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.

Be it enacted by the Senate and House of Representa-
SECTION 1. SHORT TITLE.

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

SEC. 2. STAKEHOLDER AND COMMUNITY ENGAGEMENT.

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

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

(2) Organization.—

(A) Leadership.—The Commission shall be led by a Chair and Vice Chair.

(B) Membership.—

(i) In general.—The Commission shall be composed of 30 members, recommended by Congress, in consultation with the President, who have expertise in migration, local crime indices, civil and human rights, community relations, cross-border trade and commerce, quality of life indicators, or other pertinent experience, of whom—
(I) 13 members shall be from the northern border region and shall include—

(aa) two local government elected officials;

(bb) two local law enforcement officials;

(cc) two civil rights advocates;

(dd) one business representative;

(ee) one higher education representative;

(ff) one representative of a faith community;

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

.hh) two tribal officials; and

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

(aa) three local government elected officials;

(bb) three local law enforcement officials;
(ee) three civil rights advocates;
(dd) two business representatives;
(ee) one higher education representative;
(ff) one representative of a faith community;
(gg) two representatives of the U.S. Border Patrol; and
(hh) two tribal officials.

(ii) Chair, Vice Chair.—The members of the Commission shall elect a Chair and a Vice Chair from among its members by a majority vote of at least 16 members.

(iii) Terms of Service.—The Chair and Vice Chair of the Commission shall serve for terms of four years. Members of the Commission shall serve for terms of four years.

(iv) Appointment Deadline.—Members of the Commission shall be appointed not later than 180 days after the date of the enactment of this Act.

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

(B) SUBCOMMITTEES.—The northern border and southern border subcommittees shall meet at least quarterly, and may convene additional meetings as necessary.

(4) DUTIES.—The Commission, and the northern border and southern border subcommittees, shall—

(A) develop recommendations for improvements regarding border enforcement policies, strategies, and programs that take into consideration their impact on border communities;

(B) evaluate policies, strategies, and programs of Federal agencies operating along the northern and southern borders to—

(i) protect—

(I) due process;

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

(III) private property rights of land owners;

(ii) reduce the number of migrant 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.
(5) ADDITIONAL RESPONSIBILITIES.—

(A) IN GENERAL.—In carrying out the duties specified in paragraph (5), the Commission shall take into consideration any recommendations and evaluations agreed upon by the northern border and southern border subcommittees.

(B) SUBCOMMITTEE REPORTS.—The northern border and southern border subcommittees shall annually submit to the Chair and Vice Chair of the Commission a publicly available report containing the recommendations and evaluations of the subcommittees pursuant to paragraph (5).

(6) PROHIBITION ON COMPENSATION.—Members of the Commission and the northern border and southern border subcommittees may not receive pay, allowances, or benefits from the Government by reason of their service on the Commission or the subcommittees.

(b) 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 Act hold such hearings, and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Commission or such designated
subcommittee or designated member determines necessary
to carry out its duties under subsection (a)(5).

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

(d) REPORTS.—

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

(2) CONGRESSIONAL NOTIFICATION.—The Sec-
retary of Homeland Security shall brief the Com-
mittee on Homeland Security and the Committee on
the Judiciary of the House of Representatives and
the Committee on Homeland Security and Govern-
mental Affairs and the Committee on the Judiciary
of the Senate on each report required under para-
graph (1).
SEC. 3. ESTABLISHMENT OF THE OFFICE OF THE OMBUDSMAN FOR BORDER AND IMMIGRATION RELATED CONCERNS.

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

“SEC. 452. OMBUDSMAN FOR BORDER AND IMMIGRATION RELATED CONCERNS.

“(a) IN GENERAL.—There shall be within the Department an Ombudsman for Border and Immigration Related Concerns (in this section referred to as the ‘Ombudsman’). The individual appointed as Ombudsman shall have a background in immigration or civil liberties law or law enforcement. The Ombudsman shall report directly to the Secretary.

“(b) ORGANIZATIONAL INDEPENDENCE.—The Secretary shall take appropriate action to ensure the independence of the Ombudsman’s office from other officers or employees of the Department engaged in border security or immigration activities.

“(c) STAFFING.—The Secretary shall take appropriate action to ensure that the Ombudsman’s office is sufficiently staffed and resourced to carry out its duties effectively and efficiently.

“(d) FUNCTIONS.—The functions of the Ombudsman shall be as follows:
“(1) To establish an independent, neutral, and appropriately confidential process to receive, investigate, resolve, and provide redress, including immigration relief, monetary damages, or any other action determined appropriate, for complaints, grievances, or requests for assistance from individuals, associations, and employers regarding the border security and immigration activities of the Department.

“(2) To conduct inspections of the facilities, including privately-owned or operated contract facilities, of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and United States Citizenship and Immigration Services.

“(3) To assist individuals and families who have been victims of crimes committed by aliens unlawfully present in the United States or of violence near the United States border, and individuals and families impacted by situations in which the Department has exercised force against an individual, including by use of a firearm, taser, explosive device, chemical agent, baton, projectile, blunt instrument, body part, canine, or vehicle.

“(4) To identify areas in which individuals, associations, and employers have identified concerns with respect to interacting with U.S. Customs and

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

“(6) To review, examine, and make recommendations regarding the border security and immigration and enforcement activities of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and United States Citizenship and Immigration Services.

“(7) To establish a uniform and standardized complaint process regarding complaints against any individual employed by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement for violations of standards of professional conduct. Such complaint process shall have the following components:

“(A) Require that all complaints receive an independent review and investigation completed not later than one year from the date of receipt of each such complaint.
“(B) Require that complainants receive written confirmation of receipt of their complaints not later than 60 days from the date of receipt of each such complaint, and a written summary regarding the outcome of such complaints not later than 30 days after the review and investigation under subparagraph (A) is complete, including findings of fact, recommended action, and available redress.

“(C) Feature a centralized multilingual online complaint form that includes street address, toll-free telephone number, and electronic mailbox address to permit an individual to file an immigration or border-related complaint and submit supporting evidence through the portal of choice of any such individual. Multilingual information relating to such form shall be visible at ports of entry and at U.S. Border Patrol interior checkpoints.

“(D) Include procedures for referring complaints to the Office for Civil Rights and Civil Liberties, Office of the Inspector General, or other appropriate agency of the Department.

“(E) Establish a publicly accessible national, standardized database capable of track-
ing and analyzing complaints and their resolution.

“(F) Provide publicly accessible records, with copies of complaints, and their resolutions permanently preserved and available for inspection, while maintaining the confidentiality of complainants’ identities.

“(8) To establish an online detainee locator system for individuals held in U.S. Customs and Border Protection custody.

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

“(1) monitor the coverage and geographic allocation of local offices of the Ombudsman, including appointing local ombudsmen for border and immigration related concerns;

“(2) evaluate and take personnel actions (including dismissal) with respect to any employee of the Ombudsman;

“(3) recommend disciplinary action, including contract termination, suspension, and debarment, or termination, suspension, and sanctions, to the appropriate departmental entity regarding any contractor proven to have violated departmental policies or pro-
cedures while executing any border security or immi-
gration activity;

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

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

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

“(1) Any interested party, including a legal repre-
sentative, may file a complaint through the com-
plaint process established pursuant to subsection
(d)(7).

“(2) Complainants and other individuals identi-
fied in a complaint shall be protected from retali-
tory action by law enforcement or by any officer of
the United States based on the content of such com-
plaint, and no information contained in a complaint
that is germane to such complaint may be used as
evidence in any removal or criminal proceedings
against the complainant or any individual identified in such complaint.

“(3) Neither the filing of a complaint nor the contents of a complaint shall in any way confer immunity or otherwise impact any removal or criminal proceedings against a complainant or an individual identified in such complaint.

“(4) No personally identifiable information related to an individual involved in a complaint which would result in identification of such individual may be published.

“(5) Complainants shall receive full assistance from the Department in filing complaints, including language assistance, accommodations for disabilities, and accurate and complete responses to their questions.

“(g) REQUEST FOR INVESTIGATIONS.—The Ombudsman is authorized to request the Inspector General of the Department to conduct inspections, investigations, and audits related to subsections (d), (e), and (f).

“(h) COORDINATION WITH DEPARTMENT COMPONENTS.—

“(1) IN GENERAL.—The Director of United States Citizenship and Immigration Services, the Assistant Secretary of U.S. Immigration and Customs
Enforcement, and the Commissioner of U.S. Customs and Border Protection shall each establish procedures to provide formal responses to recommendations submitted to such officials by the Ombudsman within 60 days of receiving such recommendations.

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

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

“(1) take all appropriate action to advise the public regarding the existence, duties, responsibilities, and grievance processes of the Ombudsman’s office; and

“(2) shall promulgate regulations to ensure—

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

“(B) that absent written permission of all affected parties, all documents submitted to the Ombudsman’s office are used solely by the Ombudsman’s office to advance the purposes described in this section.
“(j) Annual Reporting.—Not later than June 30 of each year beginning in the year after the date of the enactment of this subsection, the Ombudsman 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 includes the following:

“(1) The number and type of complaints received under this section, the demographics of complainants, the results of investigations, including violations of standards and any disciplinary actions taken, and an identification of any complaint patterns that could be prevented or reduced by policy training or practice changes.

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

“(3) An inventory of complaints referred to in paragraph (1) for which action has not been taken after one year, the period during which each complaint has been open, and the reason for failure to resolve each such complaint.
“(4) Recommendations the Ombudsman has made to improve the services and responsiveness of United States Citizenship and Immigration Services, U.S. Immigration and Customs Enforcement, and U.S. Customs and Border Protection, and any responses received from each such component or the Department regarding such recommendations.

“(5) Other information as the Ombudsman determines advisable.

“(k) ESTABLISHMENT OF BORDER COMMUNITIES LIAISON OFFICE.—

“(1) IN GENERAL.—The Ombudsman, in conjunction with the Office for Civil Rights and Civil Liberties of the Department, shall establish a Border Community Liaison Office (in this subsection referred to as the ‘Liaison Office’) in each U.S. Border Patrol sector on the northern and southern borders.

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

“(A) foster cooperation between the U.S. Border Patrol, the Office of Field Operations of the Department, U.S. Immigration and Customs Enforcement, and border communities;
“(B) consult with border communities on the development of policies, directives, and programs of the U.S. Border Patrol, the Office of Field Operations, and U.S. Immigration and Customs Enforcement; and

“(C) receive feedback from border communities on the performance of the U.S. Border Patrol, the Office of Field Operations, and U.S. Immigration and Customs Enforcement.

“(3) MEMBERSHIP.—Each Liaison Office shall be comprised of equal representation from the border community and U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including at least:

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

“(B) One member of an Indian tribe (as such term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)) or tribal organization.
“(C) One non-uniformed Border Patrol agent with significant experience working for the U.S. Border Patrol.

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

“(E) One Enforcement and Removal Operations (ERO) agent with significant experience working for U.S. Immigration and Customs Enforcement.

“(l) REPORT ON THE IMPACT OF BORDER ENFORCEMENT TECHNOLOGIES AND OPERATIONS ON BORDER COMMUNITIES.—Not later than 180 days after the date of the enactment of this subsection, 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 that assesses current efforts and technologies used at United States borders, and the impact on border communities of such efforts and technologies on civil rights, private property rights, privacy rights, and civil liberties.

“(m) 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.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by amending the item relating to section 452 to read as follows:

“Sec. 452. Ombudsman for Border and Immigration Related Concerns.”.
SEC. 4. 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 receives a minimum of 19 weeks of training that are directly related to the mission of the U.S. Border Patrol and the Office of Field Operations of the Department of Homeland Security before the initial assignment of such agents and officers, and eight hours of training and continuing education annually thereafter. Such training and continuing education shall be conducted by attorneys who have experience with the Fourth Amendment to the Constitution, including appropriate application of the use of force by agents and officers of U.S. Customs and Border Protection. Such attorneys shall be members of the Department of Homeland Security’s Office of General Counsel, and all instruction provided shall be in alignment with curriculum developed and endorsed by FLETC.

(b) FLETC.—The Secretary of Homeland Security shall establish policies and guidelines governing training with FLETC and continuing education of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement regarding border awareness, accountability, and oversight. Such training
with FLETC shall include individual courses for each of the following issues:

(1) Community relations, including the following:

(A) Best practices in community policing.

(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 452 of the Homeland Security Act of 2002, as amended by section 3 of this Act.

(2) Interdiction, including the following:

(A) Instruction on formal and proper command language.

(B) Situational awareness of what language is appropriate.

(C) Legal application of use of force policies and guidelines.

(D) Policies and training scenarios necessary to ensure the agent or officer and the community is safe when intervening in situations in urban areas, including—
(i) scenario-based training and guidelines; and

(ii) non-lethal force training and certification on at least one non-lethal force instrument, including tasers.

(E) Policies necessary to ensure the agent or officer and the community is safe when intervening in situations in rural and remote locations.

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

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

(A) Understanding of the diversity of immigrant communities.

(B) Language and basic cultural awareness of major migrant-sending countries.

(C) Natural resource protection and environmental policies along the border.

(D) Privacy considerations regarding border-related technologies.

(E) History and ethics of asylum law.
(5) Standards of professional conduct, including the following:

(A) Lawful 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) Respect for civil rights and protection of the well-being of individuals.

(E) Non-racially biased questioning.

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

(e) SUPERVISOR TRAINING.—In addition to the training and continuing education required under subsections (a) and (b), the Secretary of Homeland Security shall establish policies and guidelines governing the continuing education of agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement who attain a supervisory or management position. Such training and continuing education shall include the following:

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

(2) Refresher instruction or in-service training relating to legal application of use of force policies.
and guidelines, intervention, community relations, and professional conduct.

(3) Mitigation training to identify, diagnose, and address issues within such supervisory and management roles.

(d) 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.

(e) 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 (e) 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) Cultural and societal issues, including understanding of the diversity of immigrant communities, language and basic cultural awareness of major migrant-sending countries, and natural resource protection and environmental policies along the border.
(4) Administration.—Courses offered as part of continuing education under this subsection shall—

(A) be administered in consultation with FLETC by the individual U.S. Border Patrol sectors and the Office of Field Operations of the Department of Homeland Security in order to provide such sectors’ field offices with flexibility to design or tailor such courses to the specific needs and conditions of each such sector and field office; and

(B) be approved by the Secretary of Homeland Security before being offered to ensure that such courses satisfy the requirements for training under this section.

(5) Rotation.—Courses offered as part of continuing education under this subsection shall include—

(A) a yearly course focusing on the curriculum described in paragraph (2); and

(B) an additional course to be rotated on a three-year basis focusing on curriculum described in paragraph (3).

(f) Assessment.—Not later than six 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.

SEC. 5. MANAGEMENT OF PORTS OF ENTRY.

(a) IN GENERAL.—Not later than 180 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 report that contains an assessment of the current standards and guidelines for managing ports of entry under the control of the Department of Homeland Security. Such assessment shall include information relating to the following:

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

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

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

(4) An assessment of existing efforts and technologies used for border security, and the effect of
the use of such efforts and technologies on facilitating trade at ports of entry and their impact on civil rights, private property rights, privacy rights, and civil liberties.

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

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

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

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

(b) UPDATES.—Based upon the information and assessment contained in the report required under subsection (a), the Secretary of Homeland Security shall establish updated guidelines and standards for managing ports of entry under the control of the Department of Homeland Security to address any identified needs or shortcomings at such ports of entry, including, if applicable, the following:

(1) Increasing levels of staffing of CBP Agricultural Specialists at ports of entry at which delays
hinder or negatively impact the local or national economies.

(2) Increasing the use of or updating technology at ports of entry at which there are average delays of over two hours based on U.S. Customs and Border Protection data collected during the previous fiscal year.

(3) Publishing rules on the handling of documents at ports of entry.

(4) Establishing standards of conduct and demeanor when interacting with vulnerable populations, such as children and victims of human trafficking, and individuals with border crossing cards.

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

SEC. 6. REPORTING REQUIREMENTS.

(a) Annual CBP Report on Mission and Personnel by Border Patrol Sector.—Not later than one year after the date of the enactment of this Act and annually thereafter, the Commissioner of U.S. Customs and Border Protection 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 includes the following for each Border Patrol sector:

(1) An assessment of the most appropriate, practical, and cost effective means of defending the land borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(2) An assessment of staffing needs for all border security functions, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied children, and other vulnerable populations.

(3) A description of the border security roles and missions of Federal, State, regional, local, and Tribal authorities, and recommendations regarding actions the Commissioner can carry out to improve coordination with such authorities to enable border security activities to be carried out in a more efficient and effective manner.

(4) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the land borders of the United States.
(5) An impact assessment of the loss of trade
and commerce due to inadequate staffing at land
ports of entry by U.S. Customs and Border Protec-
tion agents and officers.

(b) REPORT ON MIGRANT DEATHS.—

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

(A) The number of documented migrant
deaths.

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

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

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

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

(A) The validity of U.S. Customs and Border Protection’s and U.S. Immigration and Customs Enforcement’s statistical analysis of migrant deaths.

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

(C) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement measures the effective-
ness of its programs to address the frequency of migrant deaths.

(D) The extent of data and information sharing and 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.

(c) GAO REPORT ON USE OF FORCE.—

(1) IN GENERAL.—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 clarified use of force policies, including the following (and any recommendations related to the following):

(A) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have implemented new training tactics 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.

(B) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have identified additional or alternative weapons and equipment to improve agents’ and officers’ abilities to de-escalate confrontations, including protective gear.

(C) Efforts to review and enhance current training and tactics related to use of force, and to implement reforms to ensure agents and officers are better equipped to assess and respond to threats.

(D) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have established a stakeholder engagement framework to better inform and enhance U.S. Customs and Border Protection’s use of force training.

(E) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have established metrics to track the effectiveness of use of force training and to ensure the reporting of all uses of force for review to determine whether the force
used was justified and whether it could have been avoided through different tactics or training, better supervision, different tools, adherence to policy, or changes in policy.

(F) How U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement could implement best law enforcement practices to improve policies for transparent communication with family members of individuals injured or killed by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement agent’s and officer’s use of force, including updates on any pending investigations, and policies for timely notification of such injuries and deaths following such uses of force to the Commissioner of U.S. Customs and Border Protection or the Director of U.S. Immigration and Customs Enforcement (as the case may be), the Joint Intake Center of the Department of Homeland Security, the Office of Inspector General of the Department, the Office for Civil Rights and Civil Liberties of the Department, the Offices of Public Affairs of the Department, Congress, and the applicable consulates, if appropriate.
(G) How recommendations and requests made by agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement have been received, reviewed, and if possible implemented into U.S. Customs and Border Protection and Department of Homeland Security use of force policies and best practices.

(H) The extent to which U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement electronically track personal searches and seizures of personal items at the border, and an assessment of how such information is used to inform U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement policies and procedures.

(2) IMPLEMENTATION OF GAO FINDINGS.—The Secretary of Homeland Security shall direct the Commissioner of U.S. Customs and Border Protection and the Director of U.S. Immigration and Customs Enforcement to implement any recommendations contained in the report required under paragraph (1). If the Secretary does not so implement such recommendations, the Secretary 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 written notification explaining why such recommendations are not being so implemented.

(d) GAO REPORT ON BODY WORN CAMERAS.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall assess the potential implementation by U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement of body worn cameras for all agents and officers of U.S. Customs and Border Protection and U.S. Immigration and Customs Enforcement, including relating to storage and public availability of associated data.

SEC. 7. DEPARTMENT OF HOMELAND SECURITY ACCOUNTABILITY AND TRANSPARENCY.

(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) 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 enforce-
ment 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.

(3) 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. Immigra-
tion 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 pur-
suant to—

(i) an agreement entered into under
section 287(g) of the Immigration and Na-
tionality 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 De-
partment of Homeland Security, including
any Federal grant program.
(4) **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.

(5) **Primary inspection.**—The term “primary inspection” means an initial inspection of a vehicle or individual at a checkpoint.

(6) **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 Enforcing United States Laws and Regulations and Making Border Security Stops.**—

(1) **Requirement for data collection regarding stops and searches.**—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—

(A) the date, time, and location of the contact;

(B) the law enforcement official’s basis for, or circumstances surrounding, the contact, in-
excluding 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 re-
moval proceedings were subsequently initiated against the individual;

(I) whether a body-worn camera or any other video or audio recording exists that recorded the stop or detention;

(J) whether force was used by the law enforcement official and, if so, the type of force, justification for using force, and whether the use of force resulted in injury or death;

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

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

(ii) how long the investigation lasted;

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

(iv) the badge number of the law enforcement official involved in the complaint;

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

(i) the reason for involvement of a Federal law enforcement official;
(ii) the duration of the contact prior to contact with any Federal law enforce-
ment official;

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

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

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

(i) an agreement entered into under section 287(g) of the Immigration and Na-
tionality 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) pursuant to any other agreement with the Department of Homeland Secu-
rity, including any Federal grant program;

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

(P) if the contact occurred at a location described in subparagraph (O), why that location was chosen and any supervisory approval that was sought to carry out the contact at the location.

(2) Requirement for U.S. Customs and Border Protection Data Collection Regarding Checkpoints.—The Commissioner of U.S. Customs and Border Protection shall collect data on—

(A) the number of permanent and temporary checkpoints utilized by agents and officers of U.S. Customs and Border Protection;

(B) the location of each such checkpoint;

(C) the dates on which a temporary checkpoint was used; and
(D) a description of each such checkpoint, including the presence of any other law enforce-
ment agencies and the use of law enforcement resources, such as canines and surveillance
technologies, including license plate readers.

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

(A) specify all data to be reported; and

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

(4) COMPILATION OF DATA.—

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

(i) the data collected under paragraph

(1) by agents and officers of U.S. Immi-
gration and Customs Enforcement and

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

(iii) an analysis for all incidents inves-
tigated by the Department of Homeland
Security’s Office of Inspector General,
U.S. Customs and Border Protection’s Of-

cicle of Professional Responsibility, or U.S.
Immigration and Customs Enforcement’s
Office of Professional Responsibility to de-
termine whether the data required to be
collected under this Act were properly re-
corded and, if not, the corrective measures
that were or will be taken.

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

(i) compile the data collected by such
law enforcement officials pursuant to para-

graph (1); and

(ii) submit the compiled data to the
Secretary of Homeland Security.
(5) Use of Data.—The Secretary of Homeland Security shall consider the data compiled under paragraph (4) in making policy and program decisions.

(6) Audit and Report.—Not later than one year after the effective date of the regulations promulgated under paragraph (3), the Comptroller General of the United States shall—

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

(B) submit to Congress a report that contains a summary of the findings of such audit.

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)(4), 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 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)(4) shall be made available to the public to the extent the release of such data is permissible under Federal law.

SEC. 8. LIMITATION ON THE SEPARATION OF FAMILIES.

(a) IN GENERAL.—An agent or officer of a designated agency shall be prohibited from removing a child from his or her parent or legal guardian, 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 guard-
ian, 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 or legal guardian because the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to herself or others.

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

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

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

(C) the child is in danger of abuse or neglect at the hands of the parent or legal guardian, or is a danger to themselves or others,
except that, in the case that a child is removed from
his or her parent or legal guardian under this sec-
tion, an independent child welfare expert licensed by
the State or county in which the child was so re-
moved, authorizes the separation not later than 48
hours after such removal, and if such expert does
not authorize such separation, the child shall be re-
united with his or her parent or legal guardian not
later than 48 hours after such determination.

(b) Prohibition on Separation.—

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

(2) Penalty for Family Separation.—Any
person who knowingly separates a child from his or
her parent or legal guardian in violation of this sec-
tion, shall be fined not more than $10,000.

(c) Documentation Required.—The Secretary
shall ensure that a separation under subsection (a)(3) is
documented in writing and includes, at a minimum, the
reason for such separation, together with the stated evi-
dence for such separation.
SEC. 9. 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—

(1) shall be 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) shall be used to track the location of a child who has been removed pursuant to section 8 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 removed pursuant to section 8 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;
(c) CONTACT INFORMATION.—The Secretary of Homeland Security and the Secretary of Health and Human Services shall advise a child who has been removed pursuant to section 8 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 removal.

SEC. 10. INDEPENDENCE OF IMMIGRATION JUDGES.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report, which shall be published and made available to the public, on the feasibility of establishing an immigration court outside the executive branch composed of judges appointed for a fixed term with jurisdiction over cases arising out of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) or any other immigration law of the United States and the appeal of such cases, the impact that such an immigration court will have on the case backlog of immigration judges, barriers to the creation of such an immigration court, and recommendations for Congress.