspector General provides notification under subparagraph (B)(ii)(II) that an audit or investigation was not initiated.

“(d) 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 for Civil Rights and Civil Liberties shall—

“(A) provide to the individual who made the complaint notice of the receipt of such com-
plaint 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.

“(2) INVESTIGATIONS.—In the case of an investigation initiated by the Officer pursuant to paragraph (6) or (7) of subsection (b), upon the conclusion of the investigation, the Officer shall produce a report on the investigation which—

“(A) shall include the findings and recommendations of the Officer;

“(B) shall be made publicly available;

“(C) shall not include any personally identifiable information related to any individual involved in such investigation; and

“(D) may include a classified appendix, as the Officer determines appropriate.

“(3) SUBMITTAL TO HEADS OF OPERATIONAL COMPONENTS.—The Officer shall transmit a copy of each report produced under paragraph (2) to the Secretary and to the relevant head of each relevant operational component of the Department.
“(4) Reports to Congress.—Upon the conclusion of any investigation conducted by the Officer for Civil Rights and Civil Liberties under paragraph (6) or (7) of subsection (b), the Officer shall submit to Congress a report on the investigation, which shall be prepared and submitted without any prior comment or amendment by the Secretary, Deputy Secretary, or any other officer or employee of the Department, unless the Officer seeks such comment.

“(e) Component Civil Rights and Civil Liberties Officer.—The head of each of the operational components of the Department shall designate a career appointee (as such term is defined in section 3132 of title 5, United States Code) from such component as the Officer for Civil Rights and Civil Liberties of that component. The Officer for Civil Rights and Civil Liberties of each such component shall coordinate with and provide information to the Officer for Civil Rights and Civil Liberties of the Department on matters related to civil rights and civil liberties within the components.

“(f) Access to Information.—The Officer for Civil Rights and Civil Liberties of the Department—

“(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that
relate to programs and operations with respect to the responsibilities of the Officer under subsection (b); and

“(2) may, to the extent the Officer determines necessary, and subject to the approval of the Secretary—

“(A) issue a subpoena to require the production, by any person other than a Federal agency, of all information, documents, reports, answers, records, accounts, papers, and other documentary evidence necessary in the performance of the responsibilities of the Officer under this section; and

“(B) administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the responsibilities of the Officer under this section.

“(g) ANNUAL REPORT.—Not later than March 31 of each year, the Officer for Civil Rights and Civil Liberties of the Department shall submit directly to the President, the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress, a report on the implementation of this section during the year preceding the year during
which the report is submitted. Each such report shall in-
clude, for the year covered by the report—

“(1) any allegations of abuse described under
subsection (b)(6) and any actions by the Department
or a component, directorate, or office of the Depart-
ment that the Officer identifies as responsive to such
allegations;

“(2) a list of Department programs and activi-
ties for which civil rights and civil liberties impact
assessments were conducted, or policy advice, rec-
ommendations, or other technical assistance was pro-
vided;

“(3) any recommendations issued by the Officer
to the Secretary or the head of a component, direc-
torate, or office, together with information on the sta-
tus of the implementation of such recommendations;

“(4) information on the diversity and equal em-
ployment opportunity activities of the Department,
including information on complaint management and
adjudication of equal employment opportunity com-
plaints and efforts to ensure compliance throughout
the Department with equal employment opportunity
requirements;

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

“(6) information on total staffing for the Office of Civil Rights and Civil Liberties, including—

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

“(B) information on the number of employees whose primary responsibilities include supporting the Officer in carrying out paragraph (9) of subsection (b).”.

(b) Clerical Amendment.—The item relating to section 705 in section 1(b) of the Homeland Security Act of 2002 is amended to read as follows:

“Sec. 705. Officer for civil rights and civil liberties.”.

SEC. 3. COMPTROLLER GENERAL REVIEW.

Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on subsection (b)(11) of section 705 of the Homeland Security Act of 2002 (6 U.S.C. 345), as amended by section 2.