

I want to commend Ambassador McNamara for really courageous work in trying to manage this chaos, and it is his work that we build on in this legislation. His CUI framework reduces the number of allowed information control markings from over 100 to just seven. And to do so, our bill, following his recommendations, imposes strict requirements for when CUI control markings may be used. It promotes greater transparency by requiring the Department of Homeland Security to create a publicly available list of all department documents marked as CUI that have been withheld from public disclosure under a valid FOIA exemption.

After working together on a bipartisan basis for months, and now with significant input from the privacy, civil liberties, and government oversight communities, we believe that H.R. 6193 will make DHS the model to be followed when it comes to adopting and implementing CUI best practices. And, in June, this legislation was marked up and approved on a unanimous basis by both our Intelligence Subcommittee and the full Homeland Security Committee.

Putting the CUI framework into action at DHS will not only improve information sharing, but will also help decrease the exorbitant information security costs that the current SBU regime imposes, and undo misguided SBU practices that needlessly limit public access to information.

Mr. Speaker, terrorism is intended to terrify. If our first preventers have the facts on the front lines, we can begin to alleviate the fear that has paralyzed our homeland security policies and thinking for far too long. A first step is eliminating the confusion by making more unclassified information available to DHS partners, including the public, by ensuring that control markings don't gum up the works. The potential dividends for the security of our homeland are enormous. Mr. Speaker, I urge passage of this critical legislation.

I reserve the balance of my time.

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

I rise today in support of H.R. 6193, the Improving Public Access to Documents Act, sponsored by Homeland Security Committee colleague, Representative JANE HARMAN, who does such great work.

H.R. 6193 requires the Secretary of Homeland Security to develop and administer policies, procedures, and programs to implement the President's controlled unclassified information framework to standardize the many sensitive but unclassified categories of information. The bill requires the Secretary to coordinate with the Archivist of the United States and consult with representatives of State and local governments, privacy and civil rights advocacy groups, and the private sector in this effort.

This bill codifies many of the policies and procedures included in a May 7,

2008 executive memorandum, which directs executive department heads to begin consolidating the over 100 known sensitive but unclassified designations.

Information designated as sensitive but unclassified doesn't merit a security classification under Executive Order 12958 regarding classified national security information but is still sensitive that general disclosure is not in the public's best interest. Information that is law enforcement sensitive or designated for official use only are two examples of information that will now be marked as controlled unclassified information under this new construct.

Mr. Speaker, I am confident that H.R. 6193 is a helpful first step in standardizing the many types of sensitive but unclassified information so as to improve homeland security information sharing. I urge my colleagues to support it.

I reserve the balance of my time.

Ms. HARMAN. Mr. Speaker, we have no further speakers and I am prepared to close once the minority has closed.

Mr. BILIRAKIS. I thank the gentlelady for the information, and let's hope that the Senate gets to that authorization bill in September.

I yield back the balance of my time.

Ms. HARMAN. Mr. Speaker, again, I appreciate Mr. BILIRAKIS' support and the support of the minority members of the Homeland Security Committee and my principal cosponsor of this bill, the ranking member, Mr. REICHERT.

It is pretty astounding that there are over 100 ways to block nonclassified information from moving across the Federal Government. With passage of this bill, we will, at least at the Department of Homeland Security, reduce that 100 plus list of poor reasons in many cases to just seven.

Again, I want to commend Ambassador Ted McNamara for his path-breaking work at the Office of the Director of National Intelligence, and I want to commend the Government Reform and Oversight Committee for a bill that will move under the suspension of rules later today, H.R. 6576, which will take the principles we are debating now with respect to the Department of Homeland Security and apply them government-wide. I think that is very good policy, and we start now, I hope, by passage of this important legislation. I urge an aye vote.

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. 6193, 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.

HOMELAND SECURITY OPEN SOURCE INFORMATION ENHANCEMENT ACT OF 2008

Ms. HARMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3815) to amend the Homeland Security Act of 2002 to require the Secretary of Homeland Security to make full and efficient use of open source information to develop and disseminate open source homeland security information products, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 3815

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 "Homeland Security Open Source Information Enhancement Act of 2008".

SEC. 2. FINDINGS.

Congress finds the following:

(1) *The Internet has profoundly expanded the amount, significance, and accessibility of all types of information, but the Department of Homeland Security has not sufficiently expanded its use of such information to produce analytical products.*

(2) *Open source products can be shared with Federal, State, local, and tribal law enforcement, the American public, the private sector, and foreign allies because of their unclassified nature.*

(3) *The Department of Homeland Security is responsible for providing open source products to consumers consistent with existing Federal open source information guidelines.*

SEC. 3. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

(a) *IN GENERAL.—*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:

"SEC. 210F. FULL AND EFFICIENT USE OF OPEN SOURCE INFORMATION.

"(a) *RESPONSIBILITIES OF SECRETARY.—*The Secretary shall establish an open source collection, analysis, and dissemination program within the Department. This program shall make full and efficient use of open source information to develop and disseminate open source intelligence products.

"(b) *OPEN SOURCE PRODUCTS.—*The Secretary shall ensure that among the open source products that the Department generates, there shall be a specific focus on open source products that—

"(1) *analyze news and developments related to foreign terrorist organizations including how the threat of such organizations is relevant to homeland security;*

"(2) *analyze the risks and vulnerabilities to the Nation's critical infrastructure;*

"(3) *analyze terrorist tactics and techniques to include recommendations on how to identify patterns of terrorist activity and behavior allowing State, local and tribal first responders to allocate resources appropriately; and*

"(4) *utilize, as appropriate, computer-based electronic visualization and animation tools that combine imagery, sound, and written material into unclassified open source intelligence products.*

“(c) *SHARING RESULTS OF ANALYSIS.*—The Secretary shall share the unclassified results of such analysis with appropriate Federal, State, local, tribal, and private-sector officials.

“(d) *PROTECTION OF PRIVACY.*—The Secretary shall ensure that the manner in which open source information is gathered and disseminated by the Department complies with the Constitution, section 552a of title 5, United States Code (popularly known as the Privacy Act of 1974), provisions of law enacted by the E-Government Act of 2002 (Public Law 107-347), and all other relevant Federal laws.

“(e) *INSPECTOR GENERAL REPORT.*—The Inspector General of the Department shall audit the use and dissemination of open source information by the Department to evaluate the effectiveness of the Department’s activities and to ensure that it is consistent with the procedures established by the Secretary or a designee of the Secretary for the operation of the Department’s open source program and with Federal open source information and intelligence guidelines promulgated by the Director of National Intelligence.

“(f) *OPEN SOURCE INFORMATION DEFINED.*—In this section the term ‘open source information’ means information that is publicly available and that can be used and disseminated in a timely manner to an appropriate audience for the purpose of addressing a specific homeland requirement.

“(g) *AUTHORIZATION OF APPROPRIATIONS.*—There is authorized to be appropriated for each of fiscal years 2009 through 2013 such sums as may be necessary to carry out this section.”

(b) *CLERICAL AMENDMENT.*—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to such subtitle the following:

“Sec. 210F. Full and efficient use of open source information.”

SEC. 4. PRIVACY AND CIVIL LIBERTIES IMPACT ASSESSMENT.

Not later than 90 days after the date of the enactment of this Act, the Privacy Officer and the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, in consultation with the Chief Privacy Officer and Civil Liberties Protection Officer of the Office of the Director of National Intelligence, shall submit to the Secretary of Homeland Security, the Director of National Intelligence, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Homeland Security of the House of Representatives, and the Privacy and Civil Liberties Oversight Board, a privacy and civil liberties impact assessment of the Department of Homeland Security’s open source program, including information on the collection, analysis, and dissemination of any information on United States persons.

SEC. 5. OPEN SOURCE INFORMATION DEFINED.

In this Act the term “open source information” has the meaning that term has in section 203 of Homeland Security Act of 2002, as amended by this Act.

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

I rise in support of H.R. 3815, the Homeland Security Open Source Enhancement Act of 2008, introduced last year by our subcommittee member, ED PERLMUTTER, who is, by my lights, though a freshman member, an enormously talented contributor to the work of our subcommittee.

□ 1330

Regrettably, he couldn’t be here for this debate this afternoon.

This is an important piece of legislation that will go a long way towards ensuring that the Department offers critical intelligence products that matter to its State, local and tribal partners.

Mr. Speaker, the Federal Government has, at its disposal, nearly limitless amounts of unclassified, open source information and can share it with key stakeholders, regardless of whether those partners have security clearances.

This is crucial because the next attack in the U.S. will not be stopped, as I mentioned earlier, by a bureaucrat in Washington, D.C., it will be the cop on the beat who is familiar with the rhythms and nuances of his or her neighborhood who will find out about that attack. An observant police officer somewhere in America will see something or someone out of place and, guided by timely, accurate and actionable and unclassified, open source information, will connect the dots that will unravel that new potential terrorist plot.

The Department, and specifically its Office of Intelligence and Analysis, has pursued a variety of missions without a clear focus. Open source is a case in point.

The Department’s open source efforts have lagged far behind the rest of the Federal Government. While the DNI and the CIA have both established programs in this area, DHS, the lead Federal agency responsible for sharing terrorism threat and vulnerability information with State and local law enforcement, has yet to articulate a vision for how it will collect, analyze and disseminate it to stakeholders.

This legislation directs the Department to jump start its open source program and protect the privacy, civil rights and civil liberties of all Americans in the process. It will help DHS fill a critical gap in information sharing, and, hopefully, provide its primary customers with timely and actionable information.

Mr. Speaker, I urge passage of this important legislation and reserve the balance of my time.

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

I rise today in support of H.R. 3815, the Homeland Security Open Source Information Enhancement Act, sponsored by my committee colleague, Rep-

resentative ED PERLMUTTER, who is a great Member, by the way.

H.R. 3815 will require the Secretary to establish an open source collection analysis and dissemination program within the Department of Homeland Security. This program would help facilitate information-sharing between the Federal Government and State, local and private sector officials to take advantage of the vast amount of information that is publicly available through open sources.

Importantly, the bill would require the Secretary to protect the privacy rights of individuals, including by conducting a private impact statement on the Department’s open source program.

H.R. 3815 also requires the Inspector General to audit the use and dissemination of open source information to evaluate the effectiveness of the Department’s activities in this area and its consistency with the open source policies of the Director of National Intelligence.

Mr. Speaker, I believe the Department of Homeland Security should take full advantage of open source information and ensure its proper dissemination to appropriate entities to maximize our homeland security. I encourage our colleagues to help move the Department closer toward that goal by supporting H.R. 3815.

I reserve the balance of my time.

Ms. HARMAN. Mr. Speaker, we have no further speakers, and I am prepared to close once the minority has closed.

Mr. BILIRAKIS. Mr. Speaker, I just urge everyone to support this bill. Again, it is a very good bill.

I yield back.

Ms. HARMAN. Mr. Speaker, I yield myself as much time as I may consume, and I am prepared to close debate.

Mr. Speaker, I am thinking back to those years on the Intelligence Committee, when I would leave classified briefings dissatisfied with the amount of information I was receiving. I would then go out and read my local newspaper or maybe an article that I had saved for airplane reading, and realize that in open sources there was a huge amount of information directly relevant to the problem that had not been organized in a way that I could quickly access it, and that in fact was probably more useful than the classified briefings I received. This happened not one time, not five times, but often.

So the point of Mr. PERLMUTTER’s excellent legislation is to help the Department of Homeland Security, which has primary responsibility for the security of our homeland, make public source information available to those who need it to keep us safe. And those would be our first preventers, police and firefighters in our neighborhoods, and the general public. It sounds obvious, but it doesn’t happen. And I appreciate the support of Mr. BILIRAKIS and the unanimous support of the members of the committee.

Again, I want to commend the bill’s principal author, Mr. PERLMUTTER, for offering this legislation.

I ask for an "aye" vote on the bill and 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. 3815, 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.

PERSONNEL REIMBURSEMENT FOR INTELLIGENCE COOPERATION AND ENHANCEMENT OF HOMELAND SECURITY ACT

Ms. HARMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6098) to amend the Homeland Security Act of 2002 to improve the financial assistance provided to State, local, and tribal governments for information sharing activities, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 6098

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 "Personnel Reimbursement for Intelligence Cooperation and Enhancement of Homeland Security Act" or the "PRICE of Homeland Security Act".

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) *After the terrorist attacks on September 11, 2001, State, local, and tribal governments redoubled their efforts to combat terrorism and expended tremendous energy and financial resources to help the Federal Government fight the terrorist threat.*

(2) *States and localities have formed fusion centers, hired intelligence analysts, and contributed a significant amount of resources to the expansion of Federal homeland security efforts.*

(3) *These actions, in conjunction with the efforts of the Federal Government and private industry, have materially contributed to the common defense of this Nation and have helped keep our homeland secure.*

(4) *The National Strategy for Information Sharing issued by the President in October 2007 plainly states that "The Federal Government may need to provide financial and technical assistance, as well as human resource support, to these fusion centers if they are to achieve and sustain a baseline level of capability. The objective is to assist State and local governments in the establishment and the sustained operation of these fusion centers. A sustained Federal partnership with State and major urban area fusion centers is critical to the safety of our Nation, and therefore a national priority."*

(5) *The Federal Government has endeavored to support these State efforts through the State*

Homeland Security Grant Program and other methods of Federal assistance but have placed restrictions on the use of these funds that make long-term planning for fusion centers unmanageable.

(6) *It is vital to the security of our homeland that States and localities are able to continue to receive funding for the participation of State and local analysts in fusion centers and in their State and local efforts to combat terrorism and terrorist-related activities.*

SEC. 3. GRANT ELIGIBILITY FOR ANALYSTS.

Section 2008(a) of the Homeland Security Act of 2002 (6 U.S.C. 609(a)) is amended—

(1) *in the matter preceding paragraph (1) by striking "Grants" and all that follows through "plans, through" and inserting the following: "The Administrator shall permit grant recipients under section 2003 or 2004 to use grant funds to achieve and sustain target capabilities related to preventing, preparing for, protecting against, and responding to acts of terrorism, consistent with a State homeland security plan and relevant local, tribal, and regional homeland security plans, through"; and*

(2) *in paragraph (10) by inserting the following after "analysts": "regardless of whether such analysts are current or new full-time employees or contract employees and such funding shall be made available without time limitations placed on the period of time that such analyst can serve under awarded grants."*

SEC. 4. USE OF FUNDS FOR PERSONNEL AND OPERATIONAL COSTS.

Section 2008(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 609(b)(2)) is amended by striking so much as precedes subparagraph (B) and inserting the following:

"(2) PERSONNEL AND OPERATIONAL COSTS.—

"(A) IN GENERAL.—The recipient of a grant under section 2003 or 2004 may, at the recipient's discretion, use up to 50 percent of the amount of the grant awarded for any fiscal year to pay for personnel and operational costs, including overtime and backfill costs, in support of the uses authorized under subsection (a)."

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

Mr. Speaker, my colleague and the ranking member of our Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment DAVE REICHERT, introduced H.R. 6098 earlier this year, and it was reported unanimously out of our subcommittee and the full committee.

I have to express my personal disappointment that Mr. REICHERT is not here for this debate. I know that this is a subject he is passionate about, as am I, as are the first responders, so-called "first preventers" who will benefit enormously by its passage.

At issue, Mr. Speaker, is how DHS grant recipients can spend their money

when it comes to hiring and retaining intelligence analysts at the State and local levels.

In the 9/11 Act, we were clear, grant recipients could use up to 50 percent of their State Homeland Security Grant Program and Urban Area Security Initiative funding for personnel costs, without time limitations.

The Department of Homeland Security, however, had other ideas. Instead of following the law, it capped allowable personnel costs far below the 50 percent threshold, and it imposed a 2-year limit on how long States could employ intelligence analysts hired with Federal dollars. This has had the absurd result of States and localities firing analysts after 2 years, just to continue to qualify for DHS funding.

Think about this. Someone works for you, is providing excellent, accurate and actionable intelligence analysis that will help us track and prevent the next set of threats, and that person gets fired only because he or she has to be fired in order for money to continue to flow. This makes absolutely no sense.

DHS' approach, likewise, undermines the culture of constitutionality that Congress intended to foster at fusion centers in the 9/11 Act.

Many States and localities want to use DHS grant funds to hire and retain analysts at those centers, which are increasingly becoming the linchpin for information sharing with the Federal Government. To sustain this effort, however, State and locals need money to pay for staff overtime to make fusion centers work, something both Congress and the President, in his National Strategy For Information Sharing, strongly support.

But, Mr. Speaker, the Department's grant guidance ignores this, just as it ignores the stringent privacy and civil liberties training requirements that are the centerpiece of the 9/11 Act's funding provision. By forcing States and localities to fire staff every 2 years in order to access Federal funds, DHS is effectively preventing the "culture of constitutionality" from taking root.

When privacy and civil liberties best practices have no time to develop, abuses, like the Maryland State Police's apparent spying on peace protestors and death penalty opponents, are the inevitable result.

Mr. Speaker, H.R. 6098 fixes these problems by giving States and localities the flexibility they need to hire and retain the staff to keep our communities safe. That is why the bill has been cosponsored by both Democrats and Republicans, and that is why it was approved on a unanimous basis by both our subcommittee and the full Homeland Security Committee last month.

Mr. Speaker, fusion centers, done the right way, are essential for Homeland Security.

I therefore urge passage of this critically important legislation, and reserve the balance of my time.