



SENATE

'19 JAN 14 P5:28

P. S. RES. NO. 987

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Introduced by Senator Antonio "Sonny" F. Trillanes IV

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT DATA BREACH IN THE DEPARTMENT OF FOREIGN AFFAIRS (DFA) INVOLVING THE AGENCY'S FORMERLY OUTSOURCED PASSPORT MAKER, WITH THE END IN VIEW OF ENSURING THAT THE GOVERNMENT CONTINUES TO UPHOLD THE PROTECTION OF ITS CITIZEN'S RIGHT TO DATA PRIVACY, AND TO ASSURE THE PUBLIC THAT SAID INCIDENT WILL NOT POSE SERIOUS THREAT TO NATIONAL SECURITY AND THAT ALL DATA WILL BE RETRIEVED COMPLETELY

WHEREAS, the *Data Privacy Act of 2012* stipulates that:

"It is the policy of the State to protect the fundamental human right of privacy, of communication while ensuring free flow of information to promote innovation and growth. The State recognizes the vital role of information and communications technology in nation-building and its inherent obligation to ensure that personal information in information and communications systems in the government and in the private sector are secured and protected."

WHEREAS, on 9 January 2019, in a series of Twitter exchanges, Department of Foreign Affairs (DFA) Secretary Teodoro Locsin, Jr., disclosed to the public that a former outsourced passport maker ran off with the all the data after its contract was terminated.¹ The revelation came after a netizen inquired about the need to present birth certificates for passport renewal.² Locsin said they are rebuilding their files from scratch due to the data breach;³

WHEREAS, DFA Assistant Secretary Elmer Cato further explained that the agency no longer has the physical copy of the documents previously submitted during the first passport

¹ Ramos, C.M. (12 January 2019). *NPC to probe passport data loss caused by DFA contractor*. Retrieved from <https://newsinfo.inquirer.net/1072388/npc-probe-of-passport-data-loss#ixzz5cTr3Tv8Y>

² Domingo, K. (12 January 2019). *Locsin says 'pissed' contractor 'took all' passport data*. Retrieved from <https://news.abs-cbn.com/news/01/12/19/locsin-says-pissed-contractor-took-all-passport-data>

³ GMA. (12 January 2019). *Former passport maker took all data when contract was terminated —Locsin*. Retrieved from <https://www.gmanetwork.com/news/news/nation/681153/former-passport-maker-took-all-data-when-contract-was-terminated-locsin/story/>

application that is why they are requiring the submission of birth certificates for the renewal of brown, green or maroon machine-readable passports;⁴

WHEREAS, former DFA Secretary Perfecto Yasay, who served from June 2016 until March 2017, related the series of events that potentially led to the data breach incident;

WHEREAS, according to former DFA Secretary Yasay, on 01 August 2006, the DFA and Bangko Sentral ng Pilipinas (BSP) entered into a Memorandum of Agreement (MOA) which includes the procurement and production of machine-readable electronic passports (MREPs);⁵

WHEREAS, in fulfillment of its obligation under the MOA, the BSP awarded, through bidding, the main part of the project to Francois-Charles Oberthur Fiduciare (FCOF) of France;⁶

WHEREAS, on 05 October 2015, despite the full compliance of MREPs produced by the FCOF, the DFA awarded the production of a new electronic passport system to APO Production Unit, Inc. (APUI) without bidding, on condition that no part of the contract can be subcontracted;⁷

WHEREAS, despite this condition, the APUI sought the services of United Graphic Expression Corporation (UGEC) for the production of the new E-passports;

WHEREAS, former DFA Secretary Yasay further revealed that during his tenure in the DFA, it was determined that the assignment of passport printing services to UGEC was illegal;

WHEREAS, Presidential Legal Counsel Salvador Panelo, according to former DFA Secretary Yasay, demanded that “*all rights over all the personal data, source code, data center and other information relating to the performance of the E-passport printing services unlawfully subcontracted to UGEC be reconveyed to the DFA or be acknowledged to be exclusively owned and controlled by the DFA*” – to which, the UGEC appeared to have not complied;⁸

WHEREAS, while it is not yet clear if this is the reason for the loss of relevant and private information of passport applicants, what is certain and alarming is that DFA Secretary Locsin said they did nothing about this data breach;⁹

⁴ GMA. (12 January 2019). *Former passport maker took all data when contract was terminated —Locsin*. Retrieved from <https://www.gmanetwork.com/news/news/nation/681153/former-passport-maker-took-all-data-when-contract-was-terminated-locsin/story/>

⁵ Ramos, C.M. (12 January 2019). *Former DFA chief Yasay sheds light on passport data breach*. Retrieved from <https://newsinfo.inquirer.net/1072416/perfecto-yasay-on-passport-data-breach#ixzz5cTxxjyx>

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Tantiangco, A. (12 January 2019). *Data privacy lawyer explains implications of data being ‘taken’ from DFA*. Retrieved from <https://www.gmanetwork.com/news/scitech/technology/681173/data-privacy-lawyer-explains-implications-of-data-being-taken-from-dfa/story/>

WHEREAS, according to Data Privacy Lawyer Cecilia Soria, this should be a cause of concern because UCEG has complete vital personal information like complete name, complete birth date, complete address, and signatures of passport holders. It is even worse if they have copies of birth certificates of these passport holders. This information can be used for many illegal transactions;¹⁰

WHEREAS, Atty. Soria further stated that it is unclear why the DFA had no recourse on the incident. Assuming there was a breach of contract on the part of the government, it still doesn't give the contractor the right to hold on to data because it is not owned by the government. The mere act of collecting and compiling the data does not change the ownership thereof;¹¹

WHEREAS, there is a need conduct an investigation in aid of legislation on the matter for the Senate to decide whether or not there is a need be amend and/or strengthen our existing Data Privacy Act and in order to determine the true scope and scale of the data breach, what data has been compromised, the government officials accountable for the project, the firm responsible for this data breach and why no legal action has been taken by the DFA on this very serious matter.

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved by the Philippine Senate, to direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation, on the data breach in the Department of Foreign Affairs (DFA) involving the Agency's formerly outsourced passport maker, with the end in view of determining whether or not there is a need to amend and/or strengthen the existing Data Privacy Act of 2012 and ensuring that the government continues to uphold the protection of its citizen's right to data privacy, and to assure the public that said incident will not pose serious threat to national security and that all data will be properly and completely retrieved.

Adopted,


ANTONIO "SONNY" F. TRILLANES IV
Senator

¹⁰ Tantiangco, A. (12 January 2019). *Data privacy lawyer explains implications of data being 'taken' from DFA*. Retrieved from <https://www.gmanetwork.com/news/scitech/technology/681173/data-privacy-lawyer-explains-implications-of-data-being-taken-from-dfa/story/>

¹¹ Ibid