

We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I.

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year in each State, who shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen for six Years, and each Senator shall have one Vote.

# Privacy and Civil Liberties Oversight Board



FISCAL YEAR 2017

BUDGET JUSTIFICATION

DAVID MEDINE, CHAIRMAN

RACHEL L. BRAND, BOARD MEMBER

ELISEBETH B. COLLINS, BOARD MEMBER

JAMES X. DEMPSEY, BOARD MEMBER

PATRICIA M. WALD, BOARD MEMBER



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

# FISCAL YEAR (“FY”) 2017 BUDGET JUSTIFICATION

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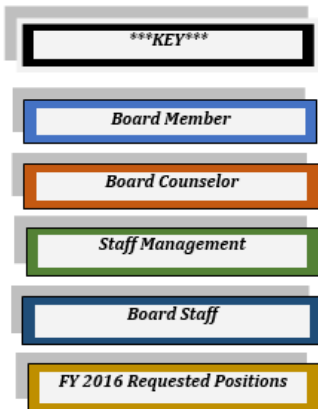
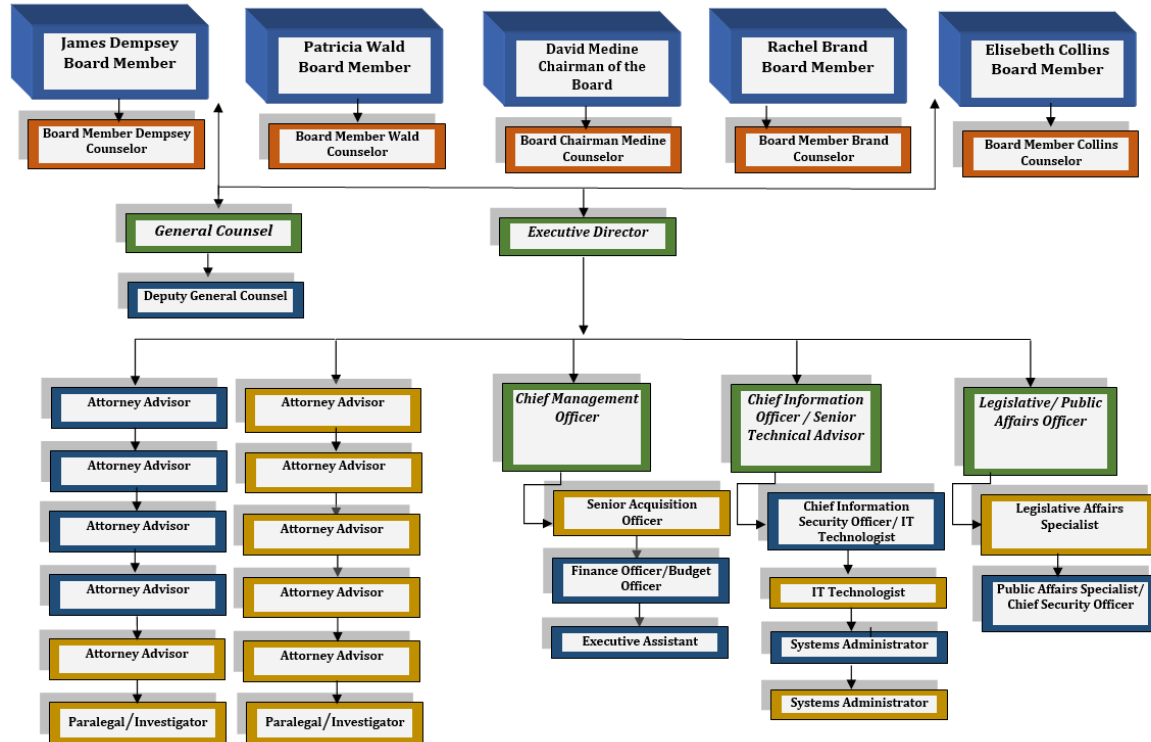


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**FY 2017 ORGANIZATIONAL CHART**

*Privacy and Civil Liberties Oversight Board (PCLOB) Organizational Chart*





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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## EXECUTIVE SUMMARY

The Privacy and Civil Liberties Oversight Board (“PCLOB” or the “Board”) requests \$10,081 thousand (and no new positions) for its fiscal year (“FY”) 2017 budget request. This request would sustain the funding level set in the Board’s FY 2016 budget request with no requested increase to resources. The FY 2017 budget will allow the Board to continue its statutory mission: to conduct oversight and provide advice to ensure that efforts taken by the executive branch to protect the Nation from terrorism are appropriately balanced with the need to protect privacy and civil liberties.

In FY 2017, the Board plans to continue to conduct oversight, as outlined in its Strategic Plan for 2016 to 2018. The Board also plans to refine its role in providing advice to the President and elements of the executive branch regarding the development of new and proposed counterterrorism legislation, regulations, and policies, to ensure that privacy and civil liberties are adequately considered in the development and implementation of those authorities. The Board’s FY 2017 budget request will allow the Board to continue to develop its mission requirements, and complete its transformation from a start-up to a well-established agency with a sound infrastructure and comprehensive operating policies.

### FY 2015 ACCOMPLISHMENTS

In FY 2015, the Board made substantial progress in its efforts to achieve an effective operational capability

as a fully independent agency within the executive branch. Over the last year, the Board continued to expand its understanding of critical government counterterrorism initiatives so that it can appropriately exercise its statutory oversight and advisory functions.

The Board continued examining issues, programs, and activities outlined in the agenda publicly announced by the Board in July 2014. These include Presidential Policy Directive 28 (“PPD-28”),<sup>1</sup> training, cybersecurity, defining privacy, counterterrorism activities conducted under Executive Order 12333 (“E.O. 12333”),<sup>2</sup> Suspicious Activity Reports, Efficacy, and Section 803 reports.<sup>3</sup> Highlights included:

*Cybersecurity* – The President’s Executive Order 13636 (“E.O. 13636”) on Improving Critical Infrastructure Cybersecurity, issued in February 2013, calls upon the Department of Homeland Security (“DHS”) to consult with the Board in assessing agency cybersecurity information sharing programs.<sup>4</sup> During FY 2015, the Board participated in its second annual consultation with DHS and other agencies reporting under the Order

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<sup>1</sup> PPD-28, Signals Intelligence Activities (Jan. 17, 2004).

<sup>2</sup> E.O. 12333, United States Intelligence Activities (Dec. 4, 1981), as amended.

<sup>3</sup> See Implementing Recommendations of the 9/11 Commission Act, Pub. L. No. 110-53, 121 Stat. 266 (2007) (providing for reports in Section 803).

<sup>4</sup> E.O. 13636, Improving Critical Infrastructure Cybersecurity (Feb. 12, 2013).



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regarding privacy and civil liberties policies and practices.

E.O. 12333 – The Board continued to examine counterterrorism activities conducted under E.O. 12333, which establishes the framework for the efforts of the Intelligence Community (“IC”), and the implications of these activities for privacy and civil liberties. In February 2015, the Board released information about the Attorney General–approved guidelines adopted under E.O. 12333 for each element of the IC. In May 2015, the Board held a public meeting at the National Constitution Center in Philadelphia, at which the Board examined the history, constitutional implications, and oversight of counterterrorism activities conducted under E.O. 12333. The Board selected two in-depth examinations for the Central Intelligence Agency (“CIA”) on July 1, 2015 and one for the National Security Agency (“NSA”) on Nov. 5, 2015.

PPD-28 – PPD-28 outlines principles for and limits on signals intelligence activities, including the protections to be provided to non-U.S. persons.<sup>5</sup> It contains a provision encouraging the Board to provide the President with a report assessing the implementation of this Directive on Signals Intelligence. During FY 2015, the Board continued to work with the IC to assess the privacy protections to be provided to non-U.S. persons.

Recommendations Assessment Report – In 2014, the Board released

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<sup>5</sup> The term “U.S. persons” includes United States citizens, United States permanent residents, and virtually all United States corporations.

reports on the telephone records program conducted under Section 215 of the USA PATRIOT Act<sup>6</sup> and the surveillance program conducted under Section 702 of the Foreign Intelligence Surveillance Act (“FISA”).<sup>7</sup> In these two reports, the Board made a total of twenty-two recommendations directed at the executive branch, Congress, and the Foreign Intelligence Surveillance Court. On January 29, 2015, the Board released an assessment of the implementation of these recommendations.

Section 803 Reports – The Board continued working with agency privacy and civil liberties officers to make their reporting under Section 803 of the 9/11 Commission Act more informative and accessible. Eight federal departments and agencies are required to submit Section 803 reports to Congress and the Board on a semi-annual basis covering the activities of privacy and civil liberties officers.

Training – The Board continued its work related to privacy and civil liberties trainings in the context of counterterrorism programs. The Board has completed its assessment of select training materials provided by IC elements with a counterterrorism mission, and will continue to consider and

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<sup>6</sup> Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. No. 107-56, 115 Stat. 272 (2001), as amended. This authority was not reauthorized. *See* Uniting and Strengthening America By Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act (“USA FREEDOM Act”), Pub. L. No. 114-23, 129 Stat. 268 (2015).

<sup>7</sup> *See* FISA Amendments Act Reauthorization Act, Pub. L. No. 112-238, 126 Stat. 1631 (2012); FISA Amendments Act, Pub. L. No. 110-261, 122 Stat. 2436 (2008).



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assess privacy and civil liberties training in its oversight reviews.

*Other Activities* – Also during FY 2015, the Board conducted activities related to recruiting and hiring for key staff positions, standing up its operations, and developing policies to govern the Board’s IT systems and other internal operations.

The Board continues to make significant progress in establishing itself as an independent, bipartisan federal agency. The Board continues to work closely with the Office of Management and Budget (“OMB”) in the formulation of its plans and maintains communication with its congressional Appropriations Committees, as well as with the House and Senate Intelligence and Judiciary Committees, and individual members of Congress.

### **PROPOSED FISCAL YEAR 2017 FOCUS AREAS**

The Board expects the following four priorities to continue to guide its activities for FY 2017:

- Conducting oversight of counterterrorism authorities and activities, focusing on priority issues within the Board’s mandate;
- Providing advice and guidance to the executive branch;
- Ensuring transparency to the public to the extent consistent with protection of classified information; and

- Further establishing the Board’s administrative, management, and governance capabilities and solidifying its integration into the ongoing business of the federal government.

As outlined more fully below, the Board continues to identify additional programs and issues to consider in the upcoming fiscal years. The Board anticipates that during FY 2017 it will focus on areas that include:

- Reviewing additional counterterrorism activities conducted under E.O. 12333, beyond the reviews being conducted in FY 2015 and 2016;
- Continuing to consult with DHS and other participating agencies pursuant to E.O. 13636 on Critical Infrastructure Cybersecurity;
- Coordinating and consulting with government and non-government entities to identify and examine privacy and civil liberties issues that may arise in the government’s efforts to prevent terrorism;
- Conducting oversight of existing counterterrorism programs identified by the Board as priority areas;
- Exercising the Board’s advice function and consulting with agencies developing new counterterrorism programs to ensure that those agencies adequately consider privacy and civil liberties during the development and implementation



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of those counterterrorism initiatives;

- Advising federal agency privacy, civil rights, and civil liberties officers as they exercise oversight of government efforts to protect the nation against terrorism;
- Making Board reports available to the general public to the greatest extent possible consistent with the need to protect classified information, including posting materials and information online; and
- Continuing to develop the Board’s capability to respond to the media and conducting outreach to educate the public and governmental organizations regarding the Board’s mission, programs, and activities.

**PROPOSED FISCAL YEAR 2017  
MANAGEMENT FOCUS**

- Keeping key congressional committees apprised of the Board’s progress, including the House and Senate committees on Appropriations, Judiciary, Intelligence, Homeland Security, and Oversight and Government Reform, as appropriate;
- Managing and maintaining information technology infrastructure (“IT”) and solutions

that advance the Board’s mission and improve overall operating efficiency;

- Continuing to develop strategies to recruit and retain a talented workforce, providing the Board with the areas of expertise it requires; and
- Ensuring operational effectiveness and security of PCLOB information and business systems following the mandatory move of the Board’s office in FY 2016.

**MEMBERS OF THE BOARD:**

Chairman of the Board, David Medine, confirmed to a term ending January 29, 2018;

Board Member, Rachel L. Brand, confirmed to a term ending January 29, 2017;

Board Member, Elisebeth B. Collins, confirmed to a term ending January 29, 2020;

Board Member, James X. Dempsey, confirmed to a term ending January 29, 2016; and

Board Member, Patricia M. Wald, confirmed to a term ending January 29, 2019.



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## VISION, MISSION, AND VALUES

### VISION

A nation that simultaneously counters terrorism and protects privacy and civil liberties.

### MISSION

The Board conducts oversight and provides advice 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 foster understanding of the impact of the executive branch's counterterrorism efforts on privacy and civil liberties and help to inform debate about their proper scope. In addition, the Board strives to make its own activities as transparent as possible, to foster confidence that it is

approaching its mission with the care that this mission deserves. 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.

***Rigor*** – The Board strives for the highest standard of quality in its analysis and recommendations. When examining counterterrorism efforts, the Board takes care to understand those efforts in all of their complexity. In assessing whether such efforts are consistent with the law, the Board strives to be thorough and accurate. When recommending changes to those efforts, the Board seeks to consider fully the foreseeable impact of its recommendations.





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## AGENCY OVERVIEW

### **History**

The Privacy and Civil Liberties Oversight Board was created upon the recommendation of the 9/11 Commission, whose 2004 report declared that preventing terrorism does not require sacrificing the values that make us strong. Liberty and security, the Commission wrote, need not be in opposition but instead can be mutually reinforcing:

We must find ways of reconciling security with liberty, since the success of one helps protect the other. The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home. Our history has shown us that insecurity threatens liberty. Yet, if our liberties are curtailed, we lose the values that we are struggling to defend.<sup>8</sup>

Legal changes adopted after the September 11 attacks, the Commission noted, "vested substantial new powers" in the government's investigative agencies, prompting "concerns regarding the shifting balance of power to the government."<sup>9</sup> The Commission found, however, that "there is no office within

the government whose job it is to look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered."<sup>10</sup>

To fill that gap, the 9/11 Commission unanimously recommended the creation of what is now the Board. In the words of the Commission: "At this time of increased and consolidated government authority, 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."<sup>11</sup>

In 2007, Congress responded to this proposal through the Implementing Recommendations of the 9/11 Commission Act, which established the Board as an independent agency within the executive branch.<sup>12</sup> The agency is led by a bipartisan, five-member Board, comprised of a full-time chairman and four part-time Board members, all of whom are appointed by the President, with the advice and consent of the Senate, for staggered six-year terms. No more than three Board members may be from the same political party, and the President must consult with the congressional leadership of the opposing party before

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<sup>8</sup>THE 9/11 COMMISSION REPORT: FINAL REPORT OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES, at 395 (2004).

<sup>9</sup> *Id.* at 394.

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<sup>10</sup> *Id.* at 395.

<sup>11</sup> *Id.*

<sup>12</sup> See Pub. L. No. 110-53, § 801(a), 121 Stat. at 352-58. Under the Act, the new Board replaced an earlier agency with the same name that was situated within the Executive Office of the President. See Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, § 1061(b), 118 Stat. 3638, 3684 (2004).



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appointing members who are not from the President's political party.<sup>13</sup>

Although the Board's authorizing statute was enacted in 2007, the Board did not come into existence as a practical matter until August 2012, when the Board's four part-time members were confirmed by the Senate, providing the Board with a quorum to begin activity. The Board's chairman, who is vested by statute with the exclusive power to hire staff, was confirmed in May 2013, enabling the Board to become fully operational.<sup>14</sup>

Since then, the Board has been building its operations and infrastructure while simultaneously pursuing its statutory mission — most notably playing a lead role in addressing pressing questions about the scope of surveillance carried out by the IC.

**Authority**

The Board has two purposes under its authorizing statute:

(1)[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

(2)[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 against terrorism.<sup>15</sup>

These purposes encompass two core functions: (1) conducting oversight and (2) providing advice.

In its oversight role, the Board is authorized to continually review the substance and implementation of executive branch regulations, policies, procedures, and information sharing practices relating to efforts to protect the nation from terrorism, in order to ensure that privacy and civil liberties are protected. The Board also is authorized to continually review any other actions of the executive branch relating to efforts to protect the nation from terrorism, in order to determine whether such actions appropriately protect privacy and civil liberties and whether they are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.<sup>16</sup>

In its advice role, the Board is authorized to review proposed legislation, regulations, and policies related to efforts to protect the nation from terrorism (as well as the implementation of

<sup>13</sup> See 42 U.S.C. § 2000ee(h)(2).

<sup>14</sup> See *id.* § 2000ee(j)(1). Before the chairman's Senate confirmation, the Board relied on a small number of detailees from other federal agencies to begin standing up the Board as a functioning agency. See *id.* § 2000ee (j)(2).

<sup>15</sup> See *id.* § 2000ee(c).

<sup>16</sup> See *id.* § 2000ee(d)(2).



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new and existing policies and legal authorities), in order to advise the President and the elements of the executive branch on ensuring that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, and policies.<sup>17</sup>

The Board is also authorized, when appropriate, to make recommendations to the privacy and civil liberties officers of certain agencies with counterterrorism functions, and to coordinate the activities of those officers on relevant interagency matters.<sup>18</sup>

Another duty of the Board under its authorizing statute is to inform the President, Congress, and the public about its own activities. Appearing and testifying before Congress is one of the Board's statutory functions.<sup>19</sup> Furthermore, the Board reports semiannually to the appropriate committees of Congress and the President on its major activities, findings, conclusions, and recommendations resulting from its advice and oversight functions.<sup>20</sup> To promote transparency to the public, the Board is directed to make its reports available to the public to the greatest extent that is consistent with the protection of classified information and

applicable law, and to hold public hearings and otherwise inform the public of its activities.<sup>21</sup> Furthermore, the Board conducts its activities consistent with the Government in the Sunshine Act and the Freedom of Information Act.<sup>22</sup>

When necessary to carry out its statutory duties, the Board is authorized to access all relevant executive agency records, documents, or other materials, including classified information, and to interview, take statements from, or take public testimony from any executive branch officer or employee. In addition, the Board may submit a written request to the Attorney General that the Attorney General require by subpoena that persons outside of the executive branch produce relevant information to the Board.<sup>23</sup>

In addition to the Board's authorizing statute, several other authorities discuss the Board's activities. In 2013, Executive Order 13636 directed DHS to consult with the Board as DHS assesses the privacy and civil liberties risks associated with cybersecurity activities undertaken by federal agencies pursuant to that executive order.<sup>24</sup> PPD-28, the Directive regarding signals

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<sup>17</sup> See *id.* § 2000ee(d)(1).

<sup>18</sup> See *id.* § 2000ee(d)(3).

<sup>19</sup> See *id.* § 2000ee(d)(4).

<sup>20</sup> See *id.* § 2000ee(e).

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<sup>21</sup> See *id.* § 2000ee(f).

<sup>22</sup> See 5 U.S.C. § 552; *id.* § 552b; 42 U.S.C. § 2000ee(l)(1).

<sup>23</sup> See 42 U.S.C. § 2000ee(g)(1).

<sup>24</sup> See E.O. 13636, Improving Critical Infrastructure Cybersecurity (Feb. 12, 2013).



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intelligence, encouraged the Board to provide the President with a report that assesses the implementation of any matters contained within the directive that fall within its mandate. In 2015, Congress passed the USA FREEDOM Act, which allows presiding judges of the Foreign Intelligence Surveillance Court to consider recommendations for individuals to serve as amicus curiae from any source, including Board members.<sup>25</sup>

### **Challenges**

Shaped by these statutory and executive branch authorities, the Board's structure and functions can create challenges. At times, the Board may need to reconcile its oversight function and its advice function as they relate to a particular agency. Additionally, as a bipartisan body with five independent members, the Board must coordinate multiple viewpoints and that coordination can lengthen the time for making decisions. Also, in its early years, the Board has faced operational challenges as a small, new, and independent agency working to address significant agency-building needs with four part-time Board members and a start-up budget.

### **Opportunities**

The Board's structure and functions also create distinct opportunities for the Board to ensure that civil liberties and privacy are appropriately considered and protected in the government's efforts to prevent terrorism. The Board is uniquely positioned as an independent, bipartisan oversight and advice board with access to classified information. By offering its independent but informed views and analyses, the Board is able both to assist the executive branch in formulating policy regarding counterterrorism efforts, and to add an important voice to broader discussions about striking the right balance between liberty and security in those efforts.

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<sup>25</sup> See Pub. L. No. 114-23, § 401, 129 Stat. at 279-281.



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### FY 2017 BUDGET JUSTIFICATION SUMMARY

FY 2015 Enacted	FY 2016 Enacted	FY 2017 Request	FY 2016 FY 2017 (Delta)	FY 2016 FY 2017 (Delta%)	
<i>(Funding in Thousands)</i>					
<b>Funding</b>	\$ 7,500	\$21,297	\$ 10,081	-\$11,210	-53%
<b>Positions</b>	25	37	37	—	—
<b>FTE</b>	18	35	37	—	—

The FY 2017 delta over the FY 2016 budget is entirely attributed to a one-time increase of \$11,210 thousand for the Board's permanent physical relocation that was contained in the Board's FY 2016 budget. Not accounting for the Board's one-time increase of \$11,210 thousand, the FY 2017 base budget request remains unchanged from its FY 2016 enacted budget signifying that there is no year-over-year delta between the two budgets.

The Privacy and Civil Liberties Oversight Board's FY 2017 budget request is for \$10,081 thousand (and no new positions).

#### FUNDING HIGHLIGHTS

#### ***THERE ARE NO INCREASES FOR FUNDING (OR POSITIONS) FOR THE BOARD'S FY 2017 BUDGET REQUEST:***

The Board's FY 2017 budget request reflects its FY 2016 base budget request with no additional resources requested. The Board's FY 2016 enacted budget included a one-time increase for an additional \$11,210 thousand beyond this base budget to cover the costs of the Board's mandatory office move.<sup>26</sup> The

<sup>26</sup> The Board will be required to move in the fall of 2016, when the building housing its current offices will be torn down. The Board's new space is unlikely to be ready by the time the Board must vacate its current space, so the Board will likely need to temporarily move into interim space. The Board will ensure that it continues to operate efficiently and that it mitigates move costs wherever possible. All move costs will be covered by the two-year funding that was included in the Board's FY 2016 budget.

requested resources will enable the Board to continue refinement of its infrastructure and operating policies, while sustaining operational mission requirements.

#### **FY 2017 JUSTIFICATIONS FOR RESOURCES:**

The Board's FY 2017 budget focuses on key capabilities in the following mission areas:

- Conducting effective oversight through reviews of executive branch counterterrorism authorities and activities to ensure appropriate protections for privacy and civil liberties;
- Providing advice and guidance to elements of the executive branch that are developing counterterrorism programs;
- Continuing to build and strengthen relationships with privacy and civil liberties officers in order to make recommendations and coordinate



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the activities of those officers on relevant interagency matters;

- Maintaining the Board's transparency to the public through outreach, public hearings, and meetings;
- Continuing to refine the Board's business functions and ensure full operational capability following the Board's office move;
- Sustaining and maturing the PCLOB IT and cybersecurity capabilities; and
- Executing employee training and development initiatives that enable the Board to recruit and retain skilled employees.

The Board continues to make progress in modernizing and securing its technological systems. It is vital that the Board continue its efforts in order to maintain pace with technology advances, to protect against evolving and sophisticated threats as demonstrated by the Office of Personnel Management ("OPM") and the Department of Defense ("DoD") FY 2015 intrusions, and to provide technical analysis of technologies used in counterterrorism programs being reviewed by the Board.

The Board's role in providing oversight of counterterrorism activities requires access to all necessary classified information on relevant programs and topics. All Board Members and staff have Top Secret/SCI security clearances, and the Board's offices are located in a Sensitive Compartmented Information

Facility ("SCIF"). The Board's involvement in matters of national security also requires that the Board maintain a higher standard of information security for its unclassified systems. The Board maintains a robust unclassified mission and business support IT infrastructure. For its classified IT systems, the Board requires access to the Joint Worldwide Intelligence Communications System ("JWICS") and use of its connected workstations and secure telephones, which is provided as a fee for service. The Board also must comply with Federal guidance such as E.O. 13556, Controlled Unclassified Information,<sup>27</sup> the Federal Information Protection Standards ("FIPS"), the Federal Information Security Management Act ("FISMA"),<sup>28</sup> and the Intelligence Community Directive 503.

The Board is currently occupying space in a building that is scheduled for demolition in late 2016. Consequently, early in FY 2017, the Board will incur additional costs to include re-establishing the IT infrastructure, operational and security testing, and support related to a required move of the Board to another SCIF location.

OMB Memorandum M-08-05 directs all agencies to move their Internet connectivity to a Trusted Internet Connection ("TIC") which provides scanning, firewalls, Einstein, and proxy services to reduce the risk of network breaches or compromises. TIC services are acquired through the Networkx

<sup>27</sup> E.O. 13556, Controlled Unclassified Information (Nov. 4, 2010).

<sup>28</sup> Pub. L. No. 107-347, 116 Stat. 2899 (2002).



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contract for Managed Trusted Internet Protocol Services (“MTIPS”) and represents a significant cost increase from current funding levels. Additionally, the Board is transitioning telephony services from antiquated ISDN services to Voice over Internet Protocol, which will require upgrade in telephony hardware and integration and testing support.

The Board has transitioned to two-factor authentication for network access utilizing Personal Identity Verification (“PIV”) cards to comply with Homeland Security Presidential Directive (“HSPD”) 12.<sup>29</sup> The Board has transitioned several IT services to a FEDRAMP certified cloud service provider which includes mail, web hosting, Intranet, virtual/remote access, as well as redundant storage and active directory to provide for Continuity of Operations and Disaster Recovery functions. These services have a sustained annual cost associated.

### **A REDUCTION IN FUNDS WOULD HAVE A NEGATIVE IMPACT ON THE FOLLOWING:**

- The Board’s ability to sustain its baseline operations after completion of the physical relocation of the agency in FY 2016;
- The Board’s ability to conduct oversight of multiple counterterrorism programs simultaneously as well as to exercise its advice function; and

- The Board’s ability to maintain a stable, effective, and secure classified and unclassified IT infrastructure/architecture to support the Board’s mission and business functions.

### **OTHER REQUIREMENTS FOR FY 2017 SUSTAINED FUNDING LEVEL**

The Board has also taken on specific activities at the request of the President. First, E.O. 13636 on Improving Critical Infrastructure Cybersecurity, calls on DHS to consult with the Board on its annual report. This report must assess the privacy and civil liberties risks of the functions and programs undertaken to address cybersecurity, and include recommendations regarding the ways to minimize or mitigate such risks. The Board will continue to consult with DHS on an annual basis on this report.

Second, in PPD-28 on Signals Intelligence Activities, issued by President Obama on January 17, 2014, the President encouraged the Board to provide him with a report that assesses the implementation of any matters contained within this directive that fall within the Board’s mandate. The Board has acknowledged this invitation and agreed to provide a report.

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<sup>29</sup> HSPD-12, Policy for a Common Identification Standard for Federal Employees and Contractors (Aug. 27, 2004).



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## CONGRESSIONAL REPROGRAMMING

There were no congressional reprogrammings during FY 2015.





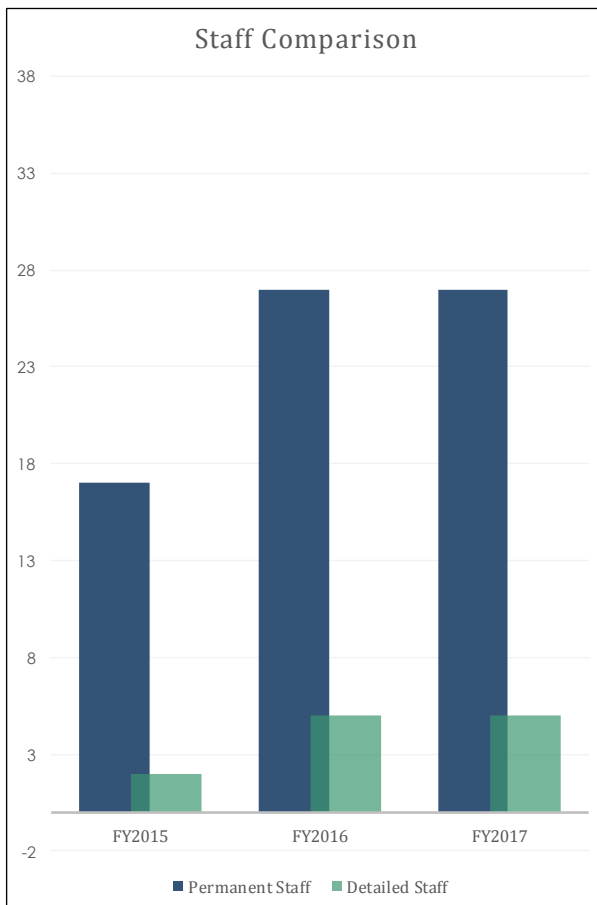
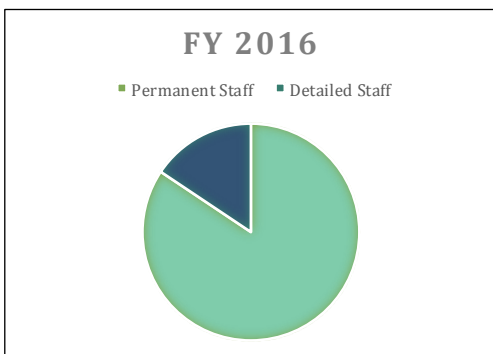
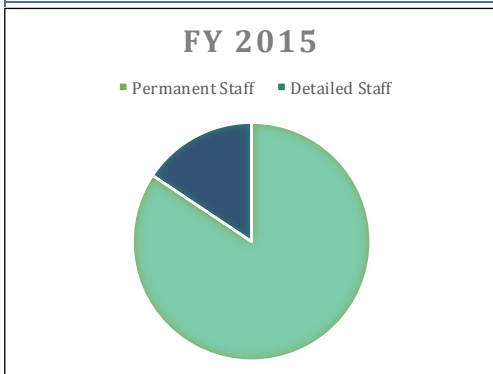
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# WORKFORCE COMPOSITION

## PERSONNEL SUMMARY

	FY2015	FY2016	FY2017
Permanent Staff	17	27	27
Detailed Staff	2	5	5



In FY 2015, the Board continued efforts to increase its workforce to more effectively perform its oversight and advisory roles.

In FY 2016, now that its budget has been appropriated, the Board will begin recruiting staff to fill the 12 additional positions from its FY 2016 budget request for the purposes of:

- Expanding its reach and ability to oversee counterterrorism activities;
- Identifying and examining priority issues within the Board’s mandate;
- Providing advice and guidance to executive branch agencies relating to counterterrorism activities; and
- Ensuring transparency to the public about the Board’s activities.



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## PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

In FY 2015, the Board focused on mission support areas that included recruitment, staffing, and employee development. Further, the Board worked to reorganize its staffing plan to restructure the operation of staff project teams. In addition, the Board made significant strides in sponsoring training program opportunities.

In FY 2017, the Board will continue to develop and refine its human resources policies. This includes enhancements to the Board's Performance Management process, recruiting plan, workforce development plan, and policy/process development. To achieve these objectives, the Board will continue its efforts to:

- Develop tools, metrics, and processes to track all employees' individual development plans; and
- Recruit and hire subject-matter experts to maintain a high-quality workforce.

The Board will further the strategic management of human capital by attracting and retaining a diverse and talented workforce, administering programs to enhance employee engagement and leadership development, implementing advanced technologies to enhance and streamline work processes, and establishing policies to ensure compliance with federal regulations.

### **STRATEGIES FOR ATTRACTING AND RETAINING TALENT**

The Board continues to refine efforts to recruit and retain a highly qualified and diverse workforce.

The Board strives to create an agency-wide performance culture that focuses on individual and organizational accountability toward achieving the Board's programmatic goals and priorities. The Board will seek to achieve this by providing quality training and staff development.

Brief descriptions of the Board's key personnel include:

### **BOARD MEMBERS**

The Board members and Chairman of the Board are responsible for ensuring the effective and efficient execution of the Board's congressionally mandated responsibilities. The Board formulates policy that guides and directs the organization's work, and allocates required resources. The Board also monitors the agency's progress in accomplishing its stated goals and objectives.

### **GENERAL COUNSEL**

The General Counsel ("GC") was established as the Board's chief legal officer and adviser. The GC's major functions are representing the Board and providing legal counsel and policy advice to the Board to ensure compliance with all legal requirements for the Board's operation as an independent federal agency.

The GC is also responsible for administering the Board's Ethics Program and for interpreting federal government-wide ethics laws, rules, and regulations. The GC provides counseling and training to Board staff on compliance with federal laws and regulations, and provides legal



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counseling and training to the Board and its staff. Additionally, the GC advises Board members and staff on a variety of issues, such as those arising under the Freedom of Information Act and the Government in the Sunshine Act.<sup>30</sup>

**EXECUTIVE DIRECTOR**

The Executive Director (“ED”) serves as the managerial and administrative arm of the Privacy and Civil Liberties Oversight Board, with responsibility for the overall operation of the agency. The ED works closely with the Board on strategic planning and assessing the management and resource implications of any proposed action. The ED supervises and directs the work of agency staff in pursuit of the Board’s mission conducting its oversight and advice functions, as well as on other issues.

The ED also directs and supervises staff in preparing the Board’s reports on counterterrorism programs, responses to formal congressional requests, briefings for congressional committees and subcommittees, drafts of testimony for congressional hearings, analysis of proposed legislation affecting the Board, and reviews Board comments to the President, the OMB, and Congress.

**CHIEF MANAGEMENT OFFICER**

The Chief Management Officer (“CMO”) is responsible for enabling the Board to accomplish its goals through workforce planning, recruitment, employee development, retention, compensation, and performance

management. Activities include recruitment, hiring actions, and obtaining reimbursable and non-reimbursable detailed positions, contractors, interns, and scholars in residence.

The CMO provides advice and guidance on benefits, retirement, awards, training, position descriptions, labor relations, administration of performance management, and payroll. The CMO ensures that the Board complies with laws and regulations governing budget and human resources, and maintains a core staff of highly-trained professionals to aid the Board in carrying out its mandated responsibilities. The CMO assists the Board on budget development, justification, execution, and review. This includes working with the OMB, and congressional staff to obtain appropriations and subsequent apportionment authority, distribute enacted and Board-approved resources to organizational projects, and track the use of agency resources.

**CHIEF INFORMATION OFFICER**

The Chief Information Officer (“CIO”) is responsible for providing the Board with a robust, reliable, rapidly scalable and interoperable infrastructure, providing connectivity and computing capabilities. The CIO also directly supports critical mission area IT development, modernization, the enhancement of applications and systems, and business services and related office automation systems.

The CIO’s IT responsibilities align with and support two agency services: access to classified systems and services as well as the vital, secure, and stable

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<sup>30</sup> See 5 U.S.C. §§ 552, 552b



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technology infrastructure. Some key activities performed by the CIO include:

- Procuring and ensuring the implementation of classified IT systems and services critical to the Board’s oversight activities;
- Providing a vital, secure, and stable technology infrastructure for a multitude of mission-supporting applications, systems, and services;
- Securing Board data and information technology systems against current and emerging cybersecurity threats by using sophisticated network security technologies; and
- Ensuring that organizational applications, processes, and internal policies, procedures, and guidelines align with all federal mandates, legislation, and guidance.

### **CHIEF SECURITY OFFICER**

The Chief Security Officer (“CSO”) leads a collaborative security program and performs tasks related to risk assessment, crisis management, personnel safety and facility security. The CSO strengthens security initiatives, creates digital security management programs, develops, implements and oversees security policy and programs, and delivers security training and education awareness. The CSO manages the Board’s “security” function, which includes physical security, area security, and personnel security.

The CSO maintains productive working relationships with other security colleagues and the IC to share information of interest, explain the specifics of security programs and procedures. The CSO provides guidance and support regarding personnel security to include initiating and/or crossing over clearances, and ensures physical security guidelines are in place for the Board and its staff, detailees, interns, and contract personnel.

### **PUBLIC AFFAIRS/LEGISLATIVE AFFAIRS OFFICER**

The Public Affairs Officer (“PAO”) portion of this position involves responsibility for managing the Board’s external and internal communications. The officer’s duties include responding to media inquiries, overseeing updates and maintenance to the Board’s website, coordinating speaking events, and directing and overseeing the Board’s communication activities.

The Legislative Affairs Officer (“LAO”) portion of this position involves serving as the Board’s primary liaison to Congress. The LAO’s duties include advocating for the policy interests of the Board, ensuring that the Board regularly updates its congressional committees of jurisdiction regarding the Board’s work, and responding to requests and inquiries from congressional committees, individual Members of Congress and their staff.



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**PERFORMANCE MANAGEMENT**

**FISCAL YEAR (FY) 2015 ACCOMPLISHMENTS**

**AGENCY MISSION**

In FY 2015, the Board's work in furtherance of its statutory mission included the following:

*Advice Function* – The Board has had the opportunity to engage with agencies and with White House staff in its advice capacity, providing feedback in the development and implementation of policies.

*Cybersecurity* – The Board's principal work on cybersecurity has centered on its role under E.O. 13636. The Order directs DHS to consult with the Board in developing a report assessing the privacy and civil liberties implications of cybersecurity information sharing and recommending ways to mitigate threats to privacy and civil liberties. This was the second year the Board operated under the Order, and this year, the Board was consulted early in the E.O. 13636 process. This was a substantial improvement over the prior year, enabling the Board to play a significant role in the second DHS report. Between mid-December and early January, the Board engaged with the various agencies that are implementing E.O. 13636 and provided feedback as they prepared their reports. In April 2015, DHS issued the final report under the Order. In May, the Board sent DHS a letter providing feedback on the report.

*Defining Privacy* – The Board held a public meeting on November 12, 2014 with industry representatives, academics, technologists, government personnel, and members of the advocacy community on

the topic "Defining Privacy". The event consisted of four panels, each of which explored a different aspect of the topic. The Board was able to hear from a variety of experts, and the input from the speakers will assist and guide the Board in its ongoing work, as it evaluates a range of privacy issues associated with counterterrorism programs.

The event was open to members of the general public and was covered by C-SPAN. It thus served both to educate the Board and to inform the public. The transcript from the event is available on the Board's website.

*Efficacy* – During FY 2015, the Board continued to work with the Office of the Director of National Intelligence ("ODNI") to hold Board Member briefings on the manner in which the IC measures the value and effectiveness of their counterterrorism activities, which included a briefing on the National Intelligence Priorities Framework. Additionally, Board staff worked with various components of the IC to discuss initiatives undertaken by the individual components to measure the value of their counterterrorism programs.

*E.O. 12333* – The Board continued its review of counterterrorism activities conducted under E.O. 12333. In connection with this review, the Board and its staff received overview briefings from IC elements on their counterterrorism activities, including the privacy and civil liberties protections established under the framework of the



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Order. Board staff also reviewed and analyzed E.O. 12333 implementing procedures of IC elements.

In addition, Board staff began work on a public report that explains how the legal framework of E.O. 12333 and its implementing procedures govern the collection, use, retention, and dissemination of information concerning U.S. persons.

On April 8, 2015, the Board voted to adopt a project description that memorializes the Board's approach to its work in the coming year on this project. The Board explained its intent to select, conduct in-depth examinations of, and write reports on specific counterterrorism-related activities governed by E.O. 12333. The project description also explains that for these in-depth examinations the Board plans to focus on activities of the CIA and NSA, and to draw on these examinations, as appropriate, to inform the Board's public report described above. In July, the Board voted to approve two in-depth examinations of CIA activities conducted under E.O. 12333. Board staff has subsequently attended briefings and demonstrations, as well as obtained relevant documents, related to the examinations.

The Board also received a series of briefings from the NSA on its E.O. 12333 activities. Board staff held follow-up sessions with NSA personnel on the topics covered and on the agency's E.O. 12333 implementing procedures. At the start of FY 2016, the Board voted to approve one in-depth examination of an NSA activity conducted under E.O. 12333. Board staff are currently engaging with NSA staff to

gather additional information and documents in support of this examination.

Board staff met with staff for the congressional intelligence committees to update them on these efforts and explain the Board's work on this project.

In addition, in February 2015, the Board posted on its website a table outlining the status of the Attorney General-approved implementing procedures under E.O. 12333 regarding collection, retention, and dissemination of information concerning U.S. persons. The table lists the dates on which each agency's or department's current guidelines were adopted and provides links to all of the guidelines that are not classified, providing greater transparency to the public.

In May 2015, the Board held a public meeting at the National Constitution Center in Philadelphia, at which the Board examined the history, constitutional implications, and oversight of counterterrorism activities conducted under E.O. 12333. The Board's efforts also included meeting with representatives of non-governmental organizations and other advocates, who shared with the Board their concerns about E.O. 12333 based upon information currently available to the public, as well as the questions they would like the Board to potentially address in its inquiry. Minutes from this meeting have been made public on the Board's website.

*PPD-28* – As described above, PPD-28 was issued by the President in January 2014, outlining principles for and limits on signals intelligence activities. It includes a provision encouraging the



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Board to provide the President with a report assessing the implementation of this Directive.

In preparation for the one-year anniversary of the issuance of the Directive, IC elements worked to develop guidance on how each agency plans to implement its terms. This includes providing protections to non-U.S. persons in the context of U.S. signals intelligence programs. As agencies worked to develop their policies, the Board engaged with them under its advice function. The Board provided input on draft policies, including efforts to create policies that would provide greater transparency to the public.

Toward the end of FY 2015, the Board commenced an oversight project designed to assess the implementation of PPD-28 as it relates to counterterrorism efforts and the protection of privacy and civil liberties. For this project, the Board plans to prioritize its oversight engagement with the NSA, CIA, and FBI, and to collect more limited information from the remaining IC elements.

*Recommendations Assessment Report* – In 2014, the Board released detailed reports on two government surveillance programs: the telephone records program conducted under Section 215 of the USA PATRIOT Act, and the surveillance program conducted under Section 702 of FISA. In these two reports, the Board made a total of twenty-two recommendations directed at the executive branch, Congress, and the Foreign Intelligence Surveillance Court.

Early in FY 2015, the Board conducted an assessment regarding the

implementation of the recommendations made in its Section 215 and Section 702 reports. The Board consulted with representatives from the Justice Department and IC agencies in conducting this review. On January 29, 2015, the Board released a public report discussing the status of each recommendation’s implementation. The Board’s 25-page public report is accompanied by a summary table, outlining the extent to which each recommendation had been implemented. The Board found that overall, the Administration had been responsive to the Board’s input, but explained that many recommendations were still in the process of being acted upon and that certain recommendations had not been implemented.

*Section 803 Reports* – The Board has worked in coordination with the White House Office of Science and Technology Policy (“OSTP”) to make more informative and accessible the Section 803 reports, which are issued by privacy and civil liberties officers of designated departments and agencies. Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 requires that certain executive branch departments and agencies file semi-annual<sup>31</sup> reports describing the activities of the agencies’ privacy and civil liberties officers. These reports must be submitted to the heads of each agency, designated committees in Congress, and the Board.

Board staff met with OSTP staff during the fall of 2014 to set goals for their collaboration, and later met with personnel from the eight departments

<sup>31</sup> 42 U.S.C. § 2000ee-1(f). The statute originally required quarterly reports, but was amended in 2014 to make those reports semiannual.



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and agencies required to file Section 803 reports: ODNI, CIA, and the Departments of Defense, Health and Human Services, Homeland Security, Justice, State, and Treasury. Board staff also participated in a meeting with non-governmental organizations as part of the Administration's National Action Plan on open government, to solicit input on how Section 803 reports could be improved.

The Board's staff subsequently analyzed the statutory requirements of Section 803 and surveyed existing reports to identify potential areas for improvement, with the goal of formulating recommendations to make the reports more informative and accessible. The Board's staff produced a draft set of recommendations for agency privacy and civil liberties officers on the enhancement of their Section 803 reports. Board staff are now in the process of soliciting feedback from privacy and civil liberties officers on these draft recommendations. The goal is to help the Board and the public better understand the types of privacy and civil liberties issues that agencies are grappling with in their efforts to protect the nation against terrorism.

*Suspicious Activity Reports* – The Program Manager for the Information Sharing Environment (“PM-ISE”) released a suspicious activity report standard, the ISE-SAR Functional Standard version 1.5.5, in February 2015. The Board had provided comments to the PM-ISE in the fall of 2014.

*Training* – The Board continued its work related to privacy and civil liberties trainings in the context of counterterrorism programs. The Board

has completed its assessment of the training materials provided by IC elements with a counterterrorism mission. Throughout this assessment process, Board staff participated in an interagency training-focused working group of the Privacy and Civil Liberties Subcommittee of the Information Sharing and Access Interagency Policy Committee. Board staff provided input to the working group on best practices in designing training content and delivery methods to safeguard privacy and civil liberties.

The Board will continue to participate in the working group's efforts related to privacy and civil liberties trainings. Beyond this participation, the Board will incorporate its assessment of training programs into its ongoing work regarding specific counterterrorism activities, rather than continuing this effort as a separate Board project.

### **MISSION SUPPORT SERVICES**

Mission support services have included developing the Board's management policies and core mission support activities, and ensuring compliance with other requirements imposed by Congress and the executive branch. The following activities were accomplished in FY 2015:

- Continued the Board's hiring efforts with the goal of “right-sizing” the agency. The Board filled many key positions including hiring the Board's General Counsel, its Public Affairs/Legislative Affairs Officer, a Finance/Acquisition officer, and several Attorney-Advisors and Counselors;





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- Established the Board's internal financial management function to include budget formulation, execution of its budget, and monitoring resource utilization to ensure the Board's service provider maintains accurate financial statements and financial reporting;
- Developed the Board's Strategic Plan for 2016 - 2018;
- Continued the development of internal policies and procedures governing the Board's operations;
- Continued to promote public access and participation in the Board's activities to the extent possible consistent with the protection of classified information; and
- Implemented a system to encourage and facilitate staff participation in external training programs, to ensure the continued professional development of the Board's workforce.

### **INFORMATION TECHNOLOGY**

Key IT and Information Security ("I&IS") performance accomplishments include:

- Successfully migrated the Board's unclassified email system to a certified cloud service provider taking full advantage of cloud computing benefits and minimizing cost. The new cloud

services allow for better records management, increased protection of Personally Identifiable Information ("PII"), and greater flexibility for accessing mail service remotely;

- Migrated the Board's Public Website to a cloud Service Provider who employs FEDRAMP controls as part of their service. The cloud solution allowed a fast and seamless transition and enabled security features not available within the original architecture;
- Deployed HTTPS encryption to the Board's public website, PCLOB.gov, which ensures visitors are securely receiving official PCLOB content;
- The Board approved a new Bring Your Own Device ("BYOD") policy and the IT team deployed a set of initial capabilities to allow users to securely access limited unclassified information via personal devices. These solutions have improved the ability of Board Members and staff to engage in telework and stay connected while on travel; and
- Developed a comprehensive IT Program Plan to provide a general guide to IT costs and scenarios over the FY 2015 - 2021 timeframe. The program plan will be updated as informed decisions are made.



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**PERFORMANCE MANAGEMENT**

**FISCAL YEAR (FY) 2016 ANTICIPATED PERFORMANCE**

**AGENCY MISSION**

Consistent with its mission and statutory functions, the Board plans both to conduct oversight and provide advice in FY 2016.

For FY 2016, the Board's principal oversight reviews will focus on counterterrorism activities conducted under E.O. 12333. As described in the FY 2015 accomplishments section above, the Board has already begun work on both a public report and on in-depth examinations of specific counterterrorism activities of the CIA and NSA. This work will continue into FY 2016. More specifically, in FY 2016, the Board anticipates completing and releasing a public report that will explain E.O. 12333 at a high level, focusing on how the legal framework established by the executive order and its implementing procedures govern the collection, use, retention, and dissemination of information concerning U.S. persons. To the extent feasible in an unclassified document, the report will draw on the in-depth reviews described above for descriptive examples of how E.O. 12333 and its implementing procedures shape the privacy and civil liberties impacts of the Intelligence Community's efforts to prevent terrorism. As appropriate, and to the extent that the Board can draw conclusions based on its overview briefings and in-depth reviews, the public report also will assess the adequacy of E.O. 12333's safeguards for privacy and civil liberties.

In addition, in FY 2016, the Board plans to complete one or more reports

regarding its in-depth reviews of specific counterterrorism activities conducted under E.O. 12333. The Board has already identified two such "deep dive" topics for the CIA, as well as one deep dive on an NSA counterterrorism activity conducted under E.O. 12333. The Board anticipates that its report(s) on such activities will be largely or entirely classified.

With regard to its advice function, at the start of FY 2016, the Board adopted a new policy outlining its advice function. The policy formalizes how the Board will exercise its advice process and is intended to encourage federal agencies developing counterterrorism programs to engage with the Board in early stages of the process when a new agency policy, rule, or regulation is being developed. The Board's new policy provides a clear path for federal agencies to seek the Board's input early on, or for the Board to offer proactive advice on its own—when there is still time for the agency to consider the Board's advice. The policy also clarifies the Board's statutory reporting requirement including the circumstances under which the Board must report to Congress or the President when an agency does not take the Board's recommendations into account.

The Board's new policy is designed to specify how the agency engages with other agencies pursuant to its advice function, and thereby strengthen federal agency engagement and promote this important aspect of the Board's mission.



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The policy also reflects the Board's statutory mandate to inform the public—while protecting classified and other legally protected information—and the need to respect other agencies' decision-making processes. By adopting this policy, the Board seeks to be transparent about its activities, while recognizing that the development of good policy requires open and frank discussions among decision makers.

In the exercise of its advice function, the Board will also continue to coordinate and consult with DHS pursuant to Executive Order 13636 on Improving Critical Infrastructure Cybersecurity. The Order provides that DHS shall consult with the Board in its annual assessment of the privacy and civil liberties risks associated with the cybersecurity activities undertaken by federal agencies under the Order. As part of this role, the Board anticipates providing further feedback to agencies on the steps they take to mitigate privacy and civil liberties risks.

The Board's work under PPD-28 will also continue into FY 2016. As described above, in this directive on signals intelligence, the President encouraged the Board to provide a report assessing the implementation of PPD-28. PPD-28 directs intelligence agencies and components to provide certain protections to non-U.S. persons in the context of U.S. signals intelligence programs, and in February 2015, agencies published guidelines for their implementation of the directive. The Board has begun reviewing agency activities under PPD-28 and anticipates producing the requested report in FY 2016.

The Board also plans to continue its work on Section 803 reports in FY 2016. As described above, Board staff has been working with agency privacy and civil liberties officers to identify viable changes to their reporting under Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, designed to make those reports more informative and accessible. Section 803 requires that certain executive branch departments and agencies file semi-annual<sup>32</sup> reports describing the activities of the agencies' privacy and civil liberties officers. These reports must be submitted to the heads of each agency, designated committees in Congress, and the Board. In FY 2016, the Board will draft detailed guidance that offers suggestions to improve the usefulness of the reports.

The Board's work assessing the efficacy of counterterrorism programs will also continue into FY 2016. In addition, the Board will be continuing to review information regarding the Information Sharing Environment and the work of the PM-ISE office to identify opportunities for the Board to assess the information sharing practices of the executive branch related to counterterrorism.

Beyond these specific projects and topics, the Board anticipates conducting additional oversight and seeking to expand the exercise of its advice function. The Board anticipates that it will identify additional areas for oversight reviews by early in calendar year 2016. The Board will also endeavor to expand opportunities for the agency to provide advice to the President and executive branch departments, agencies, and

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<sup>32</sup> *Id.*



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elements regarding the consideration of privacy and civil liberties in the development and implementation of counterterrorism authorities.

bags sessions with subject-matter experts (“SME”) to protect National Security Information (“NSI”).

**MISSION SUPPORT SERVICES**

Mission support services have included developing the Board’s management policies, core mission support activities, and compliance with other requirements imposed by Congress and the executive branch. The Board anticipates the following activities to be accomplished in FY 2016:

- Further develop and refine recruitment and outreach approaches to attract a talented and diverse workforce including new employees and detailees. The Board will focus on enhancing its capabilities in key areas to include Systems Administrators, Investigators, Policy Writers and Legal/Administrative Specialists. This will include exploring further opportunities to bring on employees on detail from other federal agencies;
- Continue to support ongoing training and development for staff;
- Identify new opportunities for cross-agency and interagency collaboration to identify programs, initiatives, and activities where existing services can be improved; and
- Ensure that an effective security education training program is in place and conduct continuous briefings, trainings, and brown-

**INFORMATION TECHNOLOGY**

Key I&IS anticipated performance includes:

- Complete development and implementation of key policies for IT system configuration, IT system security and response, and user responsibilities complying with Federal CIO guidance;
- Plan, integrate, and test an IT asset management capability to support Continuous Diagnostics and Monitoring capabilities in accordance with OMB Memorandum M-14-03 and the Continuous Diagnostics and Mitigation (“CDM”) Program;
- Complete HSPD-12 implementation for logical access to PCLOB systems by both privileged and general users;
- Implement new services under the Networx contract for IT and Voice services during mandatory facility relocation in 2016. IT and telecommunications services will be implemented in accordance with OMB memorandum M-08-05 which directs all federal agencies to migrate to Trusted Internet Connections that can properly scan and filter potentially



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malicious traffic using DHS Einstein capabilities;

adequate power and cooling for IT systems;

- Plan and execute relocation of PCLOB local IT architecture in connection with the agency's office move, which includes physical relocation of classified and unclassified IT, telecommunication systems, developing and implementing a wiring and cabling plan, and ensuring
- Implementation of a secure remote access solution to enhance the IT Service Catalog for telework users and users who are on travel; and
- Develop a robust Intranet service to support streamlined business processes for the PCLOB staff.



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## PERFORMANCE MANAGEMENT

### FISCAL YEAR (FY) 2017 ANTICIPATED PERFORMANCE

#### **AGENCY MISSION**

As outlined in the Board's Strategic Plan for 2016 – 2018 with regard to oversight, the Board will focus its reviews on priority areas. At the same time, the Board seeks to oversee a diverse set of issues and executive branch agencies and components, so that the Board can develop and apply a range of knowledge and expertise. Similarly, with regard to its advice function, the Board has outlined in its Strategic Plan how it seeks to increase opportunities to provide advice.

The Board anticipates that most of the issues on its current agenda will be completed by the end of FY 2016, including its current work on counterterrorism activities conducted under E.O. 12333. However, since E.O. 12333 provides the framework for most of the work of the IC, the Board will continue to oversee additional counterterrorism activities conducted under E.O. 12333 for years to come. To identify the particular counterterrorism regulations, policies, procedures and activities that the Board will review in FY 2017, the Board will conduct regular outreach to the executive branch, Congress, other government and non-government entities and to the public. The Board will also work to ensure that its oversight reviews relate to agencies and components both outside and inside the IC and that they relate to civil liberties concerns in addition to privacy concerns.

The Board is currently engaged in a process of identifying specific new projects that it anticipates will be

commenced during the 2016 calendar year, and much of this work will continue into FY 2017. As stated in the Board's Strategic Plan, once the Board has selected new areas for oversight, it will, in a manner consistent with the protection of classified information, identify publicly the subjects of the Board's oversight reviews.

With regard to the Board's advice function, although the Board cannot predict the counterterrorism issues on which elements of the executive branch will seek the Board's advice, the Board will continue to conduct regular outreach to the executive branch, Congress, other government and non-government entities, and the public to assist the Board in identifying potential advice engagements. The agency is also working to develop the relationships necessary for the Board to engage with the executive branch early in the consideration of new authorities or proposals to retain or enhance existing governmental powers.

#### **MISSION SUPPORT SERVICES**

Mission support services have included developing the Board's management policies, core mission support activities, and compliance with other requirements imposed by Congress and the executive branch. The Board anticipates the following activities to be accomplished in FY 2017:

- Explore services that promote workplace flexibility and work-life



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balance;

- Develop, disseminate, and execute organizational processes in support of human resources policy, advisory services, and training requirements;
- Strengthen the Board’s security posture by continuing to standardize its security policy, procedures, and programs consistent with statutes, Presidential Directives, Executive Orders, and National Response Framework requirements;
- Continue to foster interagency relationships to acquire subject-matter expertise in areas relevant to the Board’s oversight and advice work; and
- Continue to leverage existing relationships with other U.S. Government agencies on the continued development of training curricula on security education and awareness.

**INFORMATION TECHNOLOGY**

Key I&IS anticipated performance:

- Complete transition of IT classified and unclassified infrastructure during mandatory office relocation, including conducting operational and security testing and evaluation and re-validating controls;
- Continue to mature the IT services provided to support business functions;
- Enable additional DHS services for Cybersecurity CDM;
- Implement IT and information assurance metrics to improve effectiveness, efficiencies, and security of the IT architecture;
- Develop partnerships with other small agency CIOs and Chief Information Security Officers (“CISOs”) to establish best practices and identify potential cost savings for capital planning; and
- Integrate OMB IT and IT Security guidance.



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## BOARD INTERACTIONS WITH THE INTELLIGENCE COMMUNITY, CONGRESS, AND THE PUBLIC

In FY 2015, Board Members and staff have had numerous interactions with Congress, the IC, and members of the public.

The congressional interactions have included meetings between individual Board Members and Members of Congress, as well as periodic meetings and briefings between PCLOB staff and staff for the congressional Appropriations, Intelligence, and Judiciary committees. The staff briefings have provided overviews of the Board's work as well as specific information regarding the Board's examination of counterterrorism activities conducted under E.O. 12333, including the Board's plans for in-depth reviews of counterterrorism activities at the CIA and NSA.

Board Members and PCLOB staff also meet regularly with representatives of a variety of IC components and other agencies, such as DHS, that conduct counterterrorism programs. These include briefings conducted by those agencies for the Board and PCLOB staff, and quarterly meetings between PCLOB staff and the civil liberties and privacy officers for the agencies. In addition, PCLOB staff stay in regular contact with the staff of other agencies by email and phone, both in connection with specific

Board projects and to keep each other apprised of relevant developments.

The Board has also engaged with the advocacy community and members of the public. This has included periodic meetings with representatives of non-governmental organizations to solicit their views, such as a meeting last winter to solicit input on the Board's examination of counterterrorism activities conducted under E.O. 12333. The Board has also conducted several open public meetings and hearings. For example, in May 2015, the Board held a public meeting at the National Constitution Center in Philadelphia, Pennsylvania. The meeting consisted of three panels of academics and other experts who assisted the Board in examining the history, constitutional implications, and oversight of counterterrorism activities conducted under E.O. 12333.

In addition, individual Board Members and staff leadership regularly speak at conferences, law school classes, and other public events to discuss the agency's work and issues relating to protecting privacy and civil liberties in the context of counterterrorism programs. Board Members have also met with representatives of Five Eyes and European Union countries.





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## STRATEGIC PLAN

The Privacy and Civil Liberties Oversight Board is an independent agency within the executive branch. First established by statute in 2007, the Board began operations in 2012, after the Senate confirmed the Board's initial four members.

The Board's mission is to conduct oversight and provide advice 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. Three key values guide the Board's activities: integrity, transparency, and rigor. The Board anchors its work in the vision of a nation that simultaneously counters terrorism and protects privacy and civil liberties.

In July 2015, the Board adopted a Strategic Plan for 2016 to 2018. With this plan, the Board establishes four strategic goals to support the agency's mission and guide its efforts through 2018:

**Strategic Goal 1:** Conduct effective oversight through reviews of

executive branch counterterrorism authorities and activities to ensure appropriate protections for privacy and civil liberties.

**Strategic Goal 2:** Provide effective advice regarding the consideration of privacy and civil liberties in the development and implementation of counterterrorism legislation, regulation, and policies.

**Strategic Goal 3:** To the extent consistent with the protection of classified information, promote transparency regarding Board activities and the aspects of executive branch counterterrorism efforts that impact privacy and civil liberties.

**Strategic Goal 4:** Continue establishing the Board's administrative, management, and governance capabilities.

The Board's strategic plan describes the objectives associated with each goal, as well as the strategies the Board will use to achieve such objectives.



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## FY 2017 BUDGET EXHIBITS

### RESOURCE EXHIBIT 1

FY 2014/2015 Appropriation Account – Salaries & Expenses	
<i>(Funding in Thousands)</i>	
<i>Appropriated</i>	<i>\$ 3,100</i>
<i>Funding Brought Forward, October 1, 2014</i>	<i>\$883</i>



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## FY 2017 BUDGET EXHIBITS

### RESOURCE EXHIBIT 2

FY 2015/2016 Appropriation Account – Salaries & Expenses	
	<i>(Funding in Thousands)</i>
<i>Appropriated</i>	<i>\$ 7,500</i>
<i>Funding Brought Forward, October 1, 2015</i>	<i>\$4,943</i>



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## FY 2017 BUDGET EXHIBITS

### RESOURCE EXHIBIT 3

FY 2016/2017 Appropriation Account – Salaries & Expenses	
	<i>(Funding in Thousands)</i>
<i>Appropriated</i>	\$21,297
<i>Senate Congressional Marks</i>	\$23,298
<i>House Congressional Marks</i>	\$19,500



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## FY 2017 BUDGET EXHIBITS

### RESOURCE EXHIBIT 4

FY 2017 Budget Request – Salaries & Expenses	
	<i>(Funding in Thousands)</i>
<i>FY 2017 Budget Request</i>	<i>\$10,081</i>
<i>Positions</i>	<i>37</i>
<i>Full-Time Equivalents (FTE)</i>	<i>37</i>



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## FY 2017 BUDGET EXHIBITS

### RESOURCE EXHIBIT 5

FY 2017 Budget Request by Object Class		
		<i>(Funding in Thousands)</i>
<b>Object Class</b>		<b>FY 2017 Request</b>
<i>Personnel Services</i>		
11.1	<i>Full-Time Permanent</i>	\$4,805
11.3	<i>Other than Full-Time Permanent</i>	\$311
11.5	<i>Other Personnel Compensation</i>	\$256
11.8	<i>Special Personal Services Payments</i>	\$175
12.1	<i>Civilian Personnel Benefits</i>	\$1,254
<i>Non-Personnel Services</i>		
21.0	<i>Travel and Transportation of Persons</i>	\$110
22.0	<i>Transportation of Things</i>	\$10
23.1	<i>Rental Payments to GSA</i>	\$1,000
23.3	<i>Communications, Utilities, and Misc. Charges</i>	\$407
24.0	<i>Printing and Reproduction</i>	\$50
25.1	<i>Advisory and Assistance Services</i>	\$822
25.2	<i>Other Services from Non-Federal Sources</i>	\$170
25.3	<i>Other Goods and Services from Federal Sources</i>	\$318
26.0	<i>Supplies and Materials</i>	\$130
31.0	<i>Equipment</i>	\$263
<b>Total</b>		<b>\$10,081</b>



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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

## ACRONYMS

**BYOD** – Bring Your Own Device.

**CDM** – Continuous Diagnostics and Mitigation.

**CIO** – Chief Information Officer.

**CMO** – Chief Management Officer.

**CSO** – Chief Security Officer.

**DHS** – Department of Homeland Security.

**DoD** – Department of Defense.

**E.O.** – Executive Order.

**ED** – Executive Director.

**FIPS** – Federal Information Protection Standards.

**FISMA** – Federal Information Security Management Act.

**FTE** – Full-time Equivalents.

**FY** – Fiscal Year.

**GC** – General Counsel.

**GSA** – General Services Administration.

**HSPD** – Homeland Security Presidential Directive.

**IC** – Intelligence Community.

**I&IS** – IT and Information Security.

**ISDN** – Integrated Services Digital Network.

**IT** – Information Technology.

**JWICS** – Joint Worldwide Intelligence Communications System.

**LAO** – Legislative Affairs Officer.

**MTIPS** – Managed Trusted Internet Protocol Services.

**NSI** – National Security Information.

**ODNI** – Office of the Director of National Intelligence.

**OMB** – Office of Management and Budget.

**OPM** – Office of Personnel Management.

**OSTP** – Office of Science and Technology Policy.

**PAO** – Public Affairs Officer.

**PCLOB** – The Privacy and Civil Liberties Oversight Board.

**PIV** – Personal Identity Verification.

**PM-ISE** – Program Manager for the Information Sharing Environment.

**PPD** – Presidential Policy Directive.

**SCIF** – Sensitive Compartmented Information Facility.

**SME** – Subject-Matter Experts.

**TIC** – Trusted Internet Connection.

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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

ERRATA TO  
PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD  
FY 2017 BUDGET JUSTIFICATION SUMMARY

On page 12 of the Privacy and Civil Liberties Oversight Board Fiscal Year 2017 Budget Justification Summary, the funding referenced with regard to the delta between the FY 2016 Enacted Funding Level of \$21,297 (in thousands) and the FY 2017 Request of \$10,081 (in thousands) should read: \$11,216 (in thousands). Due to a typographical error, the delta is incorrectly listed as \$11,210 (in thousands).

The FY 2016 Enacted and FY 2017 Request was referenced on page 12 in the chart, narrative and in both footnotes on that page.