

113TH CONGRESS
2D SESSION

H. R. 4303

To increase transparency, accountability, and community engagement within U.S. Customs and Border Protection, provide independent oversight of border security activities, improve training for U.S. Customs and Border Protection agents and officers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2014

Mr. O'ROURKE (for himself, Mr. PEARCE, and Mr. VELA) introduced the following bill; which was referred to the Committee on Homeland Security, and in addition to the Committees on the Judiciary and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase transparency, accountability, and community engagement within U.S. Customs and Border Protection, provide independent oversight of border security activities, improve training for U.S. Customs and Border Protection agents and officers, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Border Enforcement
3 Accountability, Oversight, and Community Engagement
4 Act of 2014”.

5 **SEC. 2. STAKEHOLDER AND COMMUNITY ENGAGEMENT.**

6 (a) DEPARTMENT OF HOMELAND SECURITY BORDER
7 OVERSIGHT COMMISSION.—

8 (1) ESTABLISHMENT.—There is established an
9 independent commission, which shall be known as
10 the “Department of Homeland Security Border
11 Oversight Commission” (in this Act referred to as
12 the “Commission”).

13 (2) ORGANIZATION.—

14 (A) LEADERSHIP.—The Commission shall
15 be led by a Chair and Vice Chair.

16 (B) SUBCOMMITTEES.—

17 (i) IN GENERAL.—The Chair shall es-
18 tablish within the Commission two sub-
19 committees that will be comprised of rep-
20 resentatives from each State on the north-
21 ern border and each State on the southern
22 border.

23 (ii) NORTHERN BORDER SUB-
24 COMMITTEE.—The northern border sub-
25 committee shall consist of ten members
26 from the northern border region, including

1 at least one uniformed agent or officer of
2 U.S. Customs and Border Protection, in
3 accordance with subparagraph (C).

4 (iii) SOUTHERN BORDER SUB-
5 COMMITTEE.—The southern border sub-
6 committee shall consist of ten members
7 from the southern border region, including
8 at least one uniformed agent or officer of
9 U.S. Customs and Border Protection, in
10 accordance with subparagraph (C).

11 (iv) ELECTION.—Members of the
12 northern and southern border subcommit-
13 tees shall elect the Chair and Vice Chair of
14 the Commission from among its members.
15 The Chair and Vice Chair may not be from
16 the same subcommittee.

17 (C) APPOINTMENT PROCESS.—Members of
18 the Commission shall be appointed as follows:

19 (i) The President shall appoint four
20 representatives from the northern border
21 region and four representatives from the
22 southern border region.

23 (ii) The House Speaker shall appoint
24 three representatives from the northern

1 border region and three representatives
2 from the southern border region.

3 (iii) The Senate Majority Leader shall
4 appoint three representatives from the
5 northern border region and three rep-
6 resentatives from the southern border re-
7 gion.

8 (D) APPOINTMENT DEADLINE.—Members
9 of the Commission shall be appointed not later
10 than 180 days after the date of the enactment
11 of this Act.

12 (E) TERMS OF OFFICE.—The Chair and
13 Vice Chair of the Commission shall serve for
14 terms of four years. Members of the northern
15 border and southern border subcommittees shall
16 serve for terms of four years.

17 (3) QUALIFICATIONS.—Membership on the
18 Commission and its subcommittees shall to the
19 greatest extent possible include security experts,
20 training experts, civil rights and civil liberties ex-
21 perts, representatives of faith based organizations,
22 officials from local law enforcement on the northern
23 and southern borders, officials from local govern-
24 ment on the northern and southern borders, and

1 business and civic organizations along the northern
2 and southern borders.

3 (4) MEETINGS.—

4 (A) COMMISSION.—The Commission shall
5 meet at least semiannually, and may convene
6 additional meetings as necessary.

7 (B) SUBCOMMITTEES.—The northern bor-
8 der and southern border subcommittees shall
9 meet at least quarterly, and may convene addi-
10 tional meetings as necessary.

11 (5) DUTIES.—The Commission, and the north-
12 ern border and southern border subcommittees,
13 shall—

14 (A) develop recommendations for improve-
15 ments regarding border enforcement policies,
16 strategies, and programs that take into consid-
17 eration their impact on border communities;

18 (B) evaluate policies, strategies, and pro-
19 grams of Federal agencies operating along the
20 northern and southern borders to—

21 (i) protect—

22 (I) due process;

23 (II) the civil and human rights of
24 border residents and visitors; and

1 (III) private property rights of
2 land owners;

3 (ii) reduce the number of migrant
4 deaths; and

5 (iii) improve the safety of agents and
6 officers of U.S. Customs and Border Pro-
7 tection;

8 (C) develop recommendations for improve-
9 ments regarding the safety of agents and offi-
10 cers of U.S. Customs and Border Protection
11 when such agents and officers are in the field;
12 and

13 (D) evaluate training, including estab-
14 lishing training courses related to management
15 and leadership skills for supervisors in each
16 Border Patrol sector and at each port of entry
17 on the northern and southern borders, the ex-
18 tent to which supervisory and management per-
19 sonnel practices at U.S. Customs and Border
20 Protection encourage and facilitate workforce
21 development for agents and officers, promote
22 agent and officer field safety, and post-FLETC
23 training of border enforcement personnel in ac-
24 cordance with section 6.

25 (6) ADDITIONAL RESPONSIBILITIES.—

1 (A) IN GENERAL.—In carrying out the du-
2 ties specified in paragraph (5), the Commission
3 shall take into consideration any recommenda-
4 tions and evaluations agreed upon by the north-
5 ern border and southern border subcommittees.

6 (B) SUBCOMMITTEE REPORTS.—The
7 northern border and southern border sub-
8 committees shall annually submit to the Chair
9 and Vice Chair of the Commission a publically
10 available report containing the recommenda-
11 tions and evaluations of the subcommittees pur-
12 suant to paragraph (5).

13 (7) PROHIBITION ON COMPENSATION.—Mem-
14 bers of the Commission and the northern border and
15 southern border subcommittees may not receive pay,
16 allowances, or benefits from the Government by rea-
17 son of their service on the Commission or the sub-
18 committees.

19 (b) POWERS OF THE COMMISSION.—

20 (1) IN GENERAL.—

21 (A) HEARINGS AND EVIDENCE.—The
22 Commission or, on the authority of the Com-
23 mission, any subcommittee or member thereof,
24 may, for the purpose of carrying out this Act—

1 (i) hold such hearings, and sit and act
2 at such times and places, take such testi-
3 mony, receive such evidence, and admin-
4 ister such oaths, and

5 (ii) subject to subparagraph (B), re-
6 quire, by subpoena or otherwise, the at-
7 tendance and testimony of such witnesses
8 and the production of such books, records,
9 correspondence, memoranda, papers, and
10 documents,

11 as the Commission or such designated sub-
12 committee or designated member determines
13 necessary to carry out its duties under sub-
14 section (a)(5).

15 (B) SUBPOENAS.—

16 (i) ISSUANCE.—A subpoena may be
17 issued under this subsection only by—

18 (I) the Chair and Vice Chair of
19 the Commission; or

20 (II) a recorded vote of two-thirds
21 of the members of the northern border
22 or southern border subcommittees, as
23 the case may be.

24 (ii) SERVICE.—Subpoenas issued
25 under this subsection may be served by—

1 (I) any person designated by the
2 Chair or the Vice Chair of the Com-
3 mission; or

4 (II) any member of the Commis-
5 sion designated by a majority of the
6 Commission.

7 (iii) ENFORCEMENT.—

8 (I) IN GENERAL.—In the case of
9 contumacy or failure to obey a sub-
10 poena issued under this subsection,
11 the United States district court for
12 the judicial district in which the sub-
13 poenaed person resides, is served, or
14 may be found, or where the subpoena
15 is returnable, may issue an order re-
16 quiring such person to appear at any
17 designated place to testify or to
18 produce documentary or other evi-
19 dence. Any failure to obey the order of
20 the court may be punished by the
21 court as contempt of that court.

22 (II) ADDITIONAL MEASURES.—In
23 the case of any failure of an individual
24 to comply with any subpoena issued
25 under this section, the Commission,

1 may, by a majority vote, certify a
2 statement of fact constituting such
3 failure to the appropriate United
4 States attorney.

5 (iv) LIMITATION.—A subpoena may
6 be issued only if the Commission certifies
7 to the Secretary of Homeland Security
8 that such issuance is necessary to carry
9 out its duties under subsection (a)(5), and
10 that all reasonable efforts will be taken to
11 limit the disclosure of personally identifi-
12 able information to the greatest extent pos-
13 sible.

14 (c) SAVINGS PROVISION.—Nothing in this Act may
15 be construed as affecting in any manner the investigative
16 and disciplinary procedures of U.S. Customs and Border
17 Protection or the Department of Homeland Security with
18 respect to agents and officers of U.S. Customs and Border
19 Protection.

20 (d) REPORTS.—

21 (1) ANNUAL REPORTS.—The Commission shall
22 annually submit to the Secretary of Homeland Secu-
23 rity a publically available report containing informa-
24 tion on the activities, findings, and recommendations
25 of the Commission, including the northern border

1 and southern border subcommittees, for the pre-
2 ceding year.

3 (2) CONGRESSIONAL NOTIFICATION.—The Sec-
4 retary of Homeland Security shall brief the Com-
5 mittee on Homeland Security of the House of Rep-
6 resentatives and the Committee on Homeland Secu-
7 rity and Governmental Affairs of the Senate on each
8 report required under paragraph (1).

9 **SEC. 3. ESTABLISHMENT OF THE OFFICE OF THE OMBUDS-**
10 **MAN FOR BORDER AND IMMIGRATION RE-**
11 **LATED CONCERNS.**

12 (a) IN GENERAL.—Section 452 of the Homeland Se-
13 curity Act of 2002 (6 U.S.C. 272) is amended to read
14 as follows:

15 **“SEC. 452. OMBUDSMAN FOR BORDER AND IMMIGRATION**
16 **RELATED CONCERNS.**

17 “(a) IN GENERAL.—There shall be within the De-
18 partment an Ombudsman for Border and Immigration Re-
19 lated Concerns (in this section referred to as the ‘Ombuds-
20 man’). The individual appointed as Ombudsman shall have
21 a background in immigration or civil liberties law or law
22 enforcement. The Ombudsman shall report directly to the
23 Secretary.

24 “(b) ORGANIZATIONAL INDEPENDENCE.—The Sec-
25 retary shall take appropriate action to ensure the inde-

1 pence of the Ombudsman’s office from other officers
2 or employees of the Department engaged in border secu-
3 rity or immigration activities.

4 “(c) STAFFING.—The Secretary shall take appro-
5 priate action to ensure that the Ombudsman’s office is
6 sufficiently staffed and resourced to carry out its duties
7 effectively and efficiently.

8 “(d) FUNCTIONS.—The functions of the Ombudsman
9 shall be as follows:

10 “(1) To establish an independent, neutral, and
11 appropriately confidential process to receive, inves-
12 tigate, resolve, and provide redress, including immi-
13 gration relief, monetary damages, or any other ac-
14 tion determined appropriate, for complaints, griev-
15 ances, or requests for assistance from individuals,
16 associations, and employers regarding the border se-
17 curity and immigration activities of the Department.

18 “(2) To conduct inspections of the facilities, in-
19 cluding contract facilities, of U.S. Customs and Bor-
20 der Protection, U.S. Immigration and Customs En-
21 forcement, and U.S. Citizenship and Immigration
22 Services.

23 “(3) To assist individuals and families who
24 have been victims of crimes committed by aliens or
25 of violence near the United States border, and indi-

viduals and families impacted by situations in which the Department has exercised force.

“(4) To identify areas in which individuals, associations, and employers have identified concerns with respect to interacting with U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, or U.S. Citizenship and Immigration Services.

“(5) To propose changes in the administrative practices of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services to mitigate problems identified under this section.

“(6) To review, examine, and make recommendations regarding the border security and immigration and enforcement activities of U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, and U.S. Citizenship and Immigration Services.

“(7) To establish a uniform and standardized complaint process regarding complaints against all Customs and Border Protection officers, Border Patrol agents, and CBP Agricultural Specialists for violations of standards of professional conduct. Such

1 complaint process shall have the following compo-
2 nents:

3 “(A) Require that all complaints receive an
4 independent review and investigation completed
5 not later than one year from the date of receipt
6 of each such complaint.

7 “(B) Require that complainants receive
8 written confirmation of receipt of their com-
9 plaints not later than 90 days from the date of
10 receipt of each such complaint, and a written
11 summary regarding the outcome of such com-
12 plaints not later than one year after such date
13 of receipt, including findings of fact, rec-
14 ommended action, and available redress.

15 “(C) Feature a centralized multilingual on-
16 line complaint form that includes street ad-
17 dress, toll-free telephone number, and electronic
18 mailbox address to permit an individual to file
19 an immigration or border-related complaint and
20 submit supporting evidence through the portal
21 of choice of any such individual. Information re-
22 lating to such form shall be visible at ports of
23 entry and at Border Patrol interior checkpoints.

24 “(D) Include procedures for referring com-
25 plaints to the Office for Civil Rights and Civil

1 Liberties, Office of the Inspector General, or
2 other appropriate agency of the Department of
3 Homeland Security.

4 “(E) Establish a publicly accessible na-
5 tional, standardized database capable of track-
6 ing and analyzing complaints and their resolu-
7 tion.

8 “(F) Provide publicly accessible records,
9 with copies of complaints, and their resolutions
10 permanently preserved and available for inspec-
11 tion, while maintaining the confidentiality of
12 complainants’ identities.

13 “(8) To establish an online detainee locator sys-
14 tem for individuals held in U.S. Customs and Border
15 Protection custody.

16 “(e) OTHER RESPONSIBILITIES.—In addition to the
17 functions specified in subsection (d), the Ombudsman
18 shall—

19 “(1) monitor the coverage and geographic allo-
20 cation of local offices of the Ombudsman, including
21 appointing local ombudsmen for border and immi-
22 gration related concerns;

23 “(2) evaluate and take personnel actions (in-
24 cluding dismissal) with respect to any employee of
25 the Ombudsman;

1 “(3) recommend disciplinary action, including
2 contract termination, suspension, and debarment, or
3 termination, suspension, and sanctions, to the appro-
4 priate departmental entity regarding any contractor
5 proven to have violated departmental policies or pro-
6 cedures while executing any border security or immi-
7 gration activity;

8 “(4) refer to the Inspector General of the De-
9 partment any complaints of the violation of depart-
10 mental policies or procedures by any Department
11 employee relating to border security or immigration
12 activity; and

13 “(5) provide a complainant with a summary of
14 the outcome of any action taken in response to a
15 complaint, grievance, or request for assistance from
16 such complainant, including any findings of fact,
17 recommended action, and available redress.

18 “(f) COMPLAINANTS.—The following shall apply to
19 all complainants:

20 “(1) Any interested party, including a legal rep-
21 resentative, may file a complaint through the com-
22 plaint procedure pursuant to subsection (d)(7).

23 “(2) Complainants and other individuals identi-
24 fied in a complaint shall be protected from retalia-
25 tory action by law enforcement or by any officer of

1 the United States based on the content of such com-
2 plaint, and no information contained in a complaint
3 that is germane to such complaint may be used as
4 evidence in any removal or criminal proceedings
5 against the complainant or any individual identified
6 in such complaint.

7 “(3) Neither the filing of a complaint nor the
8 contents of a complaint shall in any way confer im-
9 munity or otherwise impact any removal or criminal
10 proceedings against a complainant or an individual
11 identified in such complaint.

12 “(4) No personally identifiable information re-
13 lated to an individual involved in a complaint which
14 would result in identification of such individual may
15 be published.

16 “(5) Complainants shall receive full assistance
17 from the Department in filing complaints, including
18 language assistance, accommodations for disabilities,
19 and accurate and complete responses to their ques-
20 tions.

21 “(g) REQUEST FOR INVESTIGATIONS.—The Ombuds-
22 man is authorized to request the Inspector General of the
23 Department to conduct inspections, investigations, and
24 audits related to subsections (d), (e), and (f).

1 “(h) COORDINATION WITH DEPARTMENT COMPO-
2 NENTS.—

3 “(1) IN GENERAL.—The Director of U.S. Citi-
4 zenship and Immigration Services, the Assistant
5 Secretary of Immigration and Customs Enforce-
6 ment, and the Commissioner of Customs and Border
7 Protection shall each establish procedures to provide
8 formal responses to recommendations submitted to
9 such officials by the Ombudsman within 60 days of
10 receiving such recommendations.

11 “(2) ACCESS TO INFORMATION.—The Secretary
12 shall establish procedures to provide the Ombuds-
13 man access to all departmental records necessary to
14 execute the responsibilities of the Ombudsman under
15 subsection (d) or (e) not later than 60 days after a
16 request from the Ombudsman for such information.

17 “(i) PUBLIC OUTREACH.—The Secretary shall—

18 “(1) take all appropriate action to advise the
19 public regarding the existence, duties, responsibil-
20 ities, and grievance processes of the Ombudsman’s
21 office; and

22 “(2) shall promulgate regulations to ensure—

23 “(A) the public’s ability to file grievances
24 with the Ombudsman’s office electronically; and

1 “(B) that absent written permission of all
2 affected parties, all documents submitted to the
3 Ombudsman’s office are used solely by the Om-
4 budsman’s office to advance the purposes de-
5 scribed in this section.

6 “(j) ANNUAL REPORTING.—Not later than June 30
7 of each year beginning in the year after the date of the
8 enactment of this subsection, the Ombudsman shall sub-
9 mit to the appropriate congressional committees a report
10 that includes the following:

11 “(1) The number and type of complaints re-
12 ceived in each Border Patrol sector, the demo-
13 graphics of complainants, the results of investiga-
14 tions, including violations of standards and any dis-
15 ciplinary actions taken, and an identification of any
16 complaint patterns that could be prevented or re-
17 duced by policy training or practice changes.

18 “(2) An inventory of complaints referred to in
19 paragraph (1) for which action has been taken and
20 the time between receipt and resolution of each such
21 complaint.

22 “(3) An inventory of complaints referred to in
23 paragraph (1) for which action has not been taken
24 after one year, the period during which each com-

1 plaint has been open, and the reason for failure to
2 resolve each such complaint.

3 “(4) Recommendations the Ombudsman has
4 made to improve the services and responsiveness of
5 U.S. Citizenship and Immigration Services, U.S. Im-
6 migration and Customs Enforcement, and U.S. Cus-
7 toms and Border Protection, and any responses re-
8 ceived from each such component or the Department
9 regarding such recommendations

10 “(5) Other information as the Ombudsman de-
11 termines advisable.

12 “(k) ESTABLISHMENT OF BORDER COMMUNITIES LI-
13 AISON OFFICE.—

14 “(1) IN GENERAL.—The Ombudsman, in con-
15 junction with the Office for Civil Rights and Civil
16 Liberties of the Department, shall establish a Bor-
17 der Community Liaison Office (in this subsection re-
18 ferred to as the ‘Liaison Office’) in each Border Pa-
19 trol sector on the northern and southern borders.

20 “(2) PURPOSES.—Each Liaison Office under
21 this subsection shall—

22 “(A) foster cooperation between the Border
23 Patrol, the Office of Field Operations of the
24 Department, and border communities;

1 “(B) consult with border communities on
2 the development of policies, directives, and pro-
3 grams of the Border Patrol and the Office of
4 Field Operations; and

5 “(C) receive feedback from border commu-
6 nities on the performance of the Border Patrol
7 and the Office of Field Operations.

8 “(3) MEMBERSHIP.—Each Liaison Office shall
9 be comprised of equal representation from the com-
10 munity and U.S. Customs and Border Protection,
11 including at least:

12 “(A) One member of the community in
13 which each Border Patrol sector is located who
14 has expertise in migration, local public safety,
15 civil and human rights, the local community, or
16 community relations.

17 “(B) One non-uniformed Border Patrol
18 agent with significant experience working for
19 the Border Patrol.

20 “(C) One non-uniformed CBP officer with
21 significant experience working for U.S. Customs
22 and Border Protection.

23 “(1) REPORT ON THE IMPACT OF BORDER ENFORCE-
24 MENT TECHNOLOGIES AND OPERATIONS ON BORDER
25 COMMUNITIES.—Not later than 180 days after the date

1 of the enactment of this subsection, the Secretary shall
2 submit to the appropriate congressional committees a re-
3 port that assesses current efforts and technologies used
4 at United States borders, and the impact on border com-
5 munities of such efforts and technologies on civil rights,
6 private property rights, privacy rights, and civil liberties.

7 “(m) GAO REPORT ON THE EXTENT OF CBP AC-
8 TIVITIES, OPERATIONS, AND CLAIMED AUTHORITY.—Not
9 later than one year after the date of the enactment of this
10 subsection, the Comptroller General of the United States
11 shall submit to the appropriate congressional committees
12 a report that assesses the following issues:

13 “(1) How far into the United States interior
14 the current activities, operations (including check-
15 points), and claimed authority of U.S. Customs and
16 Border Protection extend.

17 “(2) The extent to which the area of activities,
18 operations, and claimed authority referred to in
19 paragraph (1) is necessary.

20 “(3) The effectiveness of U.S. Customs and
21 Border Protection’s interior enforcement and its im-
22 pact on civil, constitutional, and private property
23 rights.”.

24 (b) CLERICAL AMENDMENT.—The table of contents
25 of the Homeland Security Act of 2002 is amended by

1 amending the item relating to section 452 to read as fol-
2 lows:

“Sec. 452. Ombudsman for Border and Immigration Related Concerns.”.

3 **SEC. 4. TRAINING AND CONTINUING EDUCATION.**

4 (a) MANDATORY TRAINING AND CONTINUING EDU-
5 CATION TO PROMOTE CBP AGENT AND OFFICER SAFETY
6 AND PROFESSIONALISM.—The Secretary of Homeland Se-
7 curity shall establish policies and guidelines to ensure that
8 every agent and officer of U.S. Customs and Border Pro-
9 tection receives a minimum of 19 weeks of training that
10 are directly related to the mission of the Border Patrol
11 and the Office of Field Operations before the initial as-
12 signment of such agents and officers, and eight hours of
13 training and continuing education annually thereafter.
14 Such training and continuing education shall be conducted
15 by attorneys who have experience with the Fourth Amend-
16 ment to the Constitution, including appropriate applica-
17 tion of the use of force by agents and officers of U.S. Cus-
18 toms and Border Protection. Such attorneys shall be mem-
19 bers of the Department of Homeland Security’s Office of
20 General Counsel, and all instruction provided shall be in
21 alignment with curriculum developed and endorsed by
22 FLETC.

23 (b) FLETC.—The Secretary of Homeland Security
24 shall establish policies and guidelines governing training
25 with FLETC and continuing education of agents and offi-

1 cers of U.S. Customs and Border Protection and U.S. Im-
2 migration and Customs Enforcement regarding border
3 awareness, accountability, and oversight. Such training
4 with FLETC shall include individual courses for each of
5 the following issues:

6 (1) Community relations, including the fol-
7 lowing:

8 (A) Best practices in community policing.

9 (B) Policies limiting location of enforce-
10 ment and cooperation with local law enforce-
11 ment.

12 (C) Best practices in responding to griev-
13 ances and how to refer complaints to the Om-
14 budsman for Border and Immigration Related
15 Concerns in accordance with section 452 of the
16 Homeland Security Act of 2002, as amended by
17 section 3 of this Act.

18 (2) Interdiction, including the following:

19 (A) Instruction on formal and proper com-
20 mand language.

21 (B) Situational awareness of what lan-
22 guage is appropriate.

23 (C) Legal application of use of force poli-
24 cies and guidelines.

1 (D) Policies and training scenarios nec-
2 essary to ensure the agent or officer and the
3 community is safe when intervening in situa-
4 tions in urban areas, including—

5 (i) scenario-based training and guide-
6 lines; and

7 (ii) non-lethal force training and cer-
8 tification on at least one non-lethal force
9 instrument, including tasers.

10 (E) Policies necessary to ensure the agent
11 or officer and the community is safe when in-
12 tervening in situations in rural and remote loca-
13 tions.

14 (3) Vulnerable populations, including instruc-
15 tion on screening, identifying, and responding to vul-
16 nerable populations, such as children and victims of
17 human trafficking.

18 (4) Cultural and societal issues, including the
19 following:

20 (A) Understanding of the diversity of im-
21 migrant communities.

22 (B) Language and basic cultural aware-
23 ness of major migrant-sending countries.

24 (C) Natural resource protection and envi-
25 ronmental policies along the border.

1 (D) Privacy considerations regarding bor-
2 der-related technologies.

3 (5) Standards of professional conduct, including
4 the following:

5 (A) Lawful use of force.

6 (B) Complying with chain of command and
7 lawful orders.

8 (C) Conduct and ethical behavior toward
9 the public in a civil and professional manner.

10 (D) Respect for civil rights and protection
11 of the well-being of individuals.

12 (c) SUPERVISOR TRAINING.—In addition to the train-
13 ing and continuing education required under subsections
14 (a) and (b), the Secretary of Homeland Security shall es-
15 tablish policies and guidelines governing the continuing
16 education of agents and officers of U.S. Customs and Bor-
17 der Protection and U.S. Immigration and Customs En-
18 forcement who attain a supervisory or management posi-
19 tion. Such training and continuing education shall include
20 the following:

21 (1) Instruction relating to management and
22 leadership best practices.

23 (2) Refresher instruction or in-service training
24 relating to legal application of use of force policies

1 and guidelines, intervention, community relations,
2 and professional conduct.

3 (3) Mitigation training to identify, diagnose,
4 and address issues within such supervisory and man-
5 agement roles.

6 (d) REVIEW PROCESS.—The Secretary of Homeland
7 Security shall establish a review process to ensure that
8 port supervisors and managers of U.S. Customs and Bor-
9 der Protection and U.S. Immigration and Customs En-
10 forcement, as the case may be, are evaluated annually on
11 their actions and standards of conduct, and on the actions,
12 situational and educational development, and standards of
13 conduct of their staffs.

14 (e) CONTINUING EDUCATION.—

15 (1) IN GENERAL.—The Secretary of Homeland
16 Security shall annually require all agents and offi-
17 cers of U.S. Customs and Border Protection and
18 U.S. Immigration and Customs Enforcement who
19 are required to undergo training under subsections
20 (a) through (c) to participate in continuing edu-
21 cation to maintain and update understanding of
22 Federal legal rulings, court decisions, and Depart-
23 ment of Homeland Security policies, procedures, and
24 guidelines related to the subject matters described in
25 such subsections.

1 (2) CONSTITUTIONAL AUTHORITY SUBJECT
2 MATTER.—Continuing education under this sub-
3 section shall include a course on protecting the civil,
4 constitutional, human, and privacy rights of individ-
5 uals, with special emphasis on the scope of enforce-
6 ment authority, including chain of evidence practices
7 and document seizure, and use of force policies
8 available to agents and officers.

9 (3) ADDITIONAL SUBJECT MATTERS.—Con-
10 tinuing education under this subsection shall also in-
11 clude a course on the following:

12 (A) Scope of authority to conduct immigra-
13 tion enforcement activities, including interviews,
14 interrogations, stops, searches, arrests, and de-
15 tentions, in addition to identifying and detect-
16 ing fraudulent documents.

17 (B) Identifying, screening, and responsi-
18 bility for vulnerable populations, such as chil-
19 dren and victims of trafficking.

20 (C) Cultural and societal issues, including
21 understanding of the diversity of immigrant
22 communities, language and basic cultural
23 awareness of major migrant-sending countries,
24 and natural resource protection and environ-
25 mental policies along the border.

1 (4) ADMINISTRATION.—Courses offered as part
2 of continuing education under this subsection
3 shall—

4 (A) be administered in consultation with
5 FLETC by the individual Border Patrol sectors
6 and the Office of Field Operations of the De-
7 partment of Homeland Security in order to pro-
8 vide such sectors field offices with flexibility to
9 design or tailor such courses to the specific
10 needs and conditions of each such sector and
11 field office; and

12 (B) be approved by the Secretary of Home-
13 land Security before being offered to ensure
14 that such courses satisfy the requirements for
15 training under this section.

16 (5) ROTATION.—Courses offered as part of con-
17 tinuing education under this subsection shall in-
18 clude—

19 (A) a yearly course focusing on the cur-
20 riculum described in paragraph (2); and

21 (B) an additional course to be rotated on
22 a three-year basis focusing on curriculum de-
23 scribed in paragraph (3).

24 (f) ASSESSMENT.—Not later than six years after the
25 date of the enactment of this Act, the Comptroller General

1 of the United States shall submit to the Committee on
2 Homeland Security of the House of Representatives and
3 the Committee on Homeland Security and Governmental
4 Affairs of the Senate a report that assesses the training
5 and education, including continuing education, required
6 under this section.

7 **SEC. 5. MANAGEMENT OF PORTS OF ENTRY.**

8 (a) IN GENERAL.—Not later than 180 days after the
9 date of the enactment of this Act, the Secretary of Home-
10 land Security shall submit to the Committee on Homeland
11 Security of the House of Representatives and the Com-
12 mittee on Homeland Security and Governmental Affairs
13 of the Senate a report that contains an assessment of the
14 current standards and guidelines for managing ports of
15 entry under the control of the Department of Homeland
16 Security. Such assessment shall include information relat-
17 ing to the following:

18 (1) Staffing levels and the need for additional
19 staffing.

20 (2) Rules governing the actions of Office of
21 Field Operations agents.

22 (3) Average delays for transit through air, land,
23 and sea ports of entry.

24 (4) An assessment of existing efforts and tech-
25 nologies used for border security, and the effect of

1 the use of such efforts and technologies on facili-
2 tating trade at ports of entry and their impact on
3 civil rights, private property rights, privacy rights,
4 and civil liberties.

5 (5) The economic impact of the policies and
6 practices of CBP Agricultural Specialists and Office
7 of Field Operations work.

8 (6) Physical infrastructure and technological
9 needs at ports of entry.

10 (b) UPDATES.—Based upon the information and as-
11 sessment contained in the report required under sub-
12 section (a), the Secretary of Homeland Security shall es-
13 tablish updated guidelines and standards for managing
14 ports of entry under the control of the Department of
15 Homeland Security to address any identified needs or
16 shortcomings at such ports of entry, including, if applica-
17 ble, the following:

18 (1) Increasing levels of staffing of CBP Agricul-
19 tural Specialists at ports of entry at which delays
20 hinder or negatively impact the local or national
21 economies.

22 (2) Increasing the use of or updating tech-
23 nology at ports of entry at which there are average
24 delays of over two hours based on CBP data col-
25 lected during the previous fiscal year.

1 (3) Publishing rules on the handling of docu-
2 ments at ports of entry.

3 (4) Establishing standards of conduct and de-
4 meanor when interacting with vulnerable popu-
5 lations, such as children and victims of human traf-
6 ficking, and individuals with border crossing cards.

7 (5) Establishing training courses relating to
8 management and leadership skills for supervisors
9 and managers at ports of entry.

10 **SEC. 6. REPORTING REQUIREMENTS.**

11 (a) CBP REPORT ON MIGRANT DEATHS.—Not later
12 than 180 days after the date of the enactment of this Act,
13 the Commissioner of Customs and Border Protection shall
14 submit to the Committee on Homeland Security of the
15 House of Representatives and the Committee on Home-
16 land Security and Governmental Affairs of the Senate a
17 report relating to deaths occurring along the United
18 States-Mexico border, including information on the fol-
19 lowing:

20 (1) The number of documented migrant deaths.

21 (2) A geographical breakdown of where such
22 migrant deaths occur.

23 (3) To the extent possible, the cause of death
24 for each migrant.

1 (4) The extent to which border technology,
2 physical barriers, and enforcement programs have
3 contributed to such migrant deaths.

4 (5) A detailed description of U.S. Customs and
5 Border Protection programs or plans to reduce the
6 number of migrant deaths along the border, includ-
7 ing an assessment on the effectiveness of water sup-
8 ply sites and rescue beacons.

9 (b) GAO REPORT ON MIGRANT DEATHS.—Not later
10 than 90 days after the submission of the report required
11 under subsection (a), the Comptroller General of the
12 United States shall review such report to determine the
13 following:

14 (1) The validity of U.S. Customs and Border
15 Protection’s statistical analysis of migrant deaths.

16 (2) The extent to which U.S. Customs and Bor-
17 der Protection has adopted simple and low-cost
18 measures, such as water supply sites and rescue bea-
19 cons, to reduce the frequency of migrants deaths.

20 (3) The extent to which U.S. Customs and Bor-
21 der Protection measures the effectiveness of its pro-
22 grams to address the frequency of migrant deaths.

23 (4) The extent of data and information sharing
24 and cooperation between U.S. Customs and Border
25 Protection, local and State law enforcement, foreign

1 diplomatic and consular posts, and nongovernmental
2 organizations to accurately identify deceased individ-
3 uals and notify family members and compare infor-
4 mation to missing persons registries.

5 (c) GAO REPORT ON USE OF FORCE.—

6 (1) IN GENERAL.—Not later than one year
7 after the date of the enactment of this Act, the
8 Comptroller General of the United States shall ex-
9 amine the extent to which U.S. Customs and Border
10 Protection has clarified use of force policies, includ-
11 ing the following (and any recommendations related
12 to the following):

13 (A) The extent to which U.S. Customs and
14 Border Protection has implemented new train-
15 ing tactics to improve use of force policies, in-
16 cluding how the use of force policy conforms to
17 Department of Homeland Security and Federal
18 law enforcement best practices.

19 (B) The extent to which U.S. Customs and
20 Border Protection has identified additional or
21 alternative weapons and equipment to improve
22 agents' and officers' abilities to de-escalate con-
23 frontations, including protective gear.

24 (C) Efforts to review and enhance current
25 training and tactics related to use of force, and

1 to implement reforms to ensure agents and offi-
2 cers are better equipped to assess and respond
3 to threats.

4 (D) The extent to which U.S. Customs and
5 Border Protection has established a stakeholder
6 engagement framework to better inform and en-
7 hance U.S. Customs and Border Protection's
8 use of force training.

9 (E) The extent to which U.S. Customs and
10 Border Protection has established metrics to
11 track the effectiveness of use of force training
12 and to ensure the reporting of all uses of force
13 for review to determine whether the force used
14 was justified and whether it could have been
15 avoided through different tactics or training,
16 better supervision, different tools, adherence to
17 policy, or changes in policy.

18 (F) How U.S. Customs and Border Protec-
19 tion could implement best law enforcement
20 practices to improve policies for transparent
21 communication with family members of individ-
22 uals injured or killed by U.S. Customs and Bor-
23 der Protection agent's and officer's use of force,
24 including updates on any pending investiga-
25 tions, and policies for timely notification of such

1 injuries and deaths following such uses of force
2 to the Commissioner of Customs and Border
3 Protection, the Joint Intake Center of the De-
4 partment of Homeland Security, the Office of
5 Inspector General of the Department, the Office
6 for Civil Rights and Civil Liberties of the De-
7 partment, the Offices of Public Affairs of the
8 Department and U.S. Customs and Border Pro-
9 tection, Congress, and the applicable consulates,
10 if appropriate.

11 (G) How recommendations and requests
12 made by agents and officers of U.S. Customs
13 and Border Protection have been received, re-
14 viewed, and if possible implemented into U.S.
15 Customs and Border Protection and Depart-
16 ment of Homeland Security use of force policies
17 and best practices.

18 (H) The extent to which U.S. Customs and
19 Border Protection electronically tracks personal
20 searches and seizures of personal items at the
21 border, and an assessment of how such infor-
22 mation is used to inform U.S. Customs and
23 Border Protection policies and procedures.

24 (2) IMPLEMENTATION OF GAO FINDINGS.—The
25 Secretary of Homeland Security shall direct the

1 Commissioner of Customs and Border Protection to
2 implement any recommendations contained in the re-
3 port required under paragraph (1). If the Secretary
4 does not so implement such recommendations, the
5 Secretary shall submit to the Committee on Home-
6 land Security of the House of Representatives and
7 the Committee on Homeland Security and Govern-
8 mental Affairs of the Senate a written notification
9 explaining why such recommendations are not being
10 so implemented.

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