

AMENDMENT TO RULES COMM. PRINT 116-27
OFFERED BY MR. THOMPSON OF MISSISSIPPI

Strike section 1 and all that follows and insert the following:

1 **SECTION 1. ESTABLISHMENT OF THE OFFICE OF THE OM-**
2 **BUDSMAN FOR BORDER AND IMMIGRATION**
3 **ENFORCEMENT RELATED CONCERNS.**

4 (a) IN GENERAL.—Title VII of the Homeland Secu-
5 rity Act of 2002 (6 U.S.C. 341 et seq.) is amended by
6 adding at the end the following new section:

7 **“SEC. 711. OMBUDSMAN FOR BORDER AND IMMIGRATION**
8 **ENFORCEMENT RELATED CONCERNS.**

9 “(a) IN GENERAL.—Within the Department there
10 shall be a position of Ombudsman for Border and Immi-
11 gration Enforcement Related Concerns (in this section re-
12 ferred to as the ‘Ombudsman’), who shall—

13 “(1) be independent of Department agencies
14 and officers;

15 “(2) report directly to the Secretary; and

16 “(3) have a background in immigration law,
17 civil rights, and law enforcement.

18 “(b) FUNCTIONS.—It shall be the function of the
19 Ombudsman to—

1 “(1) in coordination with the Inspector General
2 of the Department, establish an independent, neu-
3 tral, accessible, confidential, and standardized proc-
4 ess to assist individuals (including aliens (as such
5 term is defined in section 101 of the Immigration
6 and Nationality Act (8 U.S.C. 1101)) in resolving
7 complaints with respect to U.S. Customs and Border
8 Protection, U.S. Immigration and Customs Enforce-
9 ment, a subcontractor, or a cooperating entity,
10 which process shall include a publicly accessible
11 website through which a complainant can check on
12 the status of such a complaint;

13 “(2) identify and thereafter review, examine,
14 and make recommendations to the Secretary to ad-
15 dress chronic issues identified by the Ombudsman in
16 carrying out the function described in paragraph
17 (1);

18 “(3) establish a Border Oversight Panel in ac-
19 cordance with subsection (f); and

20 “(4) review compliance with departmental poli-
21 cies and standards of care for custody of aliens by
22 U.S. Immigration and Customs Enforcement and
23 U.S. Customs and Border Protection, including any
24 violations of applicable policy or standards of care
25 involving force-feeding.

1 “(c) CONFIDENTIALITY.—The existence of a com-
2 plaint, including the identity of any Department employee
3 implicated in a complaint, shall be kept confidential by the
4 Ombudsman and, in the absence of the written consent
5 of an individual who submits a complaint, the Ombudsman
6 shall keep confidential the identity of and any identifying
7 information relating to such individual. Such confiden-
8 tiality requirement may not be considered as a factor of
9 whether or not information under this subsection may be
10 disclosed under section 552 of title 5, United States Code
11 (commonly referred to as the Freedom of Information
12 Act).

13 “(d) ANNUAL REPORTING.—Not later than June 30
14 of each year beginning in the year after the date of the
15 enactment of this section, the Ombudsman shall submit
16 to the Committee on Homeland Security and the Com-
17 mittee on the Judiciary of the House of Representatives
18 and the Committee on Homeland Security and Govern-
19 mental Affairs and the Committee on the Judiciary of the
20 Senate a report that includes, for the previous year, the
21 following:

22 “(1) The number and types of complaints re-
23 ceived under this section and for each complaint—

24 “(A) the component or subcomponent, sub-
25 contractor, or cooperating entity identified;

1 “(B) the demographics of the complainant;
2 and

3 “(C) a description of the resolution of the
4 complaint or the status of the resolution pro-
5 cess.

6 “(2) Any complaint pattern that could be pre-
7 vented or reduced by policy training or practice
8 changes.

9 “(3) A description of any pattern of violations
10 of any applicable policy or standards.

11 “(4) A description of each complaint received
12 under this section with respect to which U.S. Cus-
13 toms and Border Protection, U.S. Immigration and
14 Customs Enforcement, a subcontractor, or a cooper-
15 ating entity, as applicable, has taken action to re-
16 solve, and the time between receipt and resolution of
17 each such complaint.

18 “(5) A description of complaints received under
19 this section for which action has not been taken
20 after one year, and the period during which each
21 complaint has been open.

22 “(6) Recommendations the Ombudsman has
23 made under subsection (b)(2).

24 “(7) Other information, as determined appro-
25 priate by the Ombudsman .

1 “(e) APPOINTMENT OF BORDER COMMUNITIES LIAI-
2 SON.—

3 “(1) IN GENERAL.—The Ombudsman, in con-
4 junction with the Office for Civil Rights and Civil
5 Liberties of the Department, shall appoint a Border
6 Community Liaison (in this subsection referred to as
7 the ‘Liaison’) in each U.S. Border Patrol sector on
8 the northern and southern borders. Each Liaison
9 shall report to the Ombudsman.

10 “(2) PURPOSES.—Each Liaison appointed
11 under this subsection shall—

12 “(A) foster cooperation between U.S. Cus-
13 toms and Border Protection, U.S. Immigration
14 and Customs Enforcement, and border commu-
15 nities;

16 “(B) consult with border communities on
17 the development of policies, directives, and pro-
18 grams of U.S. Customs and Border Protection
19 and U.S. Immigration and Customs Enforce-
20 ment;

21 “(C) receive feedback from border commu-
22 nities on the performance of U.S. Customs and
23 Border Protection and U.S. Immigration and
24 Customs Enforcement; and

1 “(D) submit to the Ombudsman an annual
2 report detailing their findings, feedback re-
3 ceived from border communities, and rec-
4 ommendations to increase cooperation between
5 U.S. Customs and Border Protection, U.S. Im-
6 migration and Customs Enforcement, and bor-
7 der communities.

8 “(f) BORDER OVERSIGHT PANEL.—

9 “(1) ESTABLISHMENT.—The Ombudsman shall
10 establish a Border Oversight Panel (in this sub-
11 section referred to as the ‘Panel’).

12 “(2) COMPOSITION.—

13 “(A) IN GENERAL.—The Panel shall be
14 composed of 30 members selected by the Om-
15 budsman.

16 “(B) CHAIRPERSON.—The Ombudsman
17 shall be the chair of the Panel.

18 “(C) EXPERTISE.—Members of the Panel
19 shall have expertise in immigration, local crime
20 indices, civil and human rights, community re-
21 lations, cross-border trade and commerce, qual-
22 ity of life indicators, or other experience the
23 Ombudsman determines is appropriate, and
24 shall include individuals who reside in or near
25 border counties.

1 “(3) DUTIES.—The Panel shall evaluate and
2 make recommendations regarding the border en-
3 forcement policies, strategies, and programs of the
4 Department operating along the northern and south-
5 ern borders of the United States to—

6 “(A) take into consideration the impact of
7 such policies, strategies, and programs on bor-
8 der communities, including protecting due proc-
9 ess, civil and human rights of border residents
10 and visitors, and private property rights of land
11 owners;

12 “(B) uphold domestic and international
13 legal obligations;

14 “(C) reduce the number of migrant deaths;
15 and

16 “(D) improve the safety of agents and offi-
17 cers of U.S. Customs and Border Protection
18 and U.S. Immigration and Customs Enforce-
19 ment.

20 “(g) STAFFING.—The Secretary shall take appro-
21 priate action to ensure the Ombudsman’s office is suffi-
22 ciently staffed and resourced to carry out its duties effec-
23 tively and efficiently.

24 “(h) TRAINING.—

1 “(1) IN GENERAL.—The Ombudsman shall con-
2 duct a yearly evaluation of all training given to
3 agents and officers of U.S. Customs and Border
4 Protection and U.S. Immigration and Customs En-
5 forcement.

6 “(2) CONTENTS.—Each evaluation under para-
7 graph (1) shall include whether the training referred
8 to in such paragraph adequately addresses the fol-
9 lowing:

10 “(A) Best practices in community policing,
11 cultural awareness, and carrying out enforce-
12 ment actions near sensitive locations, such as
13 places of worship or religious ceremony, school
14 or education-related places or events, court-
15 houses or other civic buildings providing serv-
16 ices accessible to the public, hospitals, medical
17 treatment or health care facilities, public dem-
18 onstrations, and attorney’s offices (including a
19 public defender or legal aid offices).

20 “(B) Policies for operating in locations
21 where there are limitations on cooperation by
22 local law enforcement.

23 “(C) Interaction with vulnerable popu-
24 lations, including instruction on screening, iden-
25 tifying, and responding to vulnerable popu-

1 lations, such as children, victims of human traf-
2 ficking, and the acutely ill.

3 “(D) Standards of professional and ethical
4 conduct, including the following:

5 “(i) Lawful use of force, de-escalation
6 tactics, and alternatives to the use of force.

7 “(ii) Complying with chain of com-
8 mand and lawful orders.

9 “(iii) Conduct and ethical behavior to-
10 ward the public in a civil and professional
11 manner.

12 “(iv) Civil rights and legal protections
13 for nationals of the United States and
14 aliens.

15 “(v) Non-biased questioning.

16 “(vi) Sensitivity towards lesbian, gay,
17 bisexual, transgender, and queer individ-
18 uals.

19 “(vii) Permissible and impermissible
20 social media activity.

21 “(viii) Sexual and other harassment
22 and assault, including an assessment of
23 whether adequate policies exist to resolve
24 complaints.

1 “(E) Protecting the civil, constitutional,
2 human, and privacy rights of individuals, with
3 special emphasis on the scope of enforcement
4 authority, including chain of evidence practices
5 and document seizure, and use of force policies
6 available to agents and officers.

7 “(F) Maintaining and updated under-
8 standing of Federal legal rulings, court deci-
9 sions, and Department policies and procedures.

10 “(G) The scope of agents’ and officers’ au-
11 thority to conduct immigration enforcement ac-
12 tivities, including interviews, interrogations,
13 stops, searches, arrests, and detentions, in addi-
14 tion to identifying and detecting fraudulent doc-
15 uments.

16 “(3) RECOMMENDATIONS.—Not later than 90
17 days after conducting each evaluation under para-
18 graph (1), the Ombudsman shall develop, and sub-
19 mit to the Secretary, recommendations regarding
20 any additional training.

21 “(4) FEEDBACK.—Not later than 180 days
22 after receiving recommendations transmitted by the
23 Ombudsman, the Secretary shall respond publicly
24 and in writing with feedback on each of the rec-
25 ommendations, an action plan to implement any of

1 such recommendations with which the Secretary con-
2 curs, and a justification for why any of such rec-
3 ommendations have been rejected.

4 “(i) ELECTRONIC TRACKING.—

5 “(1) IN GENERAL.—The Ombudsman, in co-
6 ordination with the Commissioner of U.S. Customs
7 and Border Protection, the Director of U.S. Immi-
8 gration and Customs Enforcement, and the Office of
9 Refugee Resettlement of the Department of Health
10 and Human Services, shall develop recommendations
11 for the establishment of an electronic tracking num-
12 ber system on a single interface, which shall be used
13 to track the location of a child who has been sepa-
14 rated from a parent, legal guardian, or other relative
15 of such child, and which shall be accessible to agents
16 and officers of U.S. Customs and Border Protection,
17 U.S. Immigration and Customs Enforcement, and
18 the Office of Refugee Resettlement.

19 “(2) TRACKING NUMBER.—The recommenda-
20 tions developed under this subsection shall consider
21 how a tracking number can be assigned to a child
22 who has been separated from a parent, legal guard-
23 ian, or other relative of such child that—

24 “(A) is transferrable;

1 “(B) may be shared easily on the elec-
2 tronic tracking system described in this sub-
3 section by agents and officers of—

4 “(i) U.S. Customs and Border Protec-
5 tion;

6 “(ii) U.S. Immigration and Customs
7 Enforcement; and

8 “(iii) the Office of Refugee Resettle-
9 ment of the Department of Health and
10 Human Services; and

11 “(C) is interoperable with the electronic lo-
12 cation records of a parent, legal guardian, or
13 other relative of such child.

14 “(j) BODY-WORN CAMERAS.—

15 “(1) REQUIREMENT.—Not later than 120 days
16 after the date of the enactment of this section, the
17 Ombudsman, in coordination with the Commissioner
18 of U.S. Customs and Border Protection, the Direc-
19 tor of U.S. Immigration and Customs Enforcement,
20 and labor organizations representing agents and offi-
21 cers of U.S. Customs and Border Protection and
22 U.S. Immigration and Customs Enforcement, shall
23 submit to the Committee on Homeland Security and
24 the Committee on the Judiciary of the House of
25 Representatives and the Committee on Homeland

1 Security and Governmental Affairs and the Com-
2 mittee on the Judiciary of the Senate a plan for re-
3 quiring, not later than one year after such date of
4 enactment, the use of body-worn cameras by U.S.
5 Border Patrol agents and U.S. Immigration and
6 Customs Enforcement officers whenever such agents
7 and officers are engaged in border security or immi-
8 gration enforcement activities.

9 “(2) ELEMENTS.—The plan required under
10 paragraph (1) shall include the following:

11 “(A) Benchmarks for implementation of
12 the use of body-worn cameras within U.S. Cus-
13 toms and Border Protection and U.S. Immigra-
14 tion and Customs Enforcement.

15 “(B) Policies, procedures, and training
16 modules for the use of body-worn cameras by
17 agents and officers of U.S. Customs and Border
18 Protection and U.S. Immigration and Customs
19 Enforcement, including training modules relat-
20 ing to the appropriate use of such cameras and
21 adverse action for non-compliance.

22 “(C) Mechanisms to ensure compliance
23 with body-worn camera policies and procedures.

24 “(3) CONSIDERATIONS.—The plan required
25 under paragraph (1) shall be informed by—

1 “(A) existing State and local policies re-
2 quiring the use of body-worn cameras; and

3 “(B) principles regarding body-worn cam-
4 eras published by major civil and human rights
5 organizations.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 of the Homeland Security Act of 2002 is amended by add-
8 ing after the item relating to section 710 the following
9 new item:

 “Sec. 711. Ombudsman for Border and Immigration Enforcement Related Con-
 cerns.”.

