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## STATEMENT ON PCLOB REVIEW UNDER SECTION 3 OF EXECUTIVE ORDER 14086

NOVEMBER 5, 2024

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The Privacy and Civil Liberties Oversight Board (PCLOB) is issuing this statement on PCLOB’s review under Section 3 of Executive Order 14086 (E.O. 14086) on Enhancing Safeguards for United States Signals Intelligence Activities.<sup>1</sup>

### I. Background

Section 3 of E.O. 14086 “establishe[d] a redress mechanism to review qualifying complaints transmitted by the appropriate public authority in a qualifying state concerning United States signals intelligence activities for any covered violation of United States law and, if necessary, appropriate remediation.”<sup>2</sup> Qualifying complaints are investigated by the Office of the Director of National Intelligence (ODNI) Civil Liberties Protection Officer (CLPO) to determine whether a covered violation occurred and, if necessary, to determine the appropriate remediation. The CLPO’s decisions are subject to review by the Data Protection Review Court (DPRC).<sup>3</sup>

Section 3 of the Order also encourages PCLOB to conduct an annual review of the processing of qualifying complaints by the redress mechanism, to report on the results of any such review within 30 days of its completion, and to make an annual public certification as to whether the redress mechanism is processing complaints consistent with the Executive Order.<sup>4</sup>

### II. Current Status of PCLOB’s Redress Review

PCLOB initiated an oversight project to carry out the oversight roles envisioned for it in E.O. 14086.

The redress mechanism has now been in effect for over a year, as it became operational following the European Commission issuing its adequacy determination on July 10, 2023.

However, the ODNI CLPO had not yet received any qualifying complaints as of July 10, 2024, and indeed has not received any as of the date of this statement. Therefore, PCLOB is not yet able to issue a report on or make a public certification regarding the processing of qualifying complaints by the redress mechanism during its first year in operation.

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<sup>1</sup> Exec. Order No. 14086, 87 Fed. Reg. 62283 (Oct. 7, 2022).

<sup>2</sup> *Id.* § 3(a).

<sup>3</sup> *Id.* § 3(d).

<sup>4</sup> *Id.* § 3(e).



### **III. Forthcoming E.O. 14086 Oversight Review**

On December 12, 2023, the Board voted to carry out the two oversight roles envisioned for the PCLOB in Executive Order 14086 on Enhancing Safeguards for United States Signals Intelligence Activities. Specifically, the Board will review implementation of the updated policies and procedures adopted by the intelligence agencies pursuant to the Executive Order to ensure that they are consistent with the enhanced safeguards contained in the order, and will, to the extent feasible, conduct an annual review, as prescribed by Section 3(e) of the Executive Order, of the redress process established by the order.

PCLOB intends to publish the results of both the review under Section 2 of updated policies and procedures and the initial Section 3 redress review in 2025. With regard to the redress review under Section 3, in the event that there are still no qualifying complaints, the 2025 report will focus solely on the redress procedures. Specifically, under Section 3(e)(i), the review will cover “whether the safeguards established by section 2 of this order are properly considered in the processes of the CLPO and the Data Protection Review Court.”