110TH CONGRESS
2D SESSION
H. R. 3815

IN THE SENATE OF THE UNITED STATES

JULY 31, 2008

Received; read twice and referred to the Committee on Homeland Security and Governmental Affairs

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AN ACT

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.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives 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 IN-
FORMATION.

"(a) RESPONSIBILITIES OF SECRETARY.—The Sec-
retary 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 intel-
ligence products.

"(b) OPEN SOURCE PRODUCTS.—The Secretary shall
ensure that among the open source products that the De-
partment 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

1 combine imagery, sound, and written material into

2 unclassified open source intelligence products.

3 "(c) SHARING RESULTS OF ANALYSIS.—The Sec-

4 retary shall share the unclassified results of such analysis

5 with appropriate Federal, State, local, tribal, and private-

6 sector officials.

7 "(d) PROTECTION OF PRIVACY.—The Secretary shall

8 ensure that the manner in which open source information

9 is gathered and disseminated by the Department complies

10 with the Constitution, section 552a of title 5, United

11 States Code (popularly known as the Privacy Act of

12 1974), provisions of law enacted by the E-Government Act

13 of 2002 (Public Law 107–347), and all other relevant

14 Federal laws.

15 "(e) INSPECTOR GENERAL REPORT.—The Inspector

16 General of the Department shall audit the use and dis-

17 semination of open source information by the Department

18 to evaluate the effectiveness of the Department's activities

19 and to ensure that it is consistent with the procedures es-

20 tablished by the Secretary or a designee of the Secretary

21 for the operation of the Department's open source pro-

22 gram and with Federal open source information and intel-

23 ligence guidelines promulgated by the Director of National

24 Intelligence.

1 "(f) OPEN SOURCE INFORMATION DEFINED.—In
2 this section the term 'open source information' means in-
3 formation that is publicly available and that can be used
4 and disseminated in a timely manner to an appropriate
5 audience for the purpose of addressing a specific homeland
6 requirement.

7 "(g) AUTHORIZATION OF APPROPRIATIONS.—There
8 is authorized to be appropriated for each of fiscal years
9 2009 through 2013 such sums as may be necessary to
10 carry out this section.".

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

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

14 **SEC. 4. PRIVACY AND CIVIL LIBERTIES IMPACT ASSESS-**
15 **MENT.**

16 Not later than 90 days after the date of the enact-
17 ment of this Act, the Privacy Officer and the Officer for
18 Civil Rights and Civil Liberties of the Department of
19 Homeland Security, in consultation with the Chief Privacy
20 Officer and Civil Liberties Protection Officer of the Office
21 of the Director of National Intelligence, shall submit to
22 the Secretary of Homeland Security, the Director of Na-
23 tional Intelligence, the Committee on Homeland Security
24 and Governmental Affairs of the Senate, the Committee
25 on Homeland Security of the House of Representatives,

1 and the Privacy and Civil Liberties Oversight Board, a

2 privacy and civil liberties impact assessment of the De-

3 partment of Homeland Security's open source program,

4 including information on the collection, analysis, and dis-

5 semination of any information on United States persons.

6 **SEC. 5. OPEN SOURCE INFORMATION DEFINED.**

7 In this Act the term "open source information" has

8 the meaning that term has in section 203 of Homeland

9 Security Act of 2002, as amended by this Act.

Passed the House of Representatives July 30, 2008.

Attest: LORRAINE C. MILLER,

Clerk.