

AMENDMENT TO RULES COMM. PRINT 117-54
OFFERED BY MR. GREEN OF TEXAS

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

1 **SEC. ____ . DEPARTMENT OF HOMELAND SECURITY OFFICE**
2 **FOR CIVIL RIGHTS AND CIVIL LIBERTIES AU-**
3 **THORIZATION.**

4 (a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIB-
5 ERTIES.—

6 (1) IN GENERAL.—Section 705 of the Home-
7 land Security Act of 2002 (6 U.S.C. 345) is amend-
8 ed—

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

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

13 “(a) ESTABLISHMENT.—

14 “(1) IN GENERAL.—There is established within
15 the Department an Office for Civil Rights and Civil
16 Liberties (referred to in this section as the ‘Office’).
17 The head of the Office is the Officer for Civil Rights
18 and Civil Liberties (referred to in this section as the
19 ‘Officer’), who shall report directly to the Secretary.

1 “(2) DUTIES.—The Secretary and the head of
2 each component shall—

3 “(A) ensure that the Officer for Civil
4 Rights and Civil Liberties of the Department
5 and the Officer for Civil Rights and Civil Lib-
6 erties of such component—

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

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

14 “(iii) are given full and complete ac-
15 cess to all materials and personnel nec-
16 essary to carry out the functions of the Of-
17 fice; and

18 “(B) consider advice and recommendations
19 from the Officer for Civil Rights and Civil Lib-
20 erties of the Department in the development
21 and implementation of policies, programs, ini-
22 tiatives, and activities impacting civil rights and
23 civil liberties.

24 “(b) RESPONSIBILITIES.—The Officer shall carry out
25 the following responsibilities:

1 “(1) Oversee compliance with constitutional,
2 statutory, regulatory, policy, and other requirements
3 relating to the civil rights and civil liberties of indi-
4 viduals affected by the policies, programs, initiatives,
5 and activities of the Department.

6 “(2) Review and assess information concerning
7 abuses of civil rights and civil liberties, and profiling
8 on the basis of race, ethnicity, or religion, by em-
9 ployees and officials of the Department.

10 “(3) Integrate civil rights and civil liberties pro-
11 tections into all policies, programs, initiatives, and
12 activities of the Department.

13 “(4) Conduct civil rights and civil liberties im-
14 pact assessments, as appropriate, including such as-
15 sessments prior to the implementation of new De-
16 partment regulations, policies, programs, initiatives,
17 and activities.

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

23 “(6) Provide policy advice, recommendations,
24 and other technical assistance relating to civil rights
25 and civil liberties to the Secretary, and the heads of

1 components, and other personnel within the Depart-
2 ment.

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

10 “(8) Initiate reviews, investigations, and assess-
11 ments of the administration of the policies, pro-
12 grams, initiatives, and activities of the Department
13 relating to civil rights and civil liberties.

14 “(9) Coordinate with the Privacy Officer to en-
15 sure that—

16 “(A) policies, programs, initiatives, and ac-
17 tivities involving civil rights, civil liberties, and
18 privacy considerations are addressed in an inte-
19 grated and comprehensive manner; and

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

23 “(10) Lead the equal employment opportunity
24 programs of the Department, including complaint

1 management and adjudication, workforce diversity,
2 and promotion of the merit system principles.

3 “(11) Make publicly available through acces-
4 sible communications channels, including the website
5 of the Department—

6 “(A) information on the responsibilities
7 and functions of, and how to contact, the Of-
8 fice;

9 “(B) summaries of the investigations car-
10 ried out pursuant to paragraphs (7) and (8)
11 that result in recommendations; and

12 “(C) summaries of impact assessments and
13 periodic reviews and assessments carried out
14 pursuant to paragraphs (4) and (5), respec-
15 tively, that are issued by the Officer.

16 “(12) Engage with individuals, stakeholders,
17 and communities the civil rights and civil liberties of
18 which may be affected by the policies, programs, ini-
19 tiatives, and activities of the Department, including
20 by—

21 “(A) informing such individuals, stake-
22 holders, and communities concerning such poli-
23 cies, programs, initiatives, and activities;

24 “(B) providing information for how to re-
25 port and access redress processes; and

1 “(C) providing Department leadership and
2 other personnel within the Department feed-
3 back from such individuals, stakeholders, and
4 communities on the civil rights and civil lib-
5 erties impacts of such policies, programs, initia-
6 tives, and activities, and working with State,
7 local, Tribal, and territorial homeland security
8 partners to enhance the Department’s policy-
9 making and program implementation.

10 “(13) Lead a language access program for the
11 Department to ensure the Department effectively
12 communicates with all individuals impacted by pro-
13 grams and activities of the Department, including
14 those with limited English proficiency.

15 “(14) Participate in the hiring or designation of
16 a civil rights and civil liberties officer within each
17 component and participate in the performance re-
18 view process for such officer.

19 “(c) AUTHORITY TO INVESTIGATE.—

20 “(1) IN GENERAL.—For the purposes of sub-
21 section (b), the Officer shall—

22 “(A) have access to all materials and per-
23 sonnel necessary to carry out the functions of
24 the Office under this subsection;

1 “(B) make such investigations and reports
2 relating to the administration of the programs
3 and operations of the Department as are nec-
4 essary or appropriate; and

5 “(C) administer to or take from any per-
6 son an oath, affirmation, or affidavit, whenever
7 necessary to performance of the responsibilities
8 of the Officer under this section.

9 “(2) EFFECT OF OATHS.—Any oath, affirma-
10 tion, or affidavit administered or taken pursuant to
11 paragraph (1)(C) by or before an employee of the
12 Office designated for that purpose by the Officer
13 shall have the same force and effect as if adminis-
14 tered or taken by or before an officer having a seal
15 of office.

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

20 “(1) provide to the individual who made the
21 complaint notice of the receipt of such complaint
22 within 30 days of receiving the complaint; and

23 “(2) inform the complainant of the determina-
24 tion of the Office regarding—

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

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

5 “(C) any other action taken.

6 “(e) COORDINATION WITH INSPECTOR GENERAL.—

7 “(1) IN GENERAL.—

8 “(A) REFERRAL.—Before initiating an in-
9 vestigation initiated by the Officer pursuant to
10 paragraph (7) or (8) of subsection (b), the Offi-
11 cer shall refer the matter at issue to the Inspec-
12 tor General of the Department.

13 “(B) DETERMINATIONS AND NOTIFICA-
14 TIONS BY INSPECTOR GENERAL.—Not later
15 than seven days after the receipt of a matter at
16 issue under subparagraph (A), the Inspector
17 General shall—

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

22 “(ii) notify the Officer of such deter-
23 mination.

24 “(C) INVESTIGATIONS.—If the Secretary
25 determines that a complaint warrants both the

1 Officer and the Inspector General conducting
2 investigations concurrently, jointly, or in some
3 other manner, the Secretary may authorize the
4 Officer to conduct an investigation in such
5 manner as the Secretary directs.

6 “(D) NOTIFICATION BY THE OFFICER.—If
7 the Officer does not receive notification of a de-
8 termination pursuant to subparagraph (B)(ii),
9 the Officer shall notify the Inspector General of
10 whether the Officer intends to initiate an inves-
11 tigation into the matter at issue.

12 “(f) RECOMMENDATIONS; RESPONSE.—

13 “(1) IN GENERAL.—In the case of an investiga-
14 tion initiated by the Officer pursuant to paragraph
15 (7) or (8) of subsection (b), if such an investigation
16 results in the issuance of recommendations, the Offi-
17 cer shall produce a report that—

18 “(A) includes the final findings and rec-
19 ommendations of the Officer;

20 “(B) is made publicly available in sum-
21 mary form;

22 “(C) does not include any personally iden-
23 tifiable information; and

24 “(D) may include a classified annex.

1 “(2) TRANSMISSION.—The Officer shall trans-
2 mit to the Secretary and the head of the relevant
3 component a copy of each report under paragraph
4 (1).

5 “(3) RESPONSE.—

6 “(A) IN GENERAL.—Not later than 45
7 days after the date on which the Officer trans-
8 mits to the head of a component a copy of a re-
9 port pursuant to paragraph (2), such head shall
10 submit to the Secretary and the Officer a re-
11 sponse to such report.

12 “(B) RULE OF CONSTRUCTION.—In the re-
13 sponse submitted pursuant to subparagraph
14 (A), each recommendation contained in the re-
15 port transmitted pursuant to paragraph (2)
16 with which the head of the component at issue
17 concur shall be deemed an accepted rec-
18 ommendation of the Department.

19 “(C) NONCONCURRENCE; APPEAL.—If the
20 head of a component does not concur with a
21 recommendation contained in the report trans-
22 mitted pursuant to paragraph (2), or if such
23 head does not respond to a recommendation
24 within 45 days in accordance with subpara-

1 graph (A), the Officer may appeal to the Sec-
2 retary.

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

7 “(i) accept the Officer’s recommenda-
8 tion, which recommendation shall be
9 deemed the accepted recommendation of
10 the Department; or

11 “(ii) accept the nonconcurrence of the
12 head of the component at issue if trans-
13 mitted in accordance with subparagraph
14 (A).

15 “(g) REPORTING.—

16 “(1) IN GENERAL.—In the case of an investiga-
17 tion initiated by the Officer pursuant to paragraph
18 (7) or (8) of subsection (b), if such an investigation
19 resulted in the issuance of recommendations, the Of-
20 ficer shall, on an annual basis, make publicly avail-
21 able through accessible communications channels, in-
22 cluding the website of the Department—

23 “(A) a summary of investigations that are
24 completed, consistent with section 1062(f)(1) of

1 the Intelligence Reform and Terrorism Preven-
2 tion Act of 2004 (42 U.S.C. 2000ee–1(f)(2));

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

5 “(C) a summary of investigations that re-
6 sult in final recommendations that are issued
7 by the Officer.

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

12 “(h) COMPONENT CIVIL RIGHTS AND CIVIL LIB-
13 RTIES OFFICERS.—

14 “(1) IN GENERAL.—Any component that has an
15 Officer for Civil Rights and Civil Liberties of such
16 component shall ensure that such Officer for Civil
17 Rights and Civil Liberties of such component shall
18 coordinate with and provide information to the Offi-
19 cer for Civil Rights and Civil Liberties of the De-
20 partment on matters related to civil rights and civil
21 liberties within each such component.

22 “(2) OFFICERS OF OPERATIONAL COMPO-
23 NENTS.—The head of each operational component,
24 in consultation with the Officer for Civil Rights and
25 Civil Liberties of the Department, shall hire or des-

1 ignite a career appointee (as such term is defined
2 in section 3132 of title 5, United States Code) from
3 such component as the Officer for Civil Rights and
4 Civil Liberties of such operational component.

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

7 “(A) shall have access in a timely manner
8 to the information, materials, and information
9 necessary to carry out the functions of such of-
10 ficer;

11 “(B) shall be consulted in advance of new
12 or proposed changes to component policies, pro-
13 grams, initiatives, and activities impacting civil
14 rights and civil liberties;

15 “(C) shall be given full and complete ac-
16 cess to all component materials and component
17 personnel necessary to carry out the functions
18 of such officer;

19 “(D) may, to the extent the Officer for
20 Civil Rights and Civil Liberties of the Depart-
21 ment determines necessary, and subject to the
22 approval of the Secretary, administer to or take
23 from any person an oath, affirmation, or affi-
24 davit, whenever necessary in the performance of

1 the responsibilities of each such component Of-
2 ficer under this section; and

3 “(E) may administer any oath, affirma-
4 tion, or affidavit, and such oath, affirmation,
5 shall have the same force and effect as if ad-
6 ministered or taken by or before an officer hav-
7 ing a seal of office.

8 “(i) ANNUAL REPORT.—Not later than March 31 of
9 each year, the Officer shall submit to the Committee on
10 Homeland Security of the House of Representatives, the
11 Committee on Homeland Security and Governmental Af-
12 fairs of the Senate, and any other Committee of the House
13 of Representatives or the Senate, as the case may be, the
14 Officer determines relevant, a report on the implementa-
15 tion of this section during the immediately preceding fiscal
16 year. Each such annual report shall be prepared and sub-
17 mitted for supervisory review and appropriate comment or
18 amendment by the Secretary prior to submission to such
19 committees, and the Officer shall consider and incorporate
20 any comments or amendments as a result of such review.
21 Each such report shall include, for the year covered by
22 such report, the following:

23 “(1) A list of Department regulations, policies,
24 programs, initiatives, and activities for which civil
25 rights and civil liberties impact assessments were

1 conducted, or policy advice, recommendations, or
2 other technical assistance was provided.

3 “(2) An assessment of the efforts of the De-
4 partment to effectively communicate with all individ-
5 uals impacted by programs and activities of the De-
6 partment, including those with limited English pro-
7 ficiency through the language access program re-
8 ferred to in subsection (b)(13).

9 “(3) A summary of investigations under para-
10 graph (7) or (8) of subsection (b) resulting in rec-
11 ommendations issued pursuant to subsection (f), to-
12 gether with information on the status of the imple-
13 mentation of such recommendations by the compo-
14 nent at issue.

15 “(4) Information on the diversity and equal em-
16 ployment opportunity activities of the Department,
17 including information on complaint management and
18 adjudication of equal employment opportunity com-
19 plaints, and efforts to ensure compliance throughout
20 the Department with equal employment opportunity
21 requirements.

22 “(5) A description of any efforts, including pub-
23 lic meetings, to engage with individuals, stake-
24 holders, and communities the civil rights and civil

1 liberties of which may be affected by policies, pro-
2 grams, initiatives, and activities of the Department.

3 “(6) Information on total staffing for the Of-
4 fice, including—

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

7 “(B) information on the number of em-
8 ployees whose primary responsibilities include
9 supporting the Officer in carrying out para-
10 graph (10) of subsection (b).

11 “(7) If required, a classified annex.

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

15 (2) CLERICAL AMENDMENT.—The item relating
16 to section 705 in section 1(b) of the Homeland Secu-
17 rity Act of 2002 is amended to read as follows:

“Sec. 705. Officer for Civil Rights and Civil Liberties”.

18 (3) REPORTING TO CONGRESS.—Section
19 1062(f)(1)(A)(i) of the Intelligence Reform and Ter-
20 rorism Prevention Act of 2004 (42 U.S.C. 2000ee-
21 1(f)(1)(A)(i)) is amended by striking “the Com-
22 mittee on Oversight and Government Reform of the
23 House of Representatives” and inserting “the Com-
24 mittee on Homeland Security of the House of Rep-

1 representatives, the Committee on Oversight and Re-
2 form of the House of Representatives”.

3 (b) **COMPTROLLER GENERAL REVIEW.**—Not later
4 than two years after the date of the enactment of this sec-
5 tion, the Comptroller General of the United States shall
6 submit to Congress a report on the implementation of sub-
7 section (b)(12) of section 705 of the Homeland Security
8 Act of 2002 (6 U.S.C. 345), as amended by subsection
9 (a).

