AMENDMENT TO RULES COMM. PRINT 117—____

OFFERED BY MR. GREEN OF TEXAS

In the appropriate place in division E, insert the following:

SEC. ___. DEPARTMENT OF HOMELAND SECURITY OFFICE
FOR CIVIL RIGHTS AND CIVIL LIBERTIES AUTHORIZATION.

(a) Officer for Civil Rights and Civil Liberties.—

(1) In general.—Section 705 of the Homeland Security Act of 2002 (6 U.S.C. 345) is amended—

(A) in the section heading, by striking “ESTABLISHMENT OF”; and

(B) by striking subsections (a) and (b) and inserting the following new subsections:

“(a) Establishment.—

“(1) In general.—There is established within the Department an Office for Civil Rights and Civil Liberties (referred to in this section as the ‘Office’). The head of the Office is the Officer for Civil Rights and Civil Liberties (referred to in this section as the ‘Officer’), who shall report directly to the Secretary.
“(2) DUTIES.—The Secretary and the head of each component shall—

“(A) ensure that the Officer for Civil Rights and Civil Liberties of the Department and the Officer for Civil Rights and Civil Liberties of such component—

“(i) have the information, materials, and resources necessary to carry out the functions of the Office;

“(ii) are consulted in advance of new or proposed changes to policies, programs, initiatives, and activities impacting civil rights and civil liberties; and

“(iii) are given full and complete access to all materials and personnel necessary to carry out the functions of the Office; and

“(B) consider advice and recommendations from the Officer for Civil Rights and Civil Liberties of the Department in the development and implementation of policies, programs, initiatives, and activities impacting civil rights and civil liberties.

“(b) RESPONSIBILITIES.—The Officer shall carry out the following responsibilities:
“(1) Oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the policies, programs, initiatives, and activities of the Department.

“(2) Review and assess information concerning abuses of civil rights and civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department.

“(3) Integrate civil rights and civil liberties protections into all policies, programs, initiatives, and activities of the Department.

“(4) Conduct civil rights and civil liberties impact assessments, as appropriate, including such assessments prior to the implementation of new Department regulations, policies, programs, initiatives, and activities.

“(5) Conduct periodic reviews and assessments of policies, programs, initiatives, and activities of the Department relating to civil rights and civil liberties, including reviews and assessments initiated by the Officer.

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

“(7) 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 should be investigated by the Inspector General.

“(8) Initiate reviews, investigations, and assessments of the administration of the policies, programs, initiatives, and activities of the Department relating to civil rights and civil liberties.

“(9) Coordinate with the Privacy Officer to ensure that—

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

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

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

“(11) 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 Office;

“(B) summaries of the investigations carried out pursuant to paragraphs (7) and (8) that result in recommendations; and

“(C) summaries of impact assessments and periodic reviews and assessments carried out pursuant to paragraphs (4) and (5), respectively, that are issued by the Officer.

“(12) Engage with individuals, stakeholders, and communities the civil rights and civil liberties of which may be affected by the policies, programs, initiatives, and activities of the Department, including by—

“(A) informing such individuals, stakeholders, and communities concerning such policies, programs, initiatives, and activities;

“(B) providing information for how to report and access redress processes; and
“(C) providing Department leadership and other personnel within the Department feedback from such individuals, stakeholders, and communities on the civil rights and civil liberties impacts of such policies, programs, initiatives, and activities, and working with State, local, Tribal, and territorial homeland security partners to enhance the Department’s policy-making and program implementation.

“(13) Lead a language access program for the Department to ensure the Department effectively communicates with all individuals impacted by programs and activities of the Department, including those with limited English proficiency.

“(14) Participate in the hiring or designation of a civil rights and civil liberties officer within each component and participate in the performance review process for such officer.

“(c) AUTHORITY TO INVESTIGATE.—

“(1) IN GENERAL.—For the purposes of subsection (b), the Officer shall—

“(A) have access to all materials and personnel necessary to carry out the functions of the Office under this subsection;
“(B) make such investigations and reports relating to the administration of the programs and operations of the Department as are necessary or appropriate;

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

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

“(2) ENFORCEMENT OF SUBPOENAS.—Any subpoena issued under paragraph (1)(C) shall, in the case of contumacy or refusal to obey, be enforceable by order of any appropriate United States district court.

“(3) EFFECT OF OATHS.—Any oath, affirmation, or affidavit administered or taken pursuant to paragraph (1)(D) by or before an employee of the Office designated for that purpose by the Officer
shall have the same force and effect as if adminis-
tered or taken by or before an officer having a seal
of office.

“(4) CONGRESSIONAL NOTIFICATION.—The Of-
ficer shall inform the Committee on Homeland Secu-
rity of the House of Representatives and the Com-
mittee on Homeland Security and Governmental Af-
fairs of the Senate not later than—

“(A) 30 days after the Secretary approves
or disapproves the Officer’s request for a sub-
poena under paragraph (1)(C), or the Secretary
substantively modifies the requested subpoena;

or

“(B) 45 days after the Officer’s request
for a subpoena under paragraph (1)(C), if such
subpoena has not been approved or disapproved
by the Secretary.

“(d) NOTIFICATION REQUIREMENT.—In the case of
a complaint made concerning allegations of abuses of civil
rights and civil liberties under paragraph (7) of subsection
(b), the Officer shall—

“(1) provide to the individual who made the
complaint notice of the receipt of such complaint
within 30 days of receiving the complaint; and
“(2) inform the complainant of the determination of the Office regarding—

“(A) the initiation of a review, assessment, or investigation by the Office;

“(B) a referral to the Inspector General of the Department; or

“(C) any other action taken.

“(e) COORDINATION WITH INSPECTOR GENERAL.—

“(1) IN GENERAL.—

“(A) REFERRAL.—Before initiating an investigation initiated by the Officer pursuant to paragraph (7) or (8) of subsection (b), the Officer shall refer the matter at issue to the Inspector General of the Department.

“(B) DETERMINATIONS AND NOTIFICATIONS BY INSPECTOR GENERAL.—Not later than seven days after the receipt of a matter at issue under subparagraph (A), the Inspector General shall—

“(i) make a determination regarding whether the Inspector General intends to initiate an investigation of such matter; and

“(ii) notify the Officer of such determination.
“(C) INVESTIGATIONS.—If the Secretary determines that a complaint warrants both the Officer and the Inspector General conducting investigations concurrently, jointly, or in some other manner, the Secretary may authorize the Officer to conduct an investigation in such manner as the Secretary directs.

“(D) NOTIFICATION BY THE OFFICER.—If the Officer does not receive notification of a determination pursuant to subparagraph (B)(ii), the Officer shall notify the Inspector General of whether the Officer intends to initiate an investigation into the matter at issue.

“(f) RECOMMENDATIONS; RESPONSE.—

“(1) IN GENERAL.—In the case of an investigation initiated by the Officer pursuant to paragraph (7) or (8) of subsection (b), if such an investigation results in the issuance of recommendations, the Officer shall produce a report that—

“(A) includes the final findings and recommendations of the Officer;

“(B) is made publicly available in summary form;

“(C) does not include any personally identifiable information; and
“(D) may include a classified annex.

“(2) TRANSMISSION.—The Officer shall transmit to the Secretary and the head of the relevant component a copy of each report under paragraph (1).

“(3) RESPONSE.—

“(A) IN GENERAL.—Not later than 45 days after the date on which the Officer transmits to the head of a component a copy of a report pursuant to paragraph (2), such head shall submit to the Secretary and the Officer a response to such report.

“(B) RULE OF CONSTRUCTION.—In the response submitted pursuant to subparagraph (A), each recommendation contained in the report transmitted pursuant to paragraph (2) with which the head of the component at issue concurs shall be deemed an accepted recommendation of the Department.

“(C) NONCONCURRENCE; APPEAL.—If the head of a component does not concur with a recommendation contained in the report transmitted pursuant to paragraph (2), or if such head does not respond to a recommendation within 45 days in accordance with subpara-
graph (A), the Officer may appeal to the Secretary.

“(D) RESULT.—If the Officer appeals to the Secretary pursuant to subparagraph (C), the Secretary shall, not later than 60 days after the date on which the Officer appeals—

“(i) accept the Officer’s recommendation, which recommendation shall be deemed the accepted recommendation of the Department; or

“(ii) accept the nonconcurrency of the head of the component at issue if transmitted in accordance with subparagraph (A).

“(g) REPORTING.—

“(1) IN GENERAL.—In the case of an investigation initiated by the Officer pursuant to paragraph (7) or (8) of subsection (b), if such an investigation resulted in the issuance of recommendations, the Officer shall, on an annual basis, make publicly available through accessible communications channels, including the website of the Department—

“(A) a summary of investigations that are completed, consistent with section 1062(f)(1) of
the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(f)(2));

“(B) the accepted recommendations of the Department, if any; and

“(C) a summary of investigations that result in final recommendations that are issued by the Officer.

“(2) PROHIBITION.—Materials made publicly available pursuant to paragraph (1) may not include any personally identifiable information related to any individual involved in the investigation at issue.

“(h) COMPONENT CIVIL RIGHTS AND CIVIL LIBERTIES OFFICERS.—

“(1) IN GENERAL.—Any component that has an Officer for Civil Rights and Civil Liberties of such component shall ensure that such Officer for Civil Rights and Civil Liberties of 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 each such component.

“(2) OFFICERS OF OPERATIONAL COMPONENTS.—The head of each operational component, in consultation with the Officer for Civil Rights and Civil Liberties of the Department, shall hire or des-
ignite 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 such operational component.

“(3) Responsibilities.—Each Officer for Civil Rights and Civil Liberties of each component—

“(A) shall have access in a timely manner to the information, materials, and information necessary to carry out the functions of such officer;

“(B) shall be consulted in advance of new or proposed changes to component policies, programs, initiatives, and activities impacting civil rights and civil liberties;

“(C) shall be given full and complete access to all component materials and component personnel necessary to carry out the functions of such officer;

“(D) may, to the extent the Officer for Civil Rights and Civil Liberties of the Department determines necessary, and subject to the approval of the Secretary, administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of
the responsibilities of each such component Officer under this section; and

“(E) may administer any oath, affirmation, or affidavit, and such oath, affirmation, shall have the same force and effect as if administered or taken by or before an officer having a seal of office.

“(i) ANNUAL REPORT.—Not later than March 31 of each year, the Officer shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and any other Committee of the House of Representatives or the Senate, as the case may be, the Officer determines relevant, a report on the implementation of this section during the immediately preceding fiscal year. Each such annual report shall be prepared and submitted for supervisory review and appropriate comment or amendment by the Secretary prior to submission to such committees, and the Officer shall consider and incorporate any comments or amendments as a result of such review. Each such report shall include, for the year covered by such report, the following:

“(1) A list of Department regulations, policies, programs, initiatives, and activities for which civil rights and civil liberties impact assessments were
conducted, or policy advice, recommendations, or other technical assistance was provided.

“(2) An assessment of the efforts of the Department to effectively communicate with all individuals impacted by programs and activities of the Department, including those with limited English proficiency through the language access program referred to in subsection (b)(13).

“(3) A summary of investigations under paragraph (7) or (8) of subsection (b) resulting in recommendations issued pursuant to subsection (f), together with information on the status of the implementation of such recommendations by the component at issue.

“(4) Information on the diversity and equal employment opportunity activities of the Department, including information on complaint management and adjudication of equal employment opportunity complaints, and efforts to ensure compliance throughout the Department with equal employment opportunity requirements.

“(5) A description of any efforts, including public meetings, to engage with individuals, stakeholders, and communities the civil rights and civil
liberties of which may be affected by policies, programs, initiatives, and activities of the Department.

“(6) Information on total staffing for the Office, 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 (10) of subsection (b).

“(7) If required, a classified annex.

“(j) DEFINITION.—In this section, the term ‘component’ means any operational component, non-operational component, directorate, or office of the Department.”.

(2) 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”.

(3) REPORTING TO CONGRESS.—Section 1062(f)(1)(A)(i) of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(f)(1)(A)(i)) is amended by striking “the Committee on Oversight and Government Reform of the House of Representatives” and inserting “the Committee on Homeland Security of the House of Rep-
representatives, the Committee on Oversight and Reform of the House of Representatives’.

(b) Comptroller General Review.—Not later than two years after the date of the enactment of this section, the Comptroller General of the United States shall submit to Congress a report on the implementation of subsection (b)(12) of section 705 of the Homeland Security Act of 2002 (6 U.S.C. 345), as amended by subsection (a).