



**FISCAL YEAR 2021
BUDGET JUSTIFICATION**

**Privacy and Civil Liberties
Oversight Board**

Adam I. Klein, Chairman
Jane E. Nitze, Board Member
Edward W. Felten, Board Member
Travis LeBlanc, Board Member
Aditya Bamzai, Board Member



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

FISCAL YEAR 2021 BUDGET JUSTIFICATION

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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Executive Summary

The Privacy and Civil Liberties Oversight Board (the Board) requests \$8.5 million for its Fiscal Year (FY) 2021 Budget Request. This request represents a nearly 4 percent increase over the Board's FY 2020 enacted level and is more than 30 percent below the Board's projected full operating budget level.¹

The Board is an independent executive branch agency, whose bipartisan members are selected based on expertise in counterterrorism, intelligence, privacy, civil liberties, and technology. Its mission is to ensure that efforts by the executive branch to protect the nation from terrorism appropriately safeguard privacy and civil liberties.

On October 11, 2018, following a 20-month sub-quorum period, the Senate confirmed Chairman Adam Klein and Board Members Edward Felten and Jane Nitze. These confirmations revived the Board's quorum and enabled it to resume its formal oversight and advisory activities. The final two vacancies were filled when Board Members, Aditya Bamzai and Travis LeBlanc, were confirmed by the Senate and sworn into office in July 2019, returning the Board to a full complement for the first time since 2016.

Within the first few months of regaining a quorum, the Board issued its first Semi-Annual report since 2016, held two public forums, and issued a 2019-2022 Strategic Plan.² In July 2019, the Board released an agenda of active oversight projects and other initiatives, providing an unprecedented level of transparency about the Board's activities.³ The Board currently has more than 10 active oversight projects, including:

- An in-depth review of the NSA's collection of call detail records under the USA FREEDOM Act. The Board anticipates that this work will help inform the public and Congress during the debate about whether to reauthorize the USA FREEDOM Act. At the time of the submission of this Budget Request, this oversight project was in final stages of classification review by the Intelligence Community.
- An examination of the use of facial recognition and other biometric technologies in aviation security.
- A review of the operation of the Terrorist Screening Database, or terrorist watchlist, which contains information on known and suspected terrorists.
- An examination of the Federal Bureau of Investigation (FBI)'s querying of information obtained pursuant to Section 702 of the Foreign Intelligence Surveillance Act, including procedures and technology used to record queries and ensure compliance with applicable rules.

¹ The Board's projected full operating budget of \$11.5 million is based on a full, five-member board and a staff of 37 (35 full-time equivalents, with four part-time Board Members each counting as 0.5 FTE).

² https://www.pclob.gov/library/StrategicPlan_2019-2022.pdf.

³ <https://www.pclob.gov/reports/board-agenda/>.



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- A “deep-dive” review of the NSA’s use of XKEYSCORE for counterterrorism purposes and its implications for privacy and civil liberties. The topic of this deep dive was declassified in late 2019.
- In addition, the Board continued providing advice to other executive branch agencies under its advice function, completing three advice projects in 2019 and approving one additional advice project.

Board Members also continued to participate as part of the U.S. delegation in annual reviews under the U.S.-EU Privacy Shield Agreement.

Since emerging from its sub-quorum status, the Board made significant progress in strengthening its capacity to operate as an independent, executive branch agency and fill key staff positions that became vacant during the sub-quorum period. The Board expects to be at or above 90 percent of its full operational staffing level of 37 in FY 2020. As such, funding at or near the Board’s full operational level of \$11.5 million in FY 2021 would more adequately enable the Board to fulfill its mission.

At the beginning of FY 2020, the agency had a total of 30 staff members (1 full-time Chairman, 4 part-time Board Members, 1 part-time consultant, and 24 Full Time Equivalent employees, or FTEs). Three additional candidates either have confirmed start dates or are awaiting start dates pending their receipt of required security clearances. Despite the agency’s small size, the Board has continued to energetically fulfill its mission of ensuring that executive branch efforts to protect the nation from terrorism appropriately safeguard privacy and civil liberties.



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CURRENT MEMBERS OF THE BOARD:

Chairman Adam I. Klein, confirmed to a term ending January 29, 2024.

Board Member Jane E. Nitze, confirmed to a term ending January 29, 2023.

Board Member Edward W. Felten, confirmed to a term ending January 29, 2025.

Board Member Travis LeBlanc, confirmed to a term ending January 29, 2022.

Board Member Aditya Bamzai, confirmed to a term ending January 29, 2020.⁴

⁴ Board Member Aditya Bamzai was confirmed to fill the remainder of the term of a departing Board Member, which expired January 29, 2020. A re-nomination is required by March 30, 2020, for Board Member Bamzai to serve a subsequent full six-year term. Once renominated, Board Member Bamzai may continue to serve through the adjournment of the Senate in the 116th Congress, pursuant to the Board's holdover provision, 42 U.S.C. § 2000ee(h)(4).



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Vision, Mission, and Values

VISION

A nation that counters terrorism while safeguarding privacy and civil liberties.

MISSION

The Board provides advice and conducts oversight to ensure that efforts by the executive branch to protect the nation from terrorism are appropriately balanced with the need to protect privacy and civil liberties.

VALUES

Three key values guide the Board's work:

Integrity – As an agency whose power lies in its persuasiveness, the Board regards the preservation of its integrity and credibility as paramount. The Board approaches its activities with objectivity and good faith. The Board strives to treat executive branch agencies and other outside parties with evenhandedness and respect, and to evaluate a wide range of data, viewpoints, and considerations.

Transparency – The Board aims to increase transparency on efforts to protect the nation from terrorism and the impact those efforts have on privacy and civil liberties. In addition, the Board strives to conduct its own activities responsibly and transparently, to foster confidence in its management of authorities, resources, and information. The Board promotes transparency by holding public hearings and issuing public reports, to the greatest extent that is consistent with the protection of classified information and applicable law, and by soliciting input from the public and outside experts.

Rigor – The Board strives for the highest standard of quality in its analysis and recommendations. When examining government programs, the Board takes care to understand those efforts in all their complexity. In assessing whether such efforts are consistent with the law and appropriately protect privacy and civil liberties, the Board strives to be thorough and accurate and to account for the impact of new and emerging technologies and institutional reforms. When recommending changes to those efforts, the Board seeks to consider fully the foreseeable impact of its recommendations.



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Board History and Authorities

The Board was created on the recommendation of the National Commission on Terrorist Attacks Upon the United States, colloquially known as the 9/11 Commission, in its 2004 report. The Commission acknowledged that many of its recommendations “call[ed] for the government to increase its presence in our lives—for example, by creating standards for the issuance of forms of identification, by better securing our borders, by sharing information gathered by many different agencies,” and by consolidating authority over intelligence agencies under a new Director of National Intelligence.⁵ Recognizing that “this shift of power and authority to the government” would require “an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life,”⁶ the Commission recommended that “there should be a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties.”⁷

Many of the Commission’s recommendations have been implemented by Congress and the executive branch, improving the government’s ability to detect and disrupt terrorist plots. In response to the Commission’s recommendation to create an oversight board, President George W. Bush created the President’s Board on Safeguarding Americans’ Civil Liberties in 2004. The President’s Board ceased to meet following the enactment later that year of the Intelligence Reform and Terrorism Prevention Act of 2004, which created a Privacy and Civil Liberties Oversight Board within the Executive Office of the President. Finally, in 2007, the Implementing Recommendations of the 9/11 Commission Act established the Board as an independent agency within the executive branch.

The Board is comprised of a full-time Chairman and four part-time Members, each appointed by the President, with the advice and consent of the Senate, to staggered six-year terms. The Board’s statute requires that Members come from different political parties and be selected “on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience.”⁸ At present, the Board has a full complement of Members.

The Board’s mission is to ensure that the executive branch’s efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties. Specifically, the Board’s enabling statute, 42 U.S.C. § 2000ee, authorizes it to “analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties,” and to “ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation from terrorism.”

⁵ National Commission on Terrorist Attacks Upon the United States, *The 9/11 Commission Report* 393-394 (2004).

⁶ *Id.* at 394.

⁷ *Id.* at 395.

⁸ 42 U.S.C. § 2000ee(h)(2).



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These purposes encompass two core functions: providing advice and conducting oversight.

Under the Board's advice function, executive branch agencies can consult with the Board at an early stage in the development of legislation, policies, programs, guidelines, or regulations, to ensure that privacy and civil liberties protections are appropriately considered in their design.⁹

In its oversight role, the Board is charged with continually reviewing (1) regulations, policies, procedures, and practices within the Board's jurisdiction to ensure that privacy and civil liberties are protected, and (2) other actions within the Board's jurisdiction to ensure that those actions appropriately protect privacy and civil liberties and are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.¹⁰

The Board's statute makes transparency an inherent part of its mission. Specifically, the Board is required to inform the public about its work by holding public hearings, issuing public reports to the extent consistent with the protection of classified information and applicable law, providing semi-annual reports to the Congress, and appearing and testifying before Congress upon request.¹¹

The Board has additional functions, such as making recommendations, when appropriate, to P/CL officers regarding their activities and to coordinate their activities on relevant interagency matters.¹² Congress has also identified the Board as a source of recommendations for individuals to serve as amici curiae to the Foreign Intelligence Surveillance Court.¹³

The Board also has designated roles under the following authorities:

- **Executive Order 13636**, Improving Critical Infrastructure Cybersecurity, issued in February 2013, calls upon multiple agencies to develop and implement a cybersecurity framework to minimize the risk of a cyberattack on critical infrastructure.¹⁴ Section 5 of the Executive Order requires the Department of Homeland Security (DHS) to consult with the Board in preparing a report recommending ways to mitigate the privacy and civil liberties risks created by cybersecurity measures adopted under the order. The report must be reviewed on an annual basis and revised as necessary.

⁹ *Id.* § 2000ee(d)(1).

¹⁰ *Id.* § 2000ee(d)(2). The Board is also charged with continually reviewing information-sharing practices within its jurisdiction.

¹¹ *Id.* § 2000ee(d)(4), (f).

¹² *Id.* § 2000ee(d)(3). In addition, the Board may designate new departments, agencies, or elements of the executive branch for coverage by the requirements of Section 803. *See id.* § 2000ee-1(a).

¹³ USA FREEDOM Act, Pub. L. No. 114-23, 129 Stat. 268, § 401(i)(1) (2015).

¹⁴ E.O. 13636, Improving Critical Infrastructure Cybersecurity (Feb. 12, 2013).



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- **Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Section 803)** requires certain executive branch departments, agencies, and elements to designate at least one senior official as a privacy and civil liberties officer (P/CL officer).¹⁵ Each agency's P/CL officer must issue semi-annual reports on the discharge of each of his or her functions under the statute.¹⁶ These Section 803 Reports are to be submitted to the head of the P/CL officer's agency, designated congressional committees, and the Board.¹⁷ To the greatest extent possible, the reports must be in unclassified form and made available to the public.¹⁸

In June 2016, the Board released a set of recommendations to help federal agencies improve the reports they file under Section 803. Board staff have conducted ongoing engagement with agency P/CL offices as they implement the Board's recommendations.

¹⁵ Pub. L. No. 110-53 § 803 (2007), codified at 42 U.S.C. § 2000ee-1(a). The entities covered are the Office of the Director of National Intelligence, the Central Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, and the Departments of Defense, Health and Human Services, Homeland Security, Justice, and Treasury.

¹⁶ 42 U.S.C. § 2000ee-1(f). Before its amendment in 2014, the statute required quarterly reports.

¹⁷ *Id.* § 2000ee-1(f)(1)(A).

¹⁸ *Id.* § 2000ee-1(f)(1)(B), (g)(1).



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Fiscal Year 2021 Budget Justification Summary

	FY 2016 Enacted*	FY 2017 Enacted	FY 2018 Enacted	FY 2019 Enacted	FY 2020 Enacted	FY 2021 (Requested)	FY 2020 FY 2021 (Delta %)
<i>(Dollars in Thousands)</i>							
Appropriation	\$ 21,297	\$ 10,100	\$ 8,000	\$ 5,000	\$ 8,200	\$ 8,500	3%
Carryover	\$ 4,943	\$ 9,672	\$ 9,000	\$ 7,900	\$ 4,900	\$ 1,736	-64%
Total Available	\$ 26,240	\$ 19,772	\$ 17,000	\$ 12,900	\$ 13,100	\$ 10,236	-21%
Positions	37	37	37	37	37	37	
Full Time Equivalents (FTE's)	35	35	35	35	35	35	
*FY 2016 included an \$10.1 million non-reoccurring increase to fund the Board's mandatory physical relocation							

Funding Highlights:

The Board's FY 2021 Budget Request is \$8.5 million. This request is more than 30 percent below the Board's projected full operating budget.

The Board emerged from a 20-month sub quorum period upon the October 2018 Senate confirmation of the Board's Chairman and two additional Board Members. The confirmation and appointment of two additional Board Members in July 2019 returned the Board to the first full complement of Members since 2016. In FY 2019 and 2020, the agency operated at a lower funding level for several reasons, including a sub-quorum Board, staff attrition associated with the sub-quorum period and resulting carry-over funding, and a 10-year lease agreement that provided the first year of the lease rent-free. The Board's Budget Requests for those years reflected the lower operating level costs.

Since regaining a quorum, the Board's staffing levels have more than tripled. The Board expects to be at or above 90 percent of its full operational staffing level of 37 in FY 2020 and FY 2021.

The Board has undertaken a vigorous agenda that includes advice to Executive Branch agencies and nearly a dozen oversight projects. Given the Board's broad mission and robust hiring, its ability to fulfill its mission in subsequent fiscal years could be hindered unless budget levels increase to keep pace with the Board's full operating level.



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Fiscal Year 2021 Justification for Resources and Anticipated Performance:

The Board's FY 2021 Budget focuses on key capabilities and anticipated performance in the following areas:

- Providing effective and timely advice regarding the protection of privacy and civil liberties in the development and implementation of legislation, regulations, and policies related to efforts to protect the nation against terrorism.
- Conducting effective oversight of executive branch authorities, policies, and activities related to efforts to protect the nation against terrorism to ensure appropriate protection of privacy and civil liberties.
- Offering insight on the effects of new and emerging technologies on the balance between government counterterrorism activities and privacy and civil liberties.
- Promoting transparency regarding the Board's activities and issues within its jurisdiction, to the extent consistent with the protection of classified information and applicable law.
- Continuing to build and strengthen relationships with agency Privacy and Civil Liberties Officers and to coordinate the activities of those officers on relevant interagency matters.
- Continuing to strengthen the Board's institutional capacity. This includes a continued focus on hiring and retaining highly qualified staff; maintaining robust cybersecurity; exercising effective fiscal management to ensure that taxpayers dollars are spent wisely; transitioning to more efficient shared services provided by other federal agencies to achieve a better use of taxpayer dollars.
- Implementing the Board's FY 2019-2022 Strategic Plan.

Ongoing Accomplishments

Advice, Oversight, and Other Mission Activities

Since regaining a quorum in late 2018 and returning to a full complement of Board Members in 2019, the Board has undertaken a vigorous agenda to carry out its full panoply of statutory responsibilities.



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Advice – The Board is actively engaged in providing advice to other executive branch agencies. Since regaining its quorum, the Board has completed three advice projects and continues to provide advice in response to one additional request from other executive branch agencies for advice on matters within its jurisdiction.

Positive feedback from Executive Branch agencies suggests that the Board’s advice continues to be trusted and valued by the Intelligence Community and other agencies. For example, the Board has provided advice on every significant revision or re-issuance by an IC element of its Attorney-General-approved guidelines governing the handling of U.S.-person information collected under Executive Order 12333.

Oversight – The Board has more than ten ongoing oversight projects related to efforts to protect the nation against terrorism.

In July 2019, the Board released an unclassified inventory of its active oversight and other projects and engagements.¹⁹ This inventory, which is included as an appendix to this document, lists 11 active oversight projects including two instances where the Board is monitoring the status of previous recommendations. This document reflects the Board’s commitment to informing the public about its work.

The Board made substantial progress on its oversight agenda in FY 2020. The Board’s USA FREEDOM Act report on the National Security Agency’s call detail records program is at the final stages of classification review. The Board also conducted active oversight of a number of other counterterrorism-related programs. For example, on its “From Booking to Baggage Claim” project, which focuses on biometrics and facial recognition in aviation security, the Board conducted site visits at two airports, learning a great deal of information that will inform this project. The Board also continued its deep-dive review of the NSA’s XKEYSCORE capability, part of the Executive Order 12333 work plan approved by the Board in 2015. Throughout FY 2020 and into FY 2021, the Board expects continued progress across its oversight agenda to ensure privacy and civil liberties concerns are taken into consideration and balanced with Executive Branch actions to protect the nation from terrorism.

The Board appreciates Congress’s continuing support of the agency and its important mission.

Transparency – Transparency is part of the Board’s statutory mission. Specifically, the Board is required to inform the public about its work by holding public events, issuing public reports to the extent consistent with the protection of classified information and applicable law, providing semi-annual reports to the Congress, and appearing and testifying before Congress upon request.²⁰

¹⁹ <https://www.pclob.gov/library/Agenda%20July%202019.pdf>.

²⁰ § 2000ee(d)(4), (f).



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Soon after the three new Board Members were confirmed, the Board issued its first Semi-Annual report in nearly two years, released a 2019-2022 Strategic Plan, and held two public forums. An additional Semi-Annual report is slated to be released in early 2020.

In 2019, the Board held two public events. A public forum in February helped inform the Board as it framed its oversight agenda. In May, a second public forum focused on the NSA's collection of call detail records under the USA FREEDOM Act. The Board anticipates releasing a comprehensive report on NSA's collection of call detail records in early 2020. The Board also anticipates two public events in FY 2020, focusing on its oversight of the use by the government of biometrics, including facial recognition, in aviation security.

Operational Support

The Board continues to strengthen its institutional capacity, while ensuring that tax dollars are spent as wisely as possible. Key accomplishments in this area include developing and implementing a full suite of internal procedures and policies, further strengthening internal financial controls, maintaining robust and secure information technology (IT) systems, and achieving full compliance with statutory and regulatory requirements instituted by Congress and the executive branch.

The Board's recent operational support accomplishments include:

Financial Management – The Board is committed to establishing and maintaining robust, professional internal financial controls. In FY 2019, the Board instituted internal controls based on established federal financial standards issued by the OMB, the Government Accountability Office, and other relevant agencies. These include a Financial Resource Management Manual, Funds Control Guidelines, a Charge Card Manual, an Internal Controls Framework Manual, and a Senior Assessment Team Charter. These five documents establish the control activities, policies and procedures, strengthening the Board's financial management and internal controls program. The Board also developed and provided staff with risk-management training on preventing waste, fraud, and abuse.

As part of these efforts to ensure sound fiscal management and responsible stewardship of taxpayer resources, the Board awarded a contract for its first financial audit in June 2018. The initial audit extended through March 1, 2019, when the Board received its first financial audit report. Auditors found no waste, fraud or abuse. The Board provided this audit to OMB and Congress in March 2019.

The audit also identified areas that required audit remediation through corrective action plans, which are being implemented. To build its internal financial management and respond to the audit findings, the Board hired a full-time Internal Controls Officer and procured a full-time contractor to provide accounting support to the Board's Finance Office. The Board also continued under its contract for internal controls consultants during the reporting period.



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The Board is confident that these steps will enable the Board, despite its small size, to achieve the highest standard of federal financial management.

The Board's next audit is scheduled for March 2020, with subsequent audits to occur on a November schedule.

IT Systems – The Board remains focused on strengthening the agency's cybersecurity posture and while implementing interagency communication connections to better utilize shared service resources. To that end, the Board's staff undertook the following activities to enhance the agency's cybersecurity posture:

- Implemented security controls and artifacts that resulted in no findings during an independent Federal Information Security and Modernization Act (FISMA) audit for the fiscal year 2019.
- Implemented technical and management controls to remediate seventy-five percent of the fiscal year 2018 Plans and Action and Milestones audit findings.
- Implemented Department of Homeland Security Binding Operational Directive 19-02 Vulnerability Remediation to remediate critical vulnerabilities within fifteen calendar days of initial detection, and to remediate high vulnerabilities with thirty calendar days of initial discovery.
- Completed independent Penetration Test which detected no Critical or High vulnerabilities across the network infrastructure.
- Enhanced the agency's boundary protection by implementing Managed Trusted Internet Protocol Service on Virtual Desktop Infrastructure and Continuity of Operations communication circuits.

Major IT System accomplishments include:

- Modernized Virtualization platform and transport links for remote access and interagency collaboration services.
- Implemented cyber threat solutions to decrease the time to detect and respond to network vulnerabilities.

Protecting Classified and Sensitive Information – The Board's mission requires the agency to be located in a Sensitive Compartmented Information Facility (SCIF), and Board Members and employees must hold a TS/SCI clearance. The Board is committed to ensuring the security of the information with which it is entrusted and is required to fulfill its mission. The Board's Chief Security Officer regularly coordinates with IC agencies to ensure that it is equipped with the most up-to-date information and follows best practices associated with protecting classified and sensitive information.



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Executive Order 13587 requires federal agencies that operate or access classified computer networks to establish insider threat programs. The Board's Trusted Access Program governs the Board's counter-insider threat implementation plan, policy, and employee training. Despite not having a counterintelligence mission, the Board's Trusted Access Program has been recognized by the National Insider Threat Task Force as an example of how an agency can meet the standards established by Executive Order 13587.

In 2019, the agency was recognized as a National Industrial Security Program Agency and was invited by the Department of Defense to participate as an early adopter, or early user, in the reconstituted National Background Investigations Bureau as it transitions to the Department of Defense from OPM.

The Board anticipates the following accomplishments in Fiscal Year 2021:

Workforce – The Board has continued to pursue a workforce equipped with the skills required to achieve its mission, despite facing significant organizational challenges during the sub-quorum period, including significant attrition. Since the confirmation of a full-time Chairman by the Senate in October 2018 and confirmation of a full board in July 2019, the Board has moved rapidly to add highly qualified staff members to enable it to fully execute its statutory mission.

At the beginning of FY 2020, the agency had a total of 30 Board Members and staff members (1 full-time Chairman, 4 part-time Board Members, 1 part-time consultant, and 24 full-time employees). In the first quarter of FY 2020, one candidate is expected to on-board and two were processing in the security clearance process. Fully staffed, the agency would comprise 35 full-time equivalents.

The Board hopes to fill its remaining vacant positions by the end of FY 2020. The Board seeks to ensure that its staff encompasses a broad range of professional backgrounds, including experience in intelligence, counterterrorism, privacy and civil liberties, oversight and investigations, and technology.

The Board's FY 2021 workforce Anticipated Performance Objectives include:

- Institute an integrated leadership culture by focusing on employee engagement and retention;
- Enhance human capital capabilities through technological innovation.
- Continue to strengthen institutional capacity through talent management and succession planning;
- Continue to encourage and facilitate staff participation in high-quality external training programs to ensure the ongoing professional development of the PCLOB's workforce;
- Sustain a positive and professional workplace environment.



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Nominations – The Board returned to a full complement for the first time since 2016 upon the Senate’s confirmation of Aditya Bamzai and Travis LeBlanc in June 2019 and the appointment to office in July 2019. Board Member Bamzai was confirmed to fill the remainder of the term of a departing Board Member, which expired January 29, 2020. A renomination is required by March 29, 2020, to enable him to serve the remainder of the remainder of the 116th Congress, during which time he could be confirmed to a full six-year term²¹

Internal Policies – Professional, effective internal management is the foundation of the Board’s ability to operate as a freestanding federal agency. During FY 2020, the Board anticipates completing its effort to refine and fully document its internal policies and procedures.

Financial Management – The Board will continue to strengthen the agency’s financial management capabilities and ensure responsible stewardship of taxpayer dollars. Specifically, the Board will focus on:

- Regular financial audits, using results to further refine internal controls and accounting practices;
- Supporting a full-time internal controls officer and accounting support to administer the Board’s financial controls; and
- Continuing to conduct agency-wide planning that is linked and responsive to the budget process.

Shared Service Providers – The PCLOB’s small size requires it to use shared-service providers within the federal government for procurement, human resources, financial management, and other critical functions.

The Board continually reviews its shared-service arrangements to ensure that each delivers excellent performance, responsiveness, and value for taxpayer dollars. As a result of this review, the Board will migrate human resources and payroll functions from the General Services Administration to the Department of the Interior’s Interior Business Center in the third quarter of FY 2020. The Board is also in the process of migrating its procurement shared services to the Department of Treasury’s Administrative Resource Center.

Protecting Classified and Sensitive Information – The Board will remain focused on the protection of classified information to achieve the highest standards of security for the Board’s cleared personnel, physical space, and classified systems. This includes continuing the implementation of its Trusted Access Program to maintain the agency’s robust self-inspection program, which ensures appropriate derivative classification.

²¹ 42 U.S.C. § 2000ee(h)(4).



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The Board plans to further strengthen its cybersecurity by:

- Leveraging the Board’s recently concluded FISMA audit to further refine cybersecurity practices, policies, and documentation, and conduct annual FISMA audits in FY 2021 and beyond;
- Continuing to implement the Cybersecurity Cross-Agency Priorities, including continuous monitoring, anti-phishing defenses, and malware defenses;
- Training staff on cybersecurity, counterintelligence, and physical security threats;
- Bringing USAccess – PIV Card Suitability and Credentialing in-house in support of the Trusted Workforce 2.0 mandate; and
- Ensuring compliance with supply chain risk management protect agency systems.

Board Interactions with Congress, the Public, and Other Executive Branch Agencies

The Board is committed to ensuring that its work is available and useful to the public. The Board’s enabling statute requires the Board, where consistent with the protection of classified information, to “make its reports, including its reports to Congress, available to the public,” and to “hold public hearings and otherwise inform the public of its activities.”²²

The Board intends to continue to hold regular public events at which it will hear from outside experts on issues relevant to the Board’s mission and oversight projects. These channels and other forms of public engagement will enable the Board to provide as much information as possible about its performance of its statutory oversight and advice functions.

In its oversight reports and advice projects, the Board will also encourage other executive branch agencies to take appropriate and responsible measures to increase transparency and better inform the public about relevant authorities and activities.

The Board also looks forward to continuing its tradition of constructive interaction with Congress and will work to ensure that its work and expertise is useful to the legislative branch as it exercises its lawmaking and oversight functions. The Board will employ both formal and informal mechanisms to keep Congress fully and currently informed about its work.

Board Members have testified before Congress in the past on matters within the Board’s expertise and stand ready to do so in the future. Most recently, Chairman Adam Klein testified before the Senate Judiciary Committee on November 6, 2019 during a hearing to consider reauthorizing the USA FREEDOM Act. Board Members and staff also continue to meet periodically with members of Congress and congressional staff to update them on the Board’s work and receive input on the Board’s activities and agenda.

²² 42 U.S.C. § 2000ee(f)(2).



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Board Members will also seek opportunities to engage directly with the American public and outside stakeholders to receive input from a diversity of viewpoints. To foster a better understanding of its mission and work, Board Members and staff plan to continue the past practice of speaking at events hosted by other government agencies, as well as by a variety of groups and organizations, including bar associations, business organizations, educational institutions, and non-governmental organizations. Board Members also look forward to meeting with representatives of non-governmental organizations, the private sector, and other entities with an interest in issues within the Board’s jurisdiction.

Finally, the Board will continue to identify appropriate opportunities for international engagement. Board Members again participated in the Annual Review under the U.S.-EU Privacy Shield agreement in September 2019. The Board also hopes to continue to engage with counterparts undertaking comparable oversight of national security authorities. This will enable a mutually informative discussion of challenges facing oversight entities, variation between legal systems and oversight structures, and best practices.



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FY 2021 BUDGET EXHIBIT

FY 2021 Budget Request by Object Class		
<i>(Dollars in Thousands)</i>		
Object Class		FY 2021 Request
<i>Personnel Services</i>		
11.1	Full-Time Permanent	\$ 4,730
11.3	Other than Full-Time Permanent	\$ 462
11.5	Other Personnel Compensation	\$ 120
12.1	Civilian Personnel Benefits	\$ 1,230
<i>Non-Personnel Services</i>		
21.0	Travel and Transportation of Persons	\$ 40
23.1	Rental Payments to GSA	\$ 407
23.3	Communications, Utilities, and Misc. Charges	\$ 166
24.0	Printing and Reproduction	\$ 11
25.1	Advisory and Assistance Services	\$ 8
25.2	Other Services from Non-Federal Sources	\$ 672
25.3	Other Goods and Services from Federal Source	\$ 585
26.0	Supplies and Materials	\$ 69
Total		\$ 8,500



(UNCLASSIFIED)

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Privacy and Civil Liberties Oversight Board
Active Oversight Projects and Other Engagements
Jan. 2020

INTRODUCTION

The Privacy and Civil Liberties Oversight Board is committed to “inform[ing] the public of its activities ... as appropriate and in a manner consistent with the protection of classified information and applicable law.”²³ To that end, the Board’s 2019-2022 Strategic Plan expressed the Board’s intention to “identify publicly the subjects of its oversight reviews, to the extent consistent with the protection of classified information.”²⁴

This document describes the Board’s active oversight projects and other engagements. The Board plans to update this document biannually. The shorthand descriptions below are intended to provide public transparency, consistent with the protection of classified information and other applicable law. They do not authoritatively delimit the scope of any project.

Not every project will result in a formal report. The level of formality of any resulting reports will depend on the nature of the Board’s findings. Where oversight projects result in formal written reports, the Board will make them available to the public to the greatest extent consistent with the protection of classified information and other applicable law.

ACTIVE OVERSIGHT PROJECTS

- ***NSA’s Collection of Call Detail Records under the USA FREEDOM Act*** - The Board has been conducting ongoing oversight of the NSA’s collection of call detail records under the USA Freedom Act of 2015, including the program’s operational use and challenges encountered in implementing the program. The Board completed its draft report, which is currently with the Intelligence Community for declassification review.
- ***Examination of certain counterterrorism-related activities conducted pursuant to Executive Order 12333*** - In 2015, the Board announced that it would review counterterrorism-related activities conducted pursuant to Executive Order 12333, including three “deep dive” reviews of specific activities conducted by the CIA and NSA. Two of those remain active:
 - ***NSA “Deep Dive” Review – XKEYSCORE*** - The Board is examining the National Security Agency’s use of XKEYSCORE as an analytic tool for counterterrorism purposes and its implications for privacy and civil liberties.
 - ***CIA “Deep Dive” Review*** - The Board is reviewing a classified counterterrorism-related activity conducted by the Central Intelligence Agency and that activity’s implications for privacy and civil liberties.

²³ 42 U.S.C. § 2000ee(f)(2).

²⁴ Privacy and Civil Liberties Oversight Board, *Strategic Plan for 2019-2022*, at 21-23, available at https://www.pclob.gov/library/StrategicPlan_2019-2022.pdf.



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- ***Facial Recognition and Other Biometric Technologies in Aviation Security*** - The Board is reviewing how biometric technologies are used to verify identity at each phase of an air journey, considering both operational benefits and privacy and civil liberties concerns. The Board has conducted two on-site visits to airports to examine their use of biometrics and facial recognition.
- ***FBI Open-Source Collection*** - The Board is reviewing the FBI's acquisition and use of data from open-source or commercially available sources as part of its efforts to protect the nation against terrorism, as well as the legal, policy, and technological safeguards in place to protect privacy and civil liberties.
- ***FBI Querying, Compliance, and Information Technology*** - The Board is reviewing the FBI's querying of data obtained pursuant to Section 702 of the Foreign Intelligence Surveillance Act and related authorities. The review will also examine the procedures and technology used to record queries and ensure compliance with applicable rules.
- ***Terrorist Finance Tracking Program*** - The Board is reviewing the Treasury Department's Terrorist Finance Tracking Program and its implications for privacy and civil liberties.
- ***Terrorist Watchlisting*** - The Board is reviewing the operation of the Terrorist Screening Database, which contains information on known and suspected terrorists.
- ***Passenger Name Records*** - The Board is conducting an oversight project related to the use of airline Passenger Name Records.
- ***Recommendations Assessment Report*** - The Board intends to issue a report providing an update on the status of recommendations made in the Board's past reports on Section 702, Section 215, and Presidential Policy Directive 28.
- ***Ongoing Oversight: Section 702*** - The Board maintains ongoing oversight of the intelligence community's implementation of Section 702, the subject of a Board report in 2014.
- ***Ongoing Oversight: Presidential Policy Directive 28*** - The Board maintains ongoing oversight of the intelligence community's implementation of the recommendations in the Board's report on Presidential Policy Directive 28.

ADVICE PROJECTS

The Board currently has one active advice project. In addition, the Board has recently completed three advice engagements that relate to revisions of Attorney-General-approved Guidelines governing the handling of U.S.-person information collected under Executive Order 12333.



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While the Board does not ordinarily disclose its advice projects, in this instance the Board has agreed with the recipients to disclose that the Board has provided advice, or is currently providing advice, on every significant revision or issuance by an Intelligence Community element of its Attorney-General-approved Guidelines since 2013.

PUBLIC EVENTS

The Board is currently planning new public events on topics related to its ongoing projects and areas of oversight. Examples of prior events are below.

Public Forum to inform the Board's agenda - On February 8, 2019, the Board held a public forum to inform the Board's oversight agenda. The Board received information from governmental and non-governmental experts on privacy, civil liberties, efforts to protect the nation from terrorism, and other issues relevant to the Board's work, and invited members of the public to pose questions or provide input to the Board.

Public Forum on the USA FREEDOM Act - On May 31, 2019, the Board held a public forum on the NSA's collection of call detail records under the USA FREEDOM Act. The Board heard from experts in counterterrorism, intelligence, privacy, and civil liberties, and invited members of the public to pose questions or provide input to the Board. The insights gained from this event will inform the Board's ongoing work on the USA FREEDOM Act.

OTHER ACTIVITIES

Coordinating Civil Liberties and Privacy Officers - The Board regularly convenes and "coordinates the activities of ... privacy officers and civil liberties officers on relevant interagency matters" and topics of mutual interest.

Section 803 reports - The Board continues to receive and review reports from Civil Liberties and Privacy Officers under Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

Executive Order 13636 reports - The Board continues to receive and review reports under Executive Order 13636, *Improving Critical Infrastructure Cybersecurity*.