

116TH CONGRESS
1ST SESSION

H. R. 4713

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2019

Received; read twice and referred to the Committee on Homeland Security and
Governmental Affairs

AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Department of Home-
3 land Security Office of Civil Rights and Civil Liberties Au-
4 thorization Act”.

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

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

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

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

12 “(a) IN GENERAL.—There is established within the
13 Department an Office for Civil Rights and Civil Liberties.
14 The head of such Office is the Officer for Civil Rights
15 and Civil Liberties, who shall report directly to the Sec-
16 retary.

17 “(b) RESPONSIBILITIES.—The Officer for Civil
18 Rights and Civil Liberties shall carry out the following re-
19 sponsibilities:

20 “(1) Oversee compliance with constitutional,
21 statutory, regulatory, policy, and other requirements
22 relating to the civil rights and civil liberties of indi-
23 viduals affected by the programs and activities of
24 the Department.

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

4 “(3) Conduct civil rights and civil liberties im-
5 pact assessments, as appropriate, including prior to
6 the implementation of new Department regulations,
7 initiatives, programs, or policies.

8 “(4) Conduct periodic reviews of policies, proce-
9 dures, and activities of the Department relating to
10 civil rights and civil liberties.

11 “(5) Provide policy advice, recommendations,
12 and other technical assistance relating to civil rights
13 and civil liberties to the Secretary and to heads of
14 components, directorates, and offices and other per-
15 sonnel within the Department.

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

23 “(7) Initiate reviews, investigations, and assess-
24 ments of the administration of the programs and ac-
25 tivities by the Department relating to civil rights

1 and civil liberties, as the Officer determines nec-
2 essary.

3 “(8) Coordinate with the Privacy Officer to en-
4 sure that—

5 “(A) programs, policies, and procedures in-
6 volving civil rights, civil liberties, and privacy
7 considerations are addressed in an integrated
8 and comprehensive manner; and

9 “(B) Congress receives appropriate reports
10 regarding such programs, policies, and proce-
11 dures.

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

16 “(10) Make publicly available through acces-
17 sible communications channels, including the website
18 of the Department—

19 “(A) information on the responsibilities
20 and functions of, and how to contact, the Of-
21 fice;

22 “(B) summary of reports of investigations
23 that result in final recommendations that are
24 issued by the Officer upon completion of inves-

1 tigitations carried out pursuant to paragraph (6);
2 and

3 “(C) summaries of impact assessments
4 issued by the Officer and carried out pursuant
5 to paragraph (3) or (7).

6 “(11) Engage with individuals and communities
7 whose civil rights and civil liberties may be affected
8 by programs and activities of the Department, in-
9 cluding by informing such individuals and commu-
10 nities about report and redress processes and advis-
11 ing the Secretary and heads of components, direc-
12 torates, offices, and other personnel within the De-
13 partment of concerns raised by such individuals and
14 communities.

15 “(c) COORDINATION WITH INSPECTOR GENERAL.—

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

22 “(2) COORDINATION REQUIREMENTS.—

23 “(A) REFERRAL OF MATTERS TO INSPEC-
24 TOR GENERAL.—Before initiating any investiga-
25 tion described under paragraph (1), the Officer

1 for Civil Rights and Civil Liberties shall refer
2 the matter and all related complaints to the In-
3 spector General of the Department.

4 “(B) INSPECTOR GENERAL RESPONSIBIL-
5 ITIES.—

6 “(i) DETERMINATION AND NOTIFICA-
7 TION.—Not later than 5 business days
8 after the receipt of a matter referred under
9 subparagraph (A), the Inspector General
10 shall—

11 “(I) make a determination re-
12 garding whether the Inspector Gen-
13 eral intends to initiate an audit or in-
14 vestigation of the matter referred
15 under subparagraph (A); and

16 “(II) notify the Officer of such
17 determination.

18 “(ii) AUDITS AND INVESTIGATIONS.—
19 If the Inspector General notifies the Offi-
20 cer for Civil Rights and Civil Liberties that
21 the Inspector General intends to initiate an
22 audit or investigation, the Inspector Gen-
23 eral shall—

1 “(I) initiate such audit or inves-
2 tigate by not later than 90 days after
3 providing such notification; or

4 “(II) not later than 3 days after
5 the end of the 90-day period specified
6 in subclause (I), notify the Officer
7 that such audit or investigation was
8 not initiated.

9 “(C) PROVISION OF ASSISTANCE.—At the
10 request of the Inspector General, the Officer for
11 Civil Rights and Civil Liberties may provide as-
12 sistance to the Inspector General on any inves-
13 tigation or audit initiated by the Inspector Gen-
14 eral based on a referral under subparagraph
15 (A).

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

20 “(i) the Inspector General notifies the
21 Officer for Civil Rights and Civil Liberties
22 that the Inspector General does not intend
23 to initiate an audit or investigation relat-
24 ing to that matter; or

1 “(ii) the Inspector General provides
2 notification under subparagraph (B)(ii)(II)
3 that an audit or investigation was not initi-
4 ated.

5 “(d) TRANSPARENCY.—

6 “(1) COMPLAINTS.—In the case of a complaint
7 made concerning allegations of abuses of civil rights
8 and civil liberties under paragraph (6) of subsection
9 (b), the Officer for Civil Rights and Civil Liberties
10 shall—

11 “(A) provide to the individual who made
12 the complaint notice of the receipt of such com-
13 plaint within 30 days of receiving the com-
14 plaint; and

15 “(B) inform the complainant of the deter-
16 mination of the Officer regarding the initiation
17 of a review, assessment, or investigation within
18 the Office, a referral to the Inspector General
19 of the Department, or any other action taken.

20 “(2) INVESTIGATIONS.—In the case of an inves-
21 tigation initiated by the Officer pursuant to para-
22 graph (6) or (7) of subsection (b), upon the conclu-
23 sion of the investigation, the Officer shall produce a
24 report on the investigation which—

1 “(A) shall include the findings and rec-
2 ommendations of the Officer;

3 “(B) a summary of which shall be made
4 publicly available;

5 “(C) shall not include any personally iden-
6 tifiable information related to any individual in-
7 volved in such investigation; and

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

10 “(3) SUBMITTAL TO HEADS OF OPERATIONAL
11 COMPONENTS.—The Officer shall transmit a copy of
12 each report produced under paragraph (2) to the
13 Secretary and to the relevant head of each relevant
14 operational component of the Department.

15 “(4) REPORTS TO CONGRESS.—Upon the con-
16 clusion of any investigation conducted by the Officer
17 for Civil Rights and Civil Liberties under paragraph
18 (6) or (7) of subsection (b), the Officer shall submit
19 to Congress a report on the investigation, which
20 shall be prepared and submitted without any prior
21 comment or amendment by the Secretary, Deputy
22 Secretary, or any other officer or employee of the
23 Department, unless the Officer seeks such comment.

24 “(e) COMPONENT CIVIL RIGHTS AND CIVIL LIB-
25 ERTIES OFFICER.—The head of each of the operational

1 components of the Department shall designate a career
2 appointee (as such term is defined in section 3132 of title
3 5, United States Code) from such component as the Offi-
4 cer for Civil Rights and Civil Liberties of that component.
5 The Officer for Civil Rights and Civil Liberties of each
6 such component shall coordinate with and provide infor-
7 mation to the Officer for Civil Rights and Civil Liberties
8 of the Department on matters related to civil rights and
9 civil liberties within the components.

10 “(f) ACCESS TO INFORMATION.—The Officer for Civil
11 Rights and Civil Liberties of the Department—

12 “(1) shall have access to all records, reports,
13 audits, reviews, documents, papers, recommenda-
14 tions, and other materials available to the Depart-
15 ment that relate to programs and operations with
16 respect to the responsibilities of the Officer under
17 subsection (b); and

18 “(2) may, to the extent the Officer determines
19 necessary, and subject to the approval of the Sec-
20 retary—

21 “(A) issue a subpoena to require the pro-
22 duction, by any person other than a Federal
23 agency, of all information, documents, reports,
24 answers, records, accounts, papers, and other
25 documentary evidence necessary in the perform-

1 ance of the responsibilities of the Officer under
2 this section; and

3 “(B) administer to or take from any per-
4 son an oath, affirmation, or affidavit, whenever
5 necessary in the performance of the responsibil-
6 ities of the Officer under this section.

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

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

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

1 “(3) any recommendations issued by the Officer
2 to the Secretary or the head of a component, direc-
3 torate, or office, together with information on the
4 status of the implementation of such recommenda-
5 tions;

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

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

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

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

22 “(B) information on the number of em-
23 ployees whose primary responsibilities include
24 supporting the Officer in carrying out para-
25 graph (9) of subsection (b).”.

