

107TH CONGRESS
2D SESSION

S. 2887

To provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

IN THE SENATE OF THE UNITED STATES

AUGUST 1, 2002

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the sharing of homeland security information by Federal intelligence and law enforcement agencies with State and local entities.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeland Security
5 Information Sharing Act”.

6 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The Federal Government is required by the
2 Constitution to provide for the common defense,
3 which includes terrorist attack.

4 (2) The Federal Government relies on State
5 and local personnel to protect against terrorist at-
6 tack.

7 (3) The Federal Government collects, creates,
8 manages, and protects classified and sensitive but
9 unclassified information to enhance homeland secu-
10 rity.

11 (4) Some homeland security information is
12 needed by the State and local personnel to prevent
13 and prepare for terrorist attack.

14 (5) The needs of State and local personnel to
15 have access to relevant homeland security informa-
16 tion to combat terrorism must be reconciled with the
17 need to preserve the protected status of such infor-
18 mation and to protect the sources and methods used
19 to acquire such information.

20 (6) Granting security clearances to certain
21 State and local personnel is one way to facilitate the
22 sharing of information regarding specific terrorist
23 threats among Federal, State, and local levels of
24 government.

1 (7) Methods exist to declassify, redact, or other-
2 wise adapt classified information so it may be shared
3 with State and local personnel without the need for
4 granting additional security clearances.

5 (8) State and local personnel have capabilities
6 and opportunities to gather information on sus-
7 picious activities and terrorist threats not possessed
8 by Federal agencies.

9 (9) The Federal Government and State and
10 local governments and agencies in other jurisdictions
11 may benefit from such information.

12 (10) Federal, State, and local governments and
13 intelligence, law enforcement, and other emergency
14 preparation and response agencies must act in part-
15 nership to maximize the benefits of information
16 gathering and analysis to prevent and respond to
17 terrorist attacks.

18 (11) Information systems, including the Na-
19 tional Law Enforcement Telecommunications Sys-
20 tem and the Terrorist Threat Warning System, have
21 been established for rapid sharing of classified and
22 sensitive but unclassified information among Fed-
23 eral, State, and local entities.

1 (12) Increased efforts to share homeland secu-
 2 rity information should avoid duplicating existing in-
 3 formation systems.

4 (b) SENSE OF CONGRESS.—It is the sense of Con-
 5 gress that Federal, State, and local entities should share
 6 homeland security information to the maximum extent
 7 practicable, with special emphasis on hard-to-reach urban
 8 and rural communities.

9 **SEC. 3. FACILITATING HOMELAND SECURITY INFORMA-**
 10 **TION SHARING PROCEDURES.**

11 (a) PRESIDENTIAL PROCEDURES FOR DETERMINING
 12 EXTENT OF SHARING OF HOMELAND SECURITY INFOR-
 13 MATION.—(1) The President shall prescribe procedures
 14 under which relevant Federal agencies determine—

15 (A) whether, how, and to what extent homeland
 16 security information may be shared with appropriate
 17 State and local personnel, and with which such per-
 18 sonnel it may be shared;

19 (B) how to identify and safeguard homeland se-
 20 curity information that is sensitive but unclassified;
 21 and

22 (C) to the extent such information is in classi-
 23 fied form, whether, how, and to what extent to re-
 24 move classified information, as appropriate, and with

1 which such personnel it may be shared after such in-
2 formation is removed.

3 (2) The President shall ensure that such procedures
4 apply to all agencies of the Federal Government.

5 (3) Such procedures shall not change the substantive
6 requirements for the classification and safeguarding of
7 classified information.

8 (4) Such procedures shall not change the require-
9 ments and authorities to protect sources and methods.

10 (b) PROCEDURES FOR SHARING OF HOMELAND SE-
11 curity INFORMATION.—(1) Under procedures prescribed
12 by the President, all appropriate agencies, including the
13 intelligence community, shall, through information sharing
14 systems, share homeland security information with appro-
15 priate State and local personnel to the extent such infor-
16 mation may be shared, as determined in accordance with
17 subsection (a), together with assessments of the credibility
18 of such information.

19 (2) Each information sharing system through which
20 information is shared under paragraph (1) shall—

21 (A) have the capability to transmit unclassified
22 or classified information, though the procedures and
23 recipients for each capability may differ;

24 (B) have the capability to restrict delivery of in-
25 formation to specified subgroups by geographic loca-

1 tion, type of organization, position of a recipient
2 within an organization, or a recipient's need to know
3 such information;

4 (C) be configured to allow the efficient and ef-
5 fective sharing of information; and

6 (D) be accessible to appropriate State and local
7 personnel.

8 (3) The procedures prescribed under paragraph (1)
9 shall establish conditions on the use of information shared
10 under paragraph (1)—

11 (A) to limit the redissemination of such infor-
12 mation to ensure that such information is not used
13 for an unauthorized purpose;

14 (B) to ensure the security and confidentiality of
15 such information;

16 (C) to protect the constitutional and statutory
17 rights of any individuals who are subjects of such in-
18 formation; and

19 (D) to provide data integrity through the timely
20 removal and destruction of obsolete or erroneous
21 names and information.

22 (4) The procedures prescribed under paragraph (1)
23 shall ensure, to the greatest extent practicable, that the
24 information sharing system through which information is
25 shared under such paragraph include existing information

1 sharing systems, including, but not limited to, the Na-
2 tional Law Enforcement Telecommunications System, the
3 Regional Information Sharing System, and the Terrorist
4 Threat Warning System of the Federal Bureau of Inves-
5 tigation.

6 (5) Each appropriate Federal agency, as determined
7 by the President, shall have access to each information
8 sharing system through which information is shared under
9 paragraph (1), and shall therefore have access to all infor-
10 mation, as appropriate, shared under such paragraph.

11 (6) The procedures prescribed under paragraph (1)
12 shall ensure that appropriate State and local personnel are
13 authorized to use such information sharing systems—

14 (A) to access information shared with such per-
15 sonnel; and

16 (B) to share, with others who have access to
17 such information sharing systems, the homeland se-
18 curity information of their own jurisdictions, which
19 shall be marked appropriately as pertaining to po-
20 tential terrorist activity.

21 (7) Under procedures prescribed jointly by the Direc-
22 tor of Central Intelligence and the Attorney General, each
23 appropriate Federal agency, as determined by the Presi-
24 dent, shall review and assess the information shared under

1 paragraph (6) and integrate such information with exist-
2 ing intelligence.

3 (c) SHARING OF CLASSIFIED INFORMATION AND
4 SENSITIVE BUT UNCLASSIFIED INFORMATION WITH
5 STATE AND LOCAL PERSONNEL.—(1) The President shall
6 prescribe procedures under which Federal agencies may,
7 to the extent the President considers necessary, share with
8 appropriate State and local personnel homeland security
9 information that remains classified or otherwise protected
10 after the determinations prescribed under the procedures
11 set forth in subsection (a).

12 (2) It is the sense of Congress that such procedures
13 may include one or more of the following means:

14 (A) Carrying out security clearance investiga-
15 tions with respect to appropriate State and local per-
16 sonnel.

17 (B) With respect to information that is sen-
18 sitive but unclassified, entering into nondisclosure
19 agreements with appropriate State and local per-
20 sonnel.

21 (C) Increased use of information-sharing part-
22 nerships that include appropriate State and local
23 personnel, such as the Joint Terrorism Task Forces
24 of the Federal Bureau of Investigation, the Anti-

1 Terrorism Task Forces of the Department of Jus-
2 tice, and regional Terrorism Early Warning Groups.

3 (d) RESPONSIBLE OFFICIALS.—For each affected
4 Federal agency, the head of such agency shall designate
5 an official to administer this Act with respect to such
6 agency.

7 (e) FEDERAL CONTROL OF INFORMATION.—Under
8 procedures prescribed under this section, information ob-
9 tained by a State or local government from a Federal
10 agency under this section shall remain under the control
11 of the Federal agency, and a State or local law authorizing
12 or requiring such a government to disclose information
13 shall not apply to such information.

14 (f) DEFINITIONS.—In this section:

15 (1) The term “homeland security information”
16 means any information possessed by a Federal,
17 State, or local agency that—

18 (A) relates to the threat of terrorist activ-
19 ity;

20 (B) relates to the ability to prevent, inter-
21 dict, or disrupt terrorist activity;

22 (C) would improve the identification or in-
23 vestigation of a suspected terrorist or terrorist
24 organization; or

1 (D) would improve the response to a ter-
2 rorist act.

3 (2) The term “intelligence community” has the
4 meaning given such term in section 3(4) of the Na-
5 tional Security Act of 1947 (50 U.S.C. 401a(4)).

6 (3) The term “State and local personnel”
7 means any of the following persons involved in pre-
8 vention, preparation, or response for terrorist attack:

9 (A) State Governors, mayors, and other lo-
10 cally elected officials.

11 (B) State and local law enforcement per-
12 sonnel and firefighters.

13 (C) Public health and medical profes-
14 sionals.

15 (D) Regional, State, and local emergency
16 management agency personnel, including State
17 adjutant generals.

18 (E) Other appropriate emergency response
19 agency personnel.

20 (F) Employees of private-sector entities
21 that affect critical infrastructure, cyber, eco-
22 nomic, or public health security, as designated
23 by the Federal government in procedures devel-
24 oped pursuant to this section.

1 (4) The term “State” includes the District of
2 Columbia and any commonwealth, territory, or pos-
3 session of the United States.

4 **SEC. 4. REPORT.**

5 (a) REPORT REQUIRED.—Not later than 12 months
6 after the date of the enactment of this Act, the President
7 shall submit to the congressional committees specified in
8 subsection (b) a report on the implementation of section
9 3. The report shall include any recommendations for addi-
10 tional measures or appropriation requests, beyond the re-
11 quirements of section 3, to increase the effectiveness of
12 sharing of information among Federal, State, and local
13 entities.

14 (b) SPECIFIED CONGRESSIONAL COMMITTEES.—The
15 congressional committees referred to in subsection (a) are
16 the following committees:

17 (1) The Permanent Select Committee on Intel-
18 ligence and the Committee on the Judiciary of the
19 House of Representatives.

20 (2) The Select Committee on Intelligence and
21 the Committee on the Judiciary of the Senate.

22 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

23 There are authorized to be appropriated such sums
24 as may be necessary to carry out section 3.

○