



PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
WASHINGTON, D.C. 20002

The Hon. Joseph R. Biden, Jr.
President of the United States
The White House
Washington, DC 20500

January 22, 2021

Dear President Biden:

I write to inform you that I intend to resign as Chairman of the Privacy and Civil Liberties Oversight Board not later than the confirmation of a successor to complete my term.

I am honored to have led this independent, bipartisan Board, now across two administrations, in its work to ensure that efforts to protect the nation against terrorism are balanced with the need to safeguard privacy and civil liberties. I believe, however, that commencing a leadership transition now is in the best interest of our agency, offering the clearest path to ensure that the Board's mission is not undermined by future vacancies or sub-quorum periods.

I am proud of the Board's achievements and institutional progress since I arrived in October 2018 and am grateful to the colleagues and staff members who have made these accomplishments possible. During that time, the Board has undertaken and completed many consequential projects, conducting rigorous oversight and providing expert advice in an independent, non-partisan manner.

Most notably, during this period the Board has:

- Issued a bipartisan report on the National Security Agency's collection and use of telephone call detail records under the USA Freedom Act.
- Provided formal, written advice on counterterrorism-related activities by other federal agencies in five instances and provided informal advice in many others.
- Voted to issue a forthcoming, bipartisan capstone document concluding the Board's five-year review of counterterrorism-related programs conducted under Executive Order 12333.

- Voted to issue to cleared recipients in the Executive Branch and Congress a forthcoming, bipartisan report on the NSA's XKEYSCORE capability.
- Completed the Board's long-running review of the Terrorist Finance Tracking Program, providing privacy-protective recommendations to cleared recipients in the Department of the Treasury and Congress.
- Created a Domestic Terrorism Working Group to monitor intelligence community activities related to domestic terrorism.
- Completed a "deep dive" examination of a classified CIA counterterrorism program.
- Examined the use of Title I of the Foreign Intelligence Surveillance Act for counterterrorism purposes, reviewing numerous classified FISA applications.
- Initiated new projects on facial recognition, the FBI's use of information collected under Section 702 of FISA, and the use of flight data for counterterrorism purposes.
- Held several public forums to engage outside experts, advocacy groups, and the public in the Board's work.
- Participated in the U.S. delegation to annual reviews of the Privacy Shield agreement between the United States and European Union.

The Board has also made great operational strides, leaving it in a strong position to thrive as an independent federal agency. During this period, the Board has:

- Achieved its highest-ever staffing level, reaching its full authorized complement for the first time.
- Dramatically strengthened its financial readiness, achieving a clean financial audit only one year after its first full audit.
- Improved its cybersecurity preparedness, receiving a 100% score on its 2019 audit under the Federal Information Security Modernization Act.
- Further professionalized its human resources, internal controls, and budgeting functions.
- Continued to demonstrate excellence in protecting classified information.

Greatest credit for these accomplishments goes to the Board's dedicated professional staff. Their expertise in national security and privacy is an asset to the nation as our government seeks to defeat terrorism in a manner that respects our law and deeply held values.

Finally, I respectfully encourage you to swiftly nominate qualified candidates to complete the remainder of my term and to fill the other extant vacancy on our Board.¹ Since its creation

¹ Our Board's statute, unlike those of some other multi-member Boards, requires the Chairman to be separately confirmed rather than designated by the President from among the members. *Compare* 42 U.S.C. § 2000ee(h)(1)

in 2007, the Board has at times struggled to maintain a quorum of Senate-confirmed members. In 2017-2018, the Board endured an 18-month sub-quorum period, surviving as a functioning agency only through the efforts of former Board Member Elisebeth Collins and the small group of staff members who remained. Swift nominations and confirmations to any vacancies on the Board are essential to prevent another sub-quorum period.²

I wish you and the Administration success in confronting terrorism in all its forms. As you do so, I and the Board remain ready to provide independent, rigorous, non-partisan oversight and advice to ensure that our nation remains both safe and free.

Sincerely,

A handwritten signature in blue ink that reads "Adam Klein". The signature is written in a cursive style with a large initial "A" and "K".

Adam I. Klein
Chairman

(PCLOB) (“The Board shall be composed of a full-time chairman and 4 additional members, who shall be appointed by the President, by and with the advice and consent of the Senate.”), *with* 47 U.S.C. § 154 (FCC) (“The Federal Communications Commission ... shall be composed of five commissioners appointed by the President, by and with the advice and consent of the Senate, one of whom the President shall designate as chairman.”).

² In addition, the Administration and Congress may wish to consider statutory changes to prevent future sub-quorum periods. *See, e.g.*, H.R. 6172, *USA FREEDOM Reauthorization Act of 2020* § 406 (116th Cong.).