

on information obtained through the biometrics program.

The Coast Guard reports that illegal migration in the Mono Pass, an area between the Dominican Republic and Puerto Rico, has been reduced by 50 percent in just the past year as a result of the biometrics program. By leveraging its relationships with DHS, the Coast Guard now has access to millions of fingerprint files it can use to positively identify individuals encountered at sea, those who are without identification and are suspected of attempting to illegally enter the United States.

Now that the Coast Guard has determined the most effective way to collect biometrics at sea, the Department of Homeland Security needs to determine the most appropriate way to move forward and expand this effort as cost effectively as possible, which is what my bill requires. Given the success of existing efforts on biometrics by the Coast Guard, I believe that it is imperative that we move forward on this bill so that these efforts are cost effective and will do the most good.

Mr. Speaker, it is clear that the collection of biometrics at sea by the Coast Guard is already helping greatly deter illegal migration and prevent the capture and release of dangerous individuals so we are not releasing them anymore, and that is very important.

I urge all of my colleagues to help further that effort by voting for this bill.

Mr. Speaker, before I yield back the balance of my time, I urge this House to consider both the authorization and appropriations bills this year, the Homeland Security authorization and appropriations bills.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I would like to congratulate Mr. BILIRAKIS on what is a good bill. We enjoyed working with him on it. I look forward to working with him on future bills.

I support H.R. 2490, Mr. Speaker, because it breaks the cycle of migrants with criminal histories being returned to their country of origin without prosecution. This bill also requires the Secretary of Homeland Security to analyze the cost of expanding the biometrics program outside the Caribbean.

Every day, the United States Coast Guard men and women are valiantly protecting our Nation's 95,000 miles of shoreline with aging infrastructure. This legislation will provide them with the additional high-tech tools they so desperately need.

For these reasons, I urge my colleagues to join me in supporting H.R. 2490.

Mr. Speaker, I yield back the balance of my time, and urge support of this legislation.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Mississippi (Mr. THOMPSON) that the House suspend the rules and pass the bill, H.R. 2490, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BILIRAKIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

REDUCING OVER-CLASSIFICATION ACT OF 2008

Ms. HARMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4806) to require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4806

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reducing Over-Classification Act of 2008".

SEC. 2. FINDINGS.

Congress finds the following:

(1) A key conclusion in the Final Report of the National Commission on Terrorist Attacks Upon the United States (commonly known as the "9/11 Commission") was the need to prevent over-classification by the Federal Government.

(2) The 9/11 Commission and others have observed that the over-classification of homeland security information interferes with accurate, actionable, and timely homeland security information sharing, increases the cost of information security, and needlessly limits public access to information.

(3) The over-classification problem, which has worsened since the 9/11 attacks, causes considerable confusion about what information can be shared with whom both internally at the Department of Homeland Security and with its external partners. This problem negatively impacts the dissemination of homeland security information to the Department's State, local, tribal, and territorial homeland security and law enforcement partners, private sector customers, and the public.

(4) Excessive government secrecy stands in the way of a safer and more secure homeland. This trend is antithetical to the creation and operation of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and must be halted and reversed.

(5) To do so, the Department should start with the understanding that all departmental information that is not properly classified, or marked as controlled unclassified information and otherwise exempt from disclosure, should be made available to members of the public pursuant to section 552 of title 5, United States Code (commonly re-

ferred to as the "Freedom of Information Act").

(6) The Department should also develop and administer policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities pertaining to the proper use of classification markings and the United States National Archives and Records Administration policies implementing them.

SEC. 3. OVER-CLASSIFICATION PREVENTION WITHIN THE DEPARTMENT OF HOMELAND SECURITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following new section:

"SEC. 210F. OVER-CLASSIFICATION PREVENTION PROGRAM.

"(a) IN GENERAL.—The Secretary shall develop and administer policies, procedures, and programs within the Department to prevent the over-classification of homeland security information, terrorism information, weapons of mass destruction information, and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) that must be disseminated to prevent and to collectively respond to acts of terrorism. The Secretary shall coordinate with the Archivist of the United States and consult with representatives of State, local, tribal, and territorial government and law enforcement, organizations with expertise in civil rights, civil liberties, and government oversight, and the private sector, as appropriate, to develop such policies, procedures, and programs.

"(b) REQUIREMENTS.—Not later than one year after the date of the enactment of the Reducing Over-Classification Act of 2008, the Secretary, in administering the policies, procedures, and programs required under subsection (a), shall—

"(1) create, in consultation with the Archivist of the United States, standard classified and unclassified formats for finished intelligence products created by the Department, consistent with any government-wide standards, practices or procedures for similar products;

"(2) require that all finished intelligence products created by the Department be simultaneously prepared in the standard unclassified format, provided that such an unclassified product would reasonably be expected to be of any benefit to a State, local, tribal or territorial government, law enforcement agency or other emergency response provider, or the private sector, based on input provided by the Interagency Threat Assessment and Coordination Group Detail established under section 210D;

"(3) ensure that such policies, procedures, and programs protect the national security as well as the information privacy rights and legal rights of United States persons pursuant to all applicable law and policy, including the privacy guidelines for the information sharing environment established pursuant to section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), as appropriate;

"(4) establish an ongoing auditing mechanism administered by the Inspector General of the Department or other appropriate senior Department official that randomly selects, on a periodic basis, classified information from each component of the Department that generates finished intelligence products to—

"(A) assess whether applicable classification policies, procedures, rules, and regulations have been followed;

"(B) describe any problems with the administration of the applicable classification

policies, procedures, rules, and regulations, including specific non-compliance issues;

“(C) recommend improvements in awareness and training to address any problems identified in subparagraph (B); and

“(D) report at least annually to the Committee on Homeland Security of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the public, in an appropriate format, on the findings of the Inspector General’s audits under this section;

“(5) establish a process whereby employees may challenge original classification decisions made by Department employees or contractors and be rewarded with specific incentives for successful challenges resulting in the removal of classification markings or the downgrading of them;

“(6) inform employees and contractors that failure to comply with the policies, procedures, and programs established under this section could subject them to a series of penalties; and

“(7) institute a series of penalties for employees and contractors who repeatedly fail to comply with the policies, procedures, and programs established under this section after having received both notice of their non-compliance and appropriate training or retraining to address such noncompliance.

“(C) FINISHED INTELLIGENCE PRODUCT DEFINED.—The term ‘finished intelligence product’ means a document in which an intelligence analyst has evaluated, interpreted, integrated, or placed into context raw intelligence or information.”

SEC. 4. ENFORCEMENT OF OVER-CLASSIFICATION PREVENTION WITHIN THE DEPARTMENT OF HOMELAND SECURITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is further amended by adding at the end the following new section:

“SEC. 210G. ENFORCEMENT OF OVER-CLASSIFICATION PREVENTION PROGRAMS.

“(a) PERSONAL IDENTIFIERS.—The Secretary shall—

“(1) assess the technologies available or in use at the Department by which an electronic personal identification number or other electronic identifying marker can be assigned to each Department employee and contractor with original classification authority in order to—

“(A) track which documents have been classified by a particular employee or contractor;

“(B) determine the circumstances when such documents have been shared;

“(C) identify and address over-classification problems, including the misapplication of classification markings to documents that do not merit such markings; and

“(D) assess the information sharing impact of any such problems or misuse;

“(2) develop an implementation plan for a Department standard for such technology with appropriate benchmarks, a timetable for its completion, and cost estimate for the creation and implementation of a system of electronic personal identification numbers or other electronic identifying markers for all relevant Department employees and contractors; and

“(3) upon completion of the implementation plan described in paragraph (2), or not later than 180 days after the date of the enactment of the Reducing Over-Classification Act of 2008, whichever is earlier, the Secretary shall provide a copy of the plan to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate.

“(b) TRAINING.—The Secretary, in coordination with the Archivist of the United States, shall—

“(1) require annual training for each Department employee and contractor with classification authority or those responsible for analysis, dissemination, preparation, production, receiving, publishing, or otherwise communicating written classified information, including training to—

“(A) educate each employee and contractor about—

“(i) the Department’s requirement that all classified finished intelligence products that they create be simultaneously prepared in unclassified form in a standard format prescribed by the Department, provided that the unclassified product would reasonably be expected to be of any benefit to a State, local, tribal, or territorial government, law enforcement agency, or other emergency response provider, or the private sector, based on input provided by the Interagency Threat Assessment and Coordination Group Detail established under section 210D;

“(ii) the proper use of classification markings, including portion markings; and

“(iii) the consequences of over-classification and other improper uses of classification markings, including the misapplication of classification markings to documents that do not merit such markings, and of failing to comply with the Department’s policies and procedures established under or pursuant to this section, including the negative consequences for the individual’s personnel evaluation, homeland security, information sharing, and the overall success of the Department’s missions;

“(B) serve as a prerequisite, once completed successfully, as evidenced by an appropriate certificate, for—

“(i) obtaining classification authority; and

“(ii) renewing such authority annually; and

“(C) count as a positive factor, once completed successfully, in the Department’s employment, evaluation, and promotion decisions; and

“(2) ensure that such program is conducted efficiently, in conjunction with any other security, intelligence, or other training programs required by the Department to reduce the costs and administrative burdens associated with the additional training required by this section.

“(c) DETAILEE PROGRAM.—The Secretary shall—

“(1) implement a Departmental detailee program to detail Departmental personnel to the National Archives and Records Administration for one year, for the purpose of—

“(A) training and educational benefit for the Department personnel assigned so that they may better understand the policies, procedures and laws governing original classification authorities;

“(B) bolstering the ability of the National Archives and Records Administration to conduct its oversight authorities over the Department and other Departments and agencies; and

“(C) ensuring that the policies and procedures established by the Secretary remain consistent with those established by the Archivist of the United States;

“(2) ensure that the program established under paragraph (1) includes at least one individual for each Department office with delegated original classification authority; and

“(3) in coordination with the Archivist of the United States, report to Congress not later than 90 days after the conclusion of the first year of the program established under paragraph (1), on—

“(A) the advisability of expanding the program on a government-wide basis, whereby other departments and agencies would send detailees to the National Archives and Records Administration; and

“(B) the administrative and monetary costs of full compliance with this section.

“(d) SUNSET OF DETAILEE PROGRAM.—Except as otherwise provided by law, subsection (c) shall cease to have effect on December 31, 2012.

“(e) FINISHED INTELLIGENCE PRODUCT DEFINED.—The term ‘finished intelligence product’ has the meaning given the term in section 210F(c).”

SEC. 5. TECHNICAL AMENDMENT.

The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by adding after the item relating to section 210E the following new items:

“Sec. 210F. Over-classification prevention program.

“Sec. 210G. Enforcement of over-classification prevention programs.”

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. HARMAN) and the gentleman from Florida (Mr. BILIRAKIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. HARMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. HARMAN. Mr. Speaker, I yield myself such time as I may consume, and I would like to include in the RECORD an exchange of letters between the distinguished chairmen of the Committees on Homeland Security and Oversight and Government Reform.

HOUSE OF REPRESENTATIVES, COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,

Washington, DC, July 24, 2008.

Hon. BENNIE G. THOMPSON,
Chairman, Committee on Homeland Security,
Ford House Office Building, Washington,
DC.

DEAR CHAIRMAN THOMPSON: I am writing about H.R. 4806, the Reducing Over-Classification Act of 2008, which the Homeland Security Committee ordered reported to the House on June 26, 2008.

I appreciate your effort to consult with the Committee on Oversight and Government Reform regarding H.R. 4806. In particular, I appreciate your willingness to work with me to move a governmentwide over-classification bill, H.R. 6575, to the House floor so that H.R. 4806 and H.R. 6575 can be considered during the same week.

In the interest of expediting consideration of H.R. 4806 and in recognition of your efforts to address my concerns, the Oversight Committee will not request a sequential referral of this bill. I would, however, request your support for the appointment of conferees from the Oversight Committee should H.R. 4806 or a similar Senate bill be considered in conference with the Senate.

Notwithstanding the Oversight Committee’s agreement to forgo a sequential referral, I believe it is important to reiterate my general concern about H.R. 4806 as it applies to the Department of Homeland Security.

H.R. 4806 creates procedures for the Department to follow in order to reduce the over-classification of information. Several

congressional investigations and the 9/11 Commission have emphasized, however, that over-classification is a governmentwide problem that requires a governmentwide solution. Accordingly, I favor an approach that requires all agencies to follow the same classification protocols and encourages the sharing of information between agencies and with the public to the maximum extent possible.

Again, thank you for your efforts to address my concerns with H.R. 4806. I look forward to working with you to reduce the significant problem of over-classification throughout the federal government.

This letter should not be construed as a waiver of the Oversight Committee's legislative jurisdiction over subjects addressed in H.R. 4806 that fall within the jurisdiction of the Oversight Committee.

Please include our exchange of letters on this matter in the Homeland Security Committee Report on H.R. 4806 and in the Congressional Record during consideration of this legislation on the House floor.

Sincerely,

HENRY WAXMAN,
Chairman.

HOUSE OF REPRESENTATIVES, COMMITTEE ON HOMELAND SECURITY,
Washington, DC, July 24, 2008.

Hon. HENRY A. WAXMAN,
Chairman, Committee on Oversight and Government Reform, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN WAXMAN: Thank you for your letter regarding H.R. 4806, the "Reducing Over-Classification Act of 2007," introduced by Congresswoman Jane Harman on December 18, 2007.

I appreciate your willingness to work cooperatively on this legislation. I acknowledge that H.R. 4806 contains provisions that fall under the jurisdictional interests of the Committee on Oversight and Government Reform. I appreciate your agreement to not seek a sequential referral of this legislation and I acknowledge that your decision to forgo a sequential referral does not waive, alter, or otherwise affect the jurisdiction of the Committee on Oversight and Government Reform.

Further, I recognize that your Committee reserves the right to seek appointment of conferees on the bill for the portions of the bill that are within your jurisdiction, and I agree to support such a request.

I will ensure that this exchange of letters is included in the Committee's report on H.R. 4806 and in the Congressional Record during floor consideration of H.R. 4806. I look forward to working with you on this legislation and other matters of great importance to this nation.

Sincerely,

BENNIE G. THOMPSON,
Chairman.

Mr. Speaker, I am pleased to manage the time for four outstanding bipartisan bills that are the product of work by the Homeland Security Committee's Intelligence Subcommittee, which I chair. I am also pleased to have witnessed the debate on four bills just previously which are the product of the Homeland Security Committee and which I believe merit strong support by the full House. They are excellent bills. They are bipartisan. The members of the committee and the staff are to be commended for putting forward good policy, even in these toxic times. The bills before us now, Mr. Speaker, tackle

the challenge of information sharing in novel ways, and they too enjoy wide support.

During my 8 years as a member of the House Permanent Select Committee on Intelligence, four years as ranking member, I became incredibly frustrated with the rampant over-classification and selective declassification of intelligence. I believe, Mr. Speaker, that my colleagues on both sides of the aisle in that committee felt the same way. This administration has elevated the practice of over-classification and selective declassification to an art form and today this problem has spread throughout the government, including recently established Department of Homeland Security.

Information and materials should, in my view, be classified for one primary reason: to protect sources and methods. It is no exaggeration that people die and our ability to monitor certain targets can be compromised if sources and methods are revealed; but, Mr. Speaker, classifying information for the wrong reasons, that would be to protect turf or to avoid embarrassment, is wrong. In fact, this practice can do great harm if it bars local law enforcement, America's first preventers, from accessing the information they need to prevent or disrupt a potential terrorist attack.

Mr. Speaker, the next attack in the United States will not be stopped because a bureaucrat in Washington, DC found out about it in advance. It will be the cop on the beat who is familiar with the rhythms and nuances of his or her own neighborhood who will foil that attack. H.R. 4806, the Reducing Over-Classification Act of 2008, is an attempt to stop turf protection and embarrassment protection as well as to establish a gold standard for DHS when it comes to classification practices.

As I mentioned, the bill was marked up and approved on a unanimous basis by both our subcommittee and the full committee in June. The bill will require that all classified intelligence products created at DHS be simultaneously created in a standard unclassified format, and this is unprecedented, if such a product would help both police and sheriff's officers keep us safe. Furthermore, the bill requires portion marking, the identification of paragraphs in a document that are classified, permitting the remainder of the document to remain unclassified, so that information reaches the first preventers who need it.

The bill will promote accountability by requiring the Secretary of DHS to create an auditing mechanism for the Inspector General of DHS to randomly sample classified intelligence products and identify problems that exist in those samples. Here again, this is a way to get at over-classification.

Finally, the legislation requires the Secretary to establish penalties for staff who repeatedly fail to comply with applicable classification policies, despite notice of their noncompliance

and an opportunity to undergo retraining.

Mr. Speaker, technology is another part of the solution to over-classification, and so our legislation directs the Secretary to develop a plan to track electronically how and where information classified by DHS is disseminated so that misuse can be prevented.

Finally, it requires an extensive annual training on the proper use of the classification regime. This training will serve as a prerequisite to obtaining classification authority and to renewing it each year. In other words, this means that not everyone can classify material. You have to be properly trained, and if you abuse your position, you may not get to continue to be in that role.

These changes, in addition to helping local law enforcement push important information out to the public. A major key to homeland security is personal preparedness. The public has a right to know non-classified information, and this bill promotes that right. It enjoys support by privacy and civil liberty groups. I want you to know, Mr. Speaker, I am working with our colleague, Mr. WAXMAN, to see whether I can help him craft legislation to apply these principles government-wide.

Mr. Speaker, on behalf of first preventers and first responders everywhere, I urge passage of this essential legislation.

Mr. Speaker, I reserve the balance of my time.

□ 1315

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4806, the Reducing Over-Classification Act sponsored by my Homeland Security colleague, Representative JANE HARMAN, the distinguished subcommittee Chair on Intelligence.

H.R. 4806 requires the Secretary of Homeland Security to develop and administer policies, procedures, and programs to prevent the over-classification of homeland security information. This bill requires the Department of Homeland Security to continue its current practice of producing unclassified versions of the majority of its classified products.

For example, just last month when the Department produced its classified periodic review of border security issues facing the United States, it produced an unclassified version as well. The bill specified that law enforcement agencies, emergency first responders, and private sector customers should benefit from these products, thus reinforcing the Department's commitment to State and local entities. Hopefully, this will encourage the widest possible dissemination of these unclassified products to better inform our frontline agencies.

Mr. Speaker, H.R. 4806 will further strengthen ongoing efforts to prevent the over-classification of homeland security information, and I look forward to its passage.

I reserve the balance of my time

Ms. HARMAN. Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I would like to reiterate that we need the appropriations and the authorization Homeland Security bills on the floor this year.

I yield back the balance of my time. Ms. HARMAN. Mr. Speaker, I yield myself such time as I may consume.

I want to thank Mr. BILIRAKIS for his generous comments and for his strong support of this legislation. I think this is landmark legislation. I think our committee will get enormous attention for finally trying to attack this insidious problem of overclassification, and I very much appreciate his personal support.

I also want to tell him that I have watched him raise this issue about authorization and appropriation, the need for both actions, by this House. I agree with him. I think we need an authorization of this bill this year. And it is my understanding that all of the individual bills we are debating this afternoon will be included in that authorization bill. So I thank him for pointing out the need for us to act.

In conclusion, Mr. Speaker, of the bills that I am managing on the floor this afternoon, this is the one that I feel most strongly about. This is the one that will make the biggest difference. If we can get classification right at the Department of Homeland Security, a new department, we can then get it right in the rest of the government.

As I mentioned earlier, I am working with Mr. WAXMAN and others on his committee to see whether we can craft a bill that manages properly all the equities involved in taking this approach governmentwide, but I hope we can work that out. I think this bill sets the right precedent. I urge its passage by the full House.

I yield back the balance of my time. The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from California (Ms. HARMAN) that the House suspend the rules and pass the bill, H.R. 4806, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. BILIRAKIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

IMPROVING PUBLIC ACCESS TO DOCUMENTS ACT OF 2008

Ms. HARMAN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 6193) to require the Secretary of Homeland Security to develop and administer policies, procedures, and programs to promote the implementation of the Controlled Unclassified Information Framework applicable to unclassified information that is homeland security information, terrorism information, weapons of mass destruction information and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Improving Public Access to Documents Act of 2008".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The proliferation and widespread use of "sensitive but unclassified" (SBU) control markings by the Federal Government interferes with accurate, actionable, and timely homeland security information sharing, increases the cost of information security, and needlessly limits public access to information.

(2) The control markings problem, which has worsened since the 9/11 attacks, causes considerable confusion about what information can be shared with whom both internally at the Department of Homeland Security and with its external partners. This problem negatively impacts the dissemination of homeland security information to the Department's State, local, tribal, and territorial homeland security and law enforcement partners, private sector customers, and the public.

(3) Overuse of "sensitive but unclassified" markings stands in the way of a safer and more secure homeland. This trend is antithetical to the creation and operation of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), and must be halted and reversed.

(4) To do so, the Department should start with the understanding that all departmental information that is not properly classified, or marked as controlled unclassified information and otherwise exempt from disclosure, should be made available to members of the public pursuant to section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act").

(5) The Department should also develop and administer policies, procedures, and programs that promote compliance with applicable laws, executive orders, and other authorities pertaining to the proper use of controlled unclassified information markings and the National Archives and Records Administration policies implementing them.

SEC. 3. CONTROLLED UNCLASSIFIED INFORMATION FRAMEWORK IMPLEMENTATION WITHIN THE DEPARTMENT OF HOMELAND SECURITY.

Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following new section:

"SEC. 210F. CONTROLLED UNCLASSIFIED INFORMATION FRAMEWORK IMPLEMENTATION PROGRAM.

"(a) IN GENERAL.—The Secretary shall develop and administer policies, procedures, and programs within the Department to implement the controlled unclassified information framework to standardize the use of controlled unclassified markings on, and to maximize the disclosure to the public of, homeland security information, terrorism information, weapons of mass destruction information, and other information within the scope of the information sharing environment established under section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485) that must be disseminated to prevent and to collectively respond to acts of terrorism. The Secretary shall coordinate with the Archivist of the United States and consult with representatives of State, local, tribal, and territorial government and law enforcement, organizations with expertise in civil rights, civil liberties, and government oversight, and the private sector, as appropriate, to develop such policies, procedures, and programs.

"(b) REQUIREMENTS.—Not later than one year after the date of the enactment of the Improving Public Access to Documents Act of 2008, the Secretary, in administering the policies, procedures, and programs required under subsection (a), shall—

"(1) create, in consultation with the Archivist of the United States, a standard format for unclassified finished intelligence products created by the Department that have been designated as controlled unclassified information, consistent with any governmentwide standards, practices or procedures for similar products;

"(2) require that all unclassified finished intelligence products created by the Department that have been designated as controlled unclassified information be prepared in the standard format;

"(3) ensure that such policies, procedures, and programs protect the national security as well as the information privacy rights and legal rights of United States persons pursuant to all applicable law and policy, including the privacy guidelines for the information sharing environment established pursuant to section 1016 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 485), as appropriate;

"(4) establish an ongoing auditing mechanism administered by the Inspector General of the Department or other appropriate senior Department official that randomly selects, on a periodic basis, controlled unclassified information from each component of the Department, including all Department components that generate unclassified finished intelligence products, to—

"(A) assess whether applicable controlled unclassified information policies, procedures, rules, and regulations have been followed;

"(B) describe any problems with the administration of the applicable controlled unclassified information policies, procedures, rules and regulations, including specific non-compliance issues;

"(C) recommend improvements in awareness and training to address any problems identified in subparagraph (B); and

"(D) report at least annually to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Senate, and the public on the findings of the Inspector General's audits under this section;

"(5) establish a process whereby employees may challenge the use of controlled unclassified information markings by Department employees or contractors and be rewarded