

DEPARTMENT OF HOMELAND SECURITY INSPECTOR  
 GENERAL TRANSPARENCY ACT

JANUARY 21, 2022.—Committed to the Committee of the Whole House on the State  
 of the Union and ordered to be printed

Mr. THOMPSON of Mississippi, from the Committee on Homeland  
 Security, submitted the following

R E P O R T

[To accompany H.R. 5633]

The Committee on Homeland Security, to whom was referred the bill (H.R. 5633) to amend the Homeland Security Act of 2002 to enhance transparency regarding reports conducted by the Inspector General of the Department of Homeland Security, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:  
 Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Department of Homeland Security Inspector General Transparency Act”.

**SEC. 2. OFFICE OF INSPECTOR GENERAL OF THE DEPARTMENT OF HOMELAND SECURITY.**

(a) IN GENERAL.—Subtitle B of title VIII of the Homeland Security Act of 2002 is amended by inserting before section 812 the following new section:

**“SEC. 811. OFFICE OF INSPECTOR GENERAL.****“(a) PUBLICATION OF REPORTS.—**

“(1) IN GENERAL.—Beginning not later than 30 days after the date of the enactment of this section, the Inspector General of the Department shall submit to the appropriate congressional committees any report finalized on and after such date that substantiates—

“(A) a violation of paragraph (8) or (9) of section 2302(b) of title 5, United States Code, section 1034 of title 10, United States Code, or Presidential Personnel Directive-19; or

“(B) an allegation of misconduct, waste, fraud, abuse, or violation of policy within the Department involving a member of the Senior Executive Service or politically appointed official of the Department.

**“(2) PUBLIC AVAILABILITY.—**

“(A) IN GENERAL.—Concurrent with the submission to the appropriate congressional committees of reports pursuant to paragraph (1), the Inspector General shall, consistent with privacy, civil rights, and civil liberties protections, publish on a publicly available website of the Inspector General each such report.

“(B) EXCEPTION.—The requirement pursuant to subparagraph (A) to publish reports does not apply if section (5)(e)(1) of the Inspector General Act of 1978 applies to any such report.

**“(3) REQUIREMENT.—**

“(A) IN GENERAL.—The Inspector General of the Department may not redact any portion of a report submitted pursuant to paragraph (1).

“(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply with respect to the name or any other identifying information, including any contextual details not relevant to the audit, inspection, or evaluation at issue that may be used by other employees or officers of the Department to determine the identity of a whistleblower complainant, of a whistleblower complainant who does not consent to the inclusion of such in a report of the Inspector General.

“(b) SEMIANNUAL REPORTING.—Beginning with the first semiannual report transmitted to the appropriate committees or subcommittees of the Congress pursuant to section 5(b) of the Inspector General Act of 1978 that is transmitted after the date of the enactment of this section, each such report shall be accompanied by a list of ongoing audits, inspections, and evaluations of the Department, together with a narrative description relating to each such audit, inspection, or evaluation that identifies the scope of such audit, inspection, or evaluation, as the case may be, as well as the subject office, component, or directorate of the Department. For each such ongoing audit, inspection, or evaluation such narrative description shall include the following:

“(1) Information relating to the source of each such audit, inspection, or evaluation.

“(2) Information regarding whether each such audit, inspection, or evaluation is being conducted independently, jointly, concurrently, or in some other manner.

“(3) In the event each such audit, inspection, or evaluation was initiated due to a referral, the date on which the Inspector General notified the originator of a referral of the Inspector General’s intention to carry out such audit, inspection, or evaluation.

**“(4) Information relating to the dates on which—**

“(A) each such audit, inspection, or evaluation was initiated;

“(B) a draft report relating to each such audit, inspection, or evaluation is scheduled to be submitted to the Secretary for review; and

“(C) a final report relating to each such audit, inspection, or evaluation is scheduled to be submitted to the appropriate congressional committees and published on the website of the Inspector General in accordance with paragraphs (1) and (2), respectively, of subsection (a).

**“(5) An explanation for—**

“(A) any significant changes to the narrative description of each such audit, inspection, or evaluation, including the identification of the subject office, component, or directorate of the Department; or

“(B) a delay of more than 30 days in the scheduled date for submitting to the Secretary a draft report for review or publishing on the website of the Inspector General of the Department the final report relating to each such audit, inspection, or evaluation.

“(6) Data regarding tips and complaints made to the Inspector General Hotline of the Department or otherwise referred to the Department, including—

“(A) the number and type of tips and complaints regarding fraud, waste, abuse, corruption, financial crimes, civil rights and civil liberty abuse, or other complaints regarding criminal or non-criminal activity associated with fraud, waste, or abuse;

“(B) actions taken by the Department to address or resolve each substantiated tip or complaint;

“(C) the total amount of time it took the Department to so address or resolve each such substantiated tip or complaint;

“(D) the total number of tips and complaints that are substantiated compared with the number of tips and complaints that are unsubstantiated; and

“(E) the percentage of audits, inspections, and evaluations that are initiated as a result of tips and complaints made to the Inspector General Hotline.

“(c) NOTIFICATION TO CONGRESS.—The Inspector General of the Department shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate if the head of an office or component of the Department does not provide in a timely manner to the Inspector General information or assistance that is requested by the Inspector General to conduct an audit, inspection, or evaluation.

“(d) DEFINITION.—In this section, the term ‘appropriate congressional committees’ means the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and any committee of the House of Representatives or the Senate, respectively, having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by amending the item relating to section 811 to read as follows:

“Sec. 811. Office of Inspector General.”.

(c) REPORTS.—

(1) INSPECTOR GENERAL OF DHS.—Not later than one year after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security 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 the Comptroller General of the United States a report on the policies, procedures, and internal controls established that ensure compliance with the Quality Standards for Federal Offices of Inspector General from the Council of Inspectors General on Integrity and Efficiency.

(2) COMPTROLLER GENERAL.—Not later than one year after receipt of the report required under paragraph (1), the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate an evaluation of such report.

#### PURPOSE AND SUMMARY

H.R. 5633, the “Department of Homeland Security Inspector General Transparency Act,” requires the Department of Homeland Security (DHS) Office of Inspector General (OIG) to improve transparency regarding its investigations for both the public and Congress. It requires the Inspector General to provide certain completed reports to Congress and publish them on the OIG’s website. To improve congressional oversight of OIG activities, the bill further requires additional reporting to Congress on ongoing audits, inspections, and evaluations. Such reporting shall include data on tips and complaints made to the IG Hotline, including descriptions of actions taken by DHS to address complaints received. The bill also requires the Inspector General to review and report on inter-

nal policies and procedures to ensure they comply with best practices for management and quality assurance.

#### BACKGROUND AND NEED FOR LEGISLATION

Across the Federal Government, Inspectors General are charged with preventing and detecting waste, fraud, and abuse relating to an agency's programs and operations, and to promote economy, efficiency, and effectiveness in the agency's operations and programs. With DHS, since 2002, the OIG has been responsible for independent oversight and the promotion of excellence, integrity, and accountability within the Department.

In the spring of 2020, OIG whistleblowers reported to the Committee that the Office planned to stop publishing reports that substantiate allegations of whistleblower retaliation or misconduct by senior DHS employees. After the senior OIG officials confirmed to the Committee that this change in policy was being considered, Chairman BENNIE G. THOMPSON wrote to the Inspector General in September to express his concerns that such a change would reduce congressional and public transparency into substantiated allegations of misconduct by senior agency officials.<sup>1</sup> The Chairman requested the IG not make the proposed changes and to notify the Committee should any changes in policy occur. Subsequently, the Committee learned that the policy change had already been made and had been in effect since March 2020.

In June 2021, the Government Accountability Office (GAO) released a report detailing the DHS OIG's long-standing management and operational weaknesses including: a lack of internal quality controls, absence of a strategic plan, and failure to examine and address the increased time it takes to complete reports.<sup>2</sup> GAO made 21 recommendations to the OIG to develop better management and reporting systems and to follow established best practices.

The next month, the independent government watchdog, the Project on Government Oversight (POGO), found that the DHS OIG had repeatedly impeded and delayed two ongoing investigations into alleged intelligence manipulation and whistleblower retaliation.<sup>3</sup> The POGO investigation found that one of these delayed investigations would have examined allegations that the Department undertook a politically motivated effort to downplay the domestic terrorism threat from white supremacists ahead of the January 6th attack on the U.S. Capitol.

H.R. 5633 seeks to enhance transparency regarding the DHS OIG's oversight findings by requiring reporting to Congress and the public upon the completion of investigations, particularly those that involve substantiated misconduct by senior officials. It also requires improved reporting on ongoing audits, inspections, and evaluations so the Committee has better insight into reports that may

<sup>1</sup>Letter from Chairman THOMPSON to DHS Inspector General Joseph V. Cuffari (Sept. 29, 2020).

<sup>2</sup>"DHS Office of Inspector General: Actions Needed to Address Long-Standing Management Weaknesses," Government Accountability Office, GAO-21-316, (June 3, 2021), available at <https://www.gao.gov/products/gao-21-316>.

<sup>3</sup>Adam Zagorin and Nick Schwellenbach, "Did Whistleblower Reprisal Help Set the Stage for a January 6 Intelligence Failure?" Project on Government Oversight, (July 1, 2021), available at <https://www.pogo.org/investigation/2021/07/did-whistleblower-reprisal-help-set-the-stage-for-a-january-6-intelligence-failure/>

be delayed and for what reason. Finally, it addresses some of GAO's findings by requiring the OIG to review its policies and procedures to ensure compliance with best practices and for the GAO to perform an evaluation of that review once complete.

#### HEARINGS

For the purposes of clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the following hearings were used to develop H.R. 5633:

- On April 21, 2021, the Committee on Homeland Security held a hearing entitled, "Oversight of the Department of Homeland Security's Office of Inspector General." The Committee received testimony from Mr. Christopher P. Currie, Director, Homeland Security and Justice Team, U.S. Government Accountability Office; and Mr. Joseph V. Cuffari, Inspector General, U.S. Department of Homeland Security.

#### COMMITTEE CONSIDERATION

The Committee met on October 26, 2021, a quorum being present, to consider H.R. 5633 and ordered the measure to be favorably reported to the House, as amended, by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the recorded votes on the motion to report legislation and amendments thereto.

No recorded votes were requested during consideration of H.R. 5633.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X, are incorporated in the descriptive portions of this report.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE, NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and with respect to the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

#### FEDERAL MANDATES STATEMENT

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the Congressional Record upon its receipt by the Committee.

#### DUPLICATIVE FEDERAL PROGRAMS

Pursuant to clause 3(c) of rule XIII, the Committee finds that H.R. 5633 does not contain any provision that establishes or reauthorizes a program known to be duplicative of another Federal program.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of H.R. 5633 is to improve transparency into completed DHS OIG investigations, increase congressional oversight over the OIG's ongoing activities, and to strengthen OIG management and operational guidelines.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with rule XXI, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that H.R. 5633 does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short Title.*

This section states that the Act may be cited as the "Department of Homeland Security Inspector General Transparency Act".

##### *Sec. 2. Office of Inspector General of the Department of Homeland Security.*

This section requires the DHS IG to submit to relevant congressional committees any reports that substantiate whistleblower retaliation; or misconduct, waste, fraud, abuse or policy violations by members of the Senior Executive Service or politically appointed officials. These reports shall further be made publicly available in a manner consistent with privacy, civil rights, and civil liberties protections. These reports may not be redacted with the exception of identifying information of a whistleblower complainant.

This section further establishes that the OIG, when submitting semiannual reports to Congress, shall also include a description of every ongoing audit, inspection, or evaluation. This description is to include information relating to: the source of the audit, inspection, or evaluation; whether it is being undertaken in coordination with any other entity, and an explanation of any significant change in focus or timeline for completion. Furthermore, these semiannual reports shall also include data regarding tips and complaints made to the DHS IG Hotline. These data are required to contain a description of the number and type of tips and complaints made, ac-

tions taken by the Department to address these tips and complaints and how long those actions took, the number of tips that are substantiated by the OIG, and the percentage of audits, inspections, or evaluations initiated as a result of Hotline tips and complaints.

This section additionally requires the Inspector General to notify Congress if the head of a DHS component or office does not respond to OIG requests for information in a timely manner. It also requires the IG to produce a report within 1 year of enactment of this Act on the policies, procedures, and internal controls established at the Office to ensure compliance with the Quality Standards for Federal Offices of Inspector General. Once that report is complete, the GAO is to review and produce an evaluation on its contents.

The Committee intends for this legislation to provide greater transparency regarding the OIG's operation and guard against the risk that the issuance of investigative reports will be delayed or impeded for political or some other improper reason. Transparency regarding oversight findings is critical to the public interest and Congress, which relies on the OIG to provide independent, fact-based analysis into Departmental programs, activities, and personnel.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

### HOMELAND SECURITY ACT OF 2002

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Homeland Security Act of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

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Subtitle B—Inspector General

**[Sec. 811. Authority of the Secretary.]**

*Sec. 811. Office of Inspector General.*

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**TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS**

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**Subtitle B—Inspector General**

**SEC. 811. OFFICE OF INSPECTOR GENERAL.**

**(a) PUBLICATION OF REPORTS.—**

*(1) IN GENERAL.—Beginning not later than 30 days after the date of the enactment of this section, the Inspector General of the Department shall submit to the appropriate congressional committees any report finalized on and after such date that substantiates—*

*(A) a violation of paragraph (8) or (9) of section 2302(b) of title 5, United States Code, section 1034 of title 10, United States Code, or Presidential Personnel Directive-19; or*

*(B) an allegation of misconduct, waste, fraud, abuse, or violation of policy within the Department involving a member of the Senior Executive Service or politically appointed official of the Department.*

**(2) PUBLIC AVAILABILITY.—**

*(A) IN GENERAL.—Concurrent with the submission to the appropriate congressional committees of reports pursuant to paragraph (1), the Inspector General shall, consistent with privacy, civil rights, and civil liberties protections, publish on a publicly available website of the Inspector General each such report.*

*(B) EXCEPTION.—The requirement pursuant to subparagraph (A) to publish reports does not apply if section (5)(e)(1) of the Inspector General Act of 1978 applies to any such report.*

**(3) REQUIREMENT.—**

*(A) IN GENERAL.—The Inspector General of the Department may not redact any portion of a report submitted pursuant to paragraph (1).*

*(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply with respect to the name or any other identifying information, including any contextual details not relevant to the audit, inspection, or evaluation at issue that may be used by other employees or officers of the Department to determine the identity of a whistleblower complainant, of a whistleblower complainant who does not consent to the inclusion of such in a report of the Inspector General.*

**(b) SEMIANNUAL REPORTING.—***Beginning with the first semi-annual report transmitted to the appropriate committees or subcommittees of the Congress pursuant to section 5(b) of the Inspector*



*General Act of 1978 that is transmitted after the date of the enactment of this section, each such report shall be accompanied by a list of ongoing audits, inspections, and evaluations of the Department, together with a narrative description relating to each such audit, inspection, or evaluation that identifies the scope of such audit, inspection, or evaluation, as the case may be, as well as the subject office, component, or directorate of the Department. For each such ongoing audit, inspection, or evaluation such narrative description shall include the following:*

*(1) Information relating to the source of each such audit, inspection, or evaluation.*

*(2) Information regarding whether each such audit, inspection, or evaluation is being conducted independently, jointly, concurrently, or in some other manner.*

*(3) In the event each such audit, inspection, or evaluation was initiated due to a referral, the date on which the Inspector General notified the originator of a referral of the Inspector General's intention to carry out such audit, inspection, or evaluation.*

*(4) Information relating to the dates on which—*

*(A) each such audit, inspection, or evaluation was initiated;*

*(B) a draft report relating to each such audit, inspection, or evaluation is scheduled to be submitted to the Secretary for review; and*

*(C) a final report relating to each such audit, inspection, or evaluation is scheduled to be submitted to the appropriate congressional committees and published on the website of the Inspector General in accordance with paragraphs (1) and (2), respectively, of subsection (a).*

*(5) An explanation for—*

*(A) any significant changes to the narrative description of each such audit, inspection, or evaluation, including the identification of the subject office, component, or directorate of the Department; or*

*(B) a delay of more than 30 days in the scheduled date for submitting to the Secretary a draft report for review or publishing on the website of the Inspector General of the Department the final report relating to each such audit, inspection, or evaluation.*

*(6) Data regarding tips and complaints made to the Inspector General Hotline of the Department or otherwise referred to the Department, including—*

*(A) the number and type of tips and complaints regarding fraud, waste, abuse, corruption, financial crimes, civil rights and civil liberty abuse, or other complaints regarding criminal or non-criminal activity associated with fraud, waste, or abuse;*

*(B) actions taken by the Department to address or resolve each substantiated tip or complaint;*

*(C) the total amount of time it took the Department to so address or resolve each such substantiated tip or complaint;*

(D) the total number of tips and complaints that are substantiated compared with the number of tips and complaints that are unsubstantiated; and

(E) the percentage of audits, inspections, and evaluations that are initiated as a result of tips and complaints made to the Inspector General Hotline.

(c) *NOTIFICATION TO CONGRESS.*—The Inspector General of the Department shall notify the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate if the head of an office or component of the Department does not provide in a timely manner to the Inspector General information or assistance that is requested by the Inspector General to conduct an audit, inspection, or evaluation.

(d) *DEFINITION.*—In this section, the term “appropriate congressional committees” means the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and any committee of the House of Representatives or the Senate, respectively, having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

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