

SOCIAL MEDIA USE IN CLEARANCE INVESTIGATIONS ACT OF 2019

Ms. HILL of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1065) to provide for a study on the use of social media in security clearance investigations.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1065

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 “Social Media Use in Clearance Investigations Act of 2019”.

SEC. 2. STUDY ON USE OF SOCIAL MEDIA IN SECURITY CLEARANCE INVESTIGATIONS.

Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress a report on the examination of social media activity during security clearance investigations, including—

(1) the current use of publicly available social media in security clearance background investigations;

(2) any legal impediments to examining publicly available social media activity, and whether those impediments are statutory or regulatory in nature;

(3) the results of any pilot programs to incorporate social media checks in such investigations, including the effectiveness and cost of such programs;

(4) options for widespread implementation of the examination of social media activity during such investigations; and

(5) estimates on the cost for such options as part of—

(A) all Top Secret investigations; or

(B) all Secret and Top Secret investigations.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. HILL) and the gentleman from North Carolina (Mr. MEADOWS) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. HILL of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on this measure.

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

There was no objection.

Ms. HILL of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank Congressmen LYNCH and HICE for their work on this bill. This bill would require the Director of the Office of Management and Budget to issue a report to Congress on the use of social media checks in background investigations for security clearances.

In recent years, a number of agencies have begun pilot programs to help develop the best methods for incorporating social media into background checks. For example, the Army initiated a pilot program that found that, while checking social media is a valuable

tool, it can be costly and may raise legal issues.

This bill would require that OMB conducts a comprehensive study on these issues and report back to Congress. This one-time report would describe the current uses of social media postings for investigative purposes and any legal concerns or impediments to their use.

In addition, the report would summarize the results of any pilot programs on the use of social media conducted to date and provide cost estimates for implementing their widespread use in the background investigation process.

This report would greatly assist Congress in determining whether further legislative action is needed when it comes to the Federal Government’s use of social media in background investigations. An identical measure was approved by the House last year without opposition.

Mr. Speaker, I urge every Member of this body to support this bill, and I reserve the balance of my time.

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

Mr. Speaker, I rise in support of H.R. 1065, the Social Media Use in Clearance Investigations Act of 2019, introduced by the gentleman from Massachusetts (Mr. LYNCH).

Mr. Speaker, I was at one of these hearings where we were talking about this very issue and how it was just mind-boggling that we would not use current protocols, in terms of looking at national security clearances and the approval thereof.

It was Mr. LYNCH’s initiative here to actually address that in a legislative manner, and I support his good work there.

Millions of Americans use social media to interact with family members, friends, and followers. Public posts on social media websites occasionally provide a unique insight into a person’s character and interests.

In several high-profile cases, Federal contractors with valid security clearances who leaked classified information had posted highly suspicious entries on their social media accounts.

For example, Edward Snowden used various online aliases to post suspicious content on the comment boards of a tech magazine before he received his security clearance. A simple check—mind you, a simple check—would have let us know of these suspicious activities and certainly could have worked to mitigate some of the damages that we all know too well.

Private companies and private citizens can and often do search publicly available social media accounts to learn more about job applicants. However, our government does not regularly check the social media of individuals who have applied for security clearances.

On May 12, 2016, the Office of the Director of National Intelligence issued a new policy permitting the use of public social media information in security

clearance investigations. Despite that legal clearance, most security clearance investigations still do not involve a social media check.

Various Federal entities have studied the potential use of social media information in background investigations for at least a decade. The National Security Agency, the Army, OPM, and others have conducted pilot programs on the effectiveness of social media checks, and it is not clear what use has been made of this data for these programs or whether the programs can be expanded to cover more applicants.

Concerning online behavior should be one of many factors used to evaluate a person’s fitness to access classified information.

H.R. 1065, the Social Media Use in Clearance Investigations Act, is a step toward creating a more holistic security clearance review process. The bill requires OMB to evaluate pilot programs conducted to date and estimate the costs of wider implementation of publicly available social media checks.

This report is due within 6 months and will help guide subsequent legislation to require checks of publicly available data. We cannot wait any longer to modernize our security clearance process.

Mr. Speaker, I urge my colleagues to support this thoughtful piece of legislation, and I reserve the balance of my time.

Ms. HILL of California. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. LYNCH).

Mr. LYNCH. Mr. Speaker, I thank the gentlewoman for yielding.

As chairman of the Subcommittee on National Security, I rise in strong support of H.R. 1065, the Social Media Use in Clearance Investigations Act, bipartisan legislation that I introduced earlier this month. It had passed this House previously, last session, with no opposition.

I commend our full committee chairman, Mr. CUMMINGS of Maryland, for his continued leadership on this issue of security clearance reform and for his work to advance H.R. 1065 to the floor today.

I also thank the new ranking member of our subcommittee, Mr. HICE of Georgia, for his support as well.

In order to enhance the Federal security clearance process, H.R. 1065 will require the Office of Management and Budget to examine the extent to which Federal agencies are reviewing publicly available social media profiles as they conduct background investigations for security clearance applicants.

This bill will also require OMB to submit recommendations to Congress on how we can implement this examination of social media activity in clearance investigations across the Federal Government while also safeguarding individual privacy rights.

Our bipartisan oversight of the security clearance process has already revealed that Federal agencies have too often missed red flags in determining an individual’s eligibility to access classified information and facilities.

We need only recall the tragic shooting at the Washington Navy Yard in 2013 to underscore the devastating impact of a failure to effectively vet security clearance holders such as Aaron Alexis, a defense contractor with a marked history of gun violence who was still issued a secret-level clearance.

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Chief among the recommendations offered by the interagency council that President Obama convened to identify lapses in security clearance reviews was the need for agencies to have “access to relevant information from a variety of sources.”

As noted by William Evanina, the head of counterintelligence for the U.S. government since 2014, his quote is:

Social media has become an integral and very public part of the fabric of many Americans' daily lives. And we cannot ignore this important open source in our effort to safeguard our national interests.

Moreover, a public social media profile adds to the “mosaic” of a person and may reveal to background investigators evidence suggesting a change in ideology, ill intent, vulnerability to blackmail, and allegiance to another country.

The integration of social media into security clearance background investigations falls in line with the unprecedented exploitation of Twitter, Facebook, WhatsApp, Telegram, and other networking services by terrorist organizations, including the Islamic State.

As reported by the Combating Terrorism Center at West Point, the prolific use of social media by terrorist groups has not only facilitated the dissemination of propaganda, but also served as a primary global recruitment and financing tool.

Foreign governments are also increasingly relying on social media to advance their espionage efforts. According to open source reports, Chinese spy agencies have routinely resorted to using fake LinkedIn accounts to try to recruit Americans with access to government and commercial secrets.

“60 Minutes” recently reported that former CIA officer Kevin Mallory, who has been convicted on espionage charges, was first approached by his Chinese government handlers through the LinkedIn career networking site.

In advance of our 2016 subcommittee hearing on this issue, then-Director of National Intelligence, James Clapper, directed Federal agencies to integrate public social media reviews into the security clearance process. While this directive was a step in the right direction, it has been incorporated quite unevenly and on a limited basis.

Our bill, H.R. 1065, will advance the full integration of this important reform to better ensure that our national security framework is adapting to evolving technologies much faster than the usual pace that is characteristic of the Federal Government.

I would note that, according to the annual job recruitment survey issued

by CareerBuilder, an online employment resource, seven out of 10 private sector employers have already incorporated social media reviews into their hiring process.

Mr. Speaker, I thank the gentleman for his kind remarks in reference to this bill, and I urge my colleagues on both sides of the aisle to support H.R. 1065.

Mr. MEADOWS. Mr. Speaker, in closing, I want to thank the gentleman, again, for his thoughtfulness on this particular piece of legislation. I know that he has worked with my previous colleague, now the Governor of Florida, Mr. DeSantis, and we have great bipartisan support.

Mr. Speaker, I would urge the adoption and passing of H.R. 1065, and I yield back the balance of my time.

Ms. HILL of California. Mr. Speaker, I urge the passage of H.R. 1065, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ESPAILLAT). The question is on the motion offered by the gentlewoman from California (Ms. HILL) that the House suspend the rules and pass the bill, H.R. 1065.

The question was taken.

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

Ms. HILL of California. 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, further proceedings on this motion will be postponed.

ALLOWING WHISTLEBLOWERS TO DISCLOSE INFORMATION TO CERTAIN RECIPIENTS

Ms. HILL of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1064) to amend title 5, United States Code, to allow whistleblowers to disclose information to certain recipients, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 1064

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

SECTION 1. RECIPIENTS OF WHISTLEBLOWER DISCLOSURES.

Section 2302(b)(8)(B) of title 5, United States Code, is amended by striking “or to the Inspector” and all that follows through “such disclosures” and inserting “the Inspector General of an agency, a supervisor in the employee's direct chain of command up to and including the head of the employing agency, or to an employee designated by any of the aforementioned individuals for the purpose of receiving such disclosures”.

SEC. 2. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that

such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from California (Ms. HILL) and the gentleman from North Carolina (Mr. MEADOWS) each will control 20 minutes.

The Chair recognizes the gentlewoman from California.

GENERAL LEAVE

Ms. HILL of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the measure before us.

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

There was no objection.

Ms. HILL of California. Mr. Speaker, I yield myself such time as I may consume.

I introduced this bill, along with the distinguished Congressman from North Carolina, Mr. MARK MEADOWS, to make it easier for whistleblowers to disclose wrongdoing. This bill would protect whistleblowers who report waste, fraud, or abuse, to their supervisors at a government agency.

Under current law, an employee would not be protected from retaliation for disclosing information to a supervisor, even if the employee reasonably believes it is necessary to expose a violation of a law, rule, or regulation. A whistleblower is currently only protected by law if they make their disclosures to the Office of Special Counsel, an Inspector General, Congress, the head of the whistleblower's agency, or an employee designated by the head of the agency.

Under this bill, an employee who is covered by the Whistleblower Protection Act could report alleged misconduct to any supervisor in their direct chain of command. This sensible change in law would allow employees to provide evidence of wrongdoing to a supervisor instead of requiring employees to report all the way up to the head of an agency or an inspector general.

This change in the law would protect employees who use the proper channels at their agency to report waste, fraud, and abuse. Employees in the intelligence community already have these whistleblower protections as a result of a Presidential policy directive issued in 2012. This bill would ensure that all federal employees have the same protections as whistleblowers in the intelligence community.

I urge my colleagues to support this important bill, and I reserve the balance of my time.

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

I rise in support of H.R. 1064, and I want to thank the gentlewoman from California for her leadership on this effort. Any time that you support whistleblowers, it is a good day in Congress; and to do that a bipartisan way, with