

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# **H. R. 2203**

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## **AN ACT**

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.

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

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

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

9 **“SEC. 711. OMBUDSMAN FOR BORDER AND IMMIGRATION**  
10 **ENFORCEMENT RELATED CONCERNS.**

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

15 “(1) be independent of Department agencies  
16 and officers;

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

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

20 “(b) FUNCTIONS.—It shall be the function of the  
21 Ombudsman to—

22 “(1) in coordination with the Inspector General  
23 of the Department, establish an independent, neu-  
24 tral, accessible, confidential, and standardized proc-  
25 ess to assist individuals (including aliens (as such

1 term is defined in section 101 of the Immigration  
2 and Nationality Act (8 U.S.C. 1101)) in resolving  
3 complaints with respect to U.S. Customs and Border  
4 Protection, U.S. Immigration and Customs Enforce-  
5 ment, a subcontractor, or a cooperating entity,  
6 which process shall include a publicly accessible  
7 website through which a complainant can check on  
8 the status of such a complaint;

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

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

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

22 “(c) CONFIDENTIALITY.—The existence of a com-  
23 plaint, including the identity of any Department employee  
24 implicated in a complaint, shall be kept confidential by the  
25 Ombudsman and, in the absence of the written consent

1 of an individual who submits a complaint, the Ombudsman  
2 shall keep confidential the identity of and any identifying  
3 information relating to such individual. Such confiden-  
4 tiality requirement may not be considered as a factor of  
5 whether or not information under this subsection may be  
6 disclosed under section 552 of title 5, United States Code  
7 (commonly referred to as the Freedom of Information  
8 Act).

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

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

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

22                       “(B) the demographics of the complainant;

23                       and

1           “(C) a description of the resolution of the  
2           complaint or the status of the resolution proc-  
3           ess.

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

7           “(3) A description of any pattern of violations  
8           of any applicable policy or standards.

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

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

20          “(6) Recommendations the Ombudsman has  
21          made under subsection (b)(2).

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

24          “(e) APPOINTMENT OF BORDER COMMUNITIES LIAI-  
25          SON.—

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

8           “(2) PURPOSES.—Each Liaison appointed  
9           under this subsection shall—

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

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

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

23                   “(D) submit to the Ombudsman an annual  
24                   report detailing their findings, feedback re-  
25                   ceived from border communities, and rec-

1           ommendations to increase cooperation between  
2           U.S. Customs and Border Protection, U.S. Im-  
3           migration and Customs Enforcement, and bor-  
4           der communities.

5           “(f) BORDER OVERSIGHT PANEL.—

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

9                 “(2) COMPOSITION.—

10                     “(A) IN GENERAL.—The Panel shall be  
11           composed of 30 members selected by the Om-  
12           budsman.

13                     “(B) CHAIRPERSON.—The Ombudsman  
14           shall be the chair of the Panel.

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

23                 “(3) DUTIES.—The Panel shall evaluate and  
24           make recommendations regarding the border en-  
25           forcement policies, strategies, and programs of the

1 Department operating along the northern and south-  
2 ern borders of the United States to—

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

9 “(B) uphold domestic and international  
10 legal obligations;

11 “(C) reduce the number of migrant deaths;  
12 and

13 “(D) improve the safety of agents and offi-  
14 cers of U.S. Customs and Border Protection  
15 and U.S. Immigration and Customs Enforce-  
16 ment.

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

21 “(h) TRAINING.—

22 “(1) IN GENERAL.—The Ombudsman shall con-  
23 duct a yearly evaluation of all training given to  
24 agents and officers of U.S. Customs and Border

1 Protection and U.S. Immigration and Customs En-  
2 forcement.

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

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

17 “(B) Policies for operating in locations  
18 where there are limitations on cooperation by  
19 local law enforcement.

20 “(C) Interaction with vulnerable popu-  
21 lations, including instruction on screening, iden-  
22 tifying, and responding to vulnerable popu-  
23 lations, such as children, victims of human traf-  
24 ficking, and the acutely ill.

1           “(D) Standards of professional and ethical  
2           conduct, including the following:

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

5                   “(ii) Complying with chain of com-  
6                   mand and lawful orders.

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

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

13                  “(v) Non-biased questioning.

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

17                  “(vii) Permissible and impermissible  
18                  social media activity.

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

23                  “(E) Protecting the civil, constitutional,  
24                  human, and privacy rights of individuals, with  
25                  special emphasis on the scope of enforcement

1 authority, including chain of evidence practices  
2 and document seizure, and use of force policies  
3 available to agents and officers.

4 “(F) Maintaining and updated under-  
5 standing of Federal legal rulings, court deci-  
6 sions, and Department policies and procedures.

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

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

18 “(4) FEEDBACK.—Not later than 180 days  
19 after receiving recommendations transmitted by the  
20 Ombudsman, the Secretary shall respond publicly  
21 and in writing with feedback on each of the rec-  
22 ommendations, an action plan to implement any of  
23 such recommendations with which the Secretary con-  
24 curs, and a justification for why any of such rec-  
25 ommendations have been rejected.

1 “(i) ELECTRONIC TRACKING.—

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

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

21 “(A) is transferrable;

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

1 “(i) U.S. Customs and Border Protec-  
2 tion;

3 “(ii) U.S. Immigration and Customs  
4 Enforcement; and

5 “(iii) the Office of Refugee Resettle-  
6 ment of the Department of Health and  
7 Human Services; and

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

11 “(j) BODY-WORN CAMERAS.—

12 “(1) REQUIREMENT.—Not later than 120 days  
13 after the date of the enactment of this section, the  
14 Ombudsman, in coordination with the Commissioner  
15 of U.S. Customs and Border Protection, the Direc-  
16 tor of U.S. Immigration and Customs Enforcement,  
17 and labor organizations representing agents and offi-  
18 cers of U.S. Customs and Border Protection and  
19 U.S. Immigration and Customs Enforcement, shall  
20 submit to the Committee on Homeland Security and  
21 the Committee on the Judiciary of the House of  
22 Representatives and the Committee on Homeland  
23 Security and Governmental Affairs and the Com-  
24 mittee on the Judiciary of the Senate a plan for re-  
25 quiring, not later than one year after such date of

1 enactment, the use of body-worn cameras by U.S.  
2 Border Patrol agents and U.S. Immigration and  
3 Customs Enforcement officers whenever such agents  
4 and officers are engaged in border security or immi-  
5 gration enforcement activities.

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

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

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

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

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

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

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

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

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

Passed the House of Representatives September 25,  
2019.

Attest:

*Clerk.*

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

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