

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

(Small-Volume Agency)

2019 CHIEF FOIA OFFICER REPORT

Chief FOIA Officer: Eric Broxmeyer, General Counsel

I. INTRODUCTION

The Privacy and Civil Liberties Oversight Board (PCLOB or Board) recognizes that the Freedom of Information Act (FOIA) is a fundamental element of Open Government. By applying a presumption of openness and maintaining effective FOIA operations, the PCLOB seeks to expand the availability of information about the agency's programs and operations to the public.

This report describes the steps undertaken by the PCLOB to implement FOIA during this reporting period (March 2018 – March 2019). Although the PCLOB is a small agency, it is committed to administering its obligations under the FOIA with a presumption of openness and ensuring that our system to respond to FOIA requests operates efficiently. The Board is also committed to evaluating documents for proactive disclosure, looking for opportunities to greater utilize technology in our FOIA processes, and finding ways to improve timelines in responding to FOIA requests.

In terms of training, the PCLOB's Acting FOIA Officer attended a two-day FOIA training for attorneys and access professionals during the reporting period. Also during this period, the former Chief FOIA Officer and the former FOIA Public Liaison reviewed additional FOIA training materials.

Following a lengthy sub-quorum period, the newly quorate Board also recently designated new individuals to serve in the roles of FOIA Officer, FOIA Public Liaison, and Chief FOIA Officer. In particular, the FOIA Officer is now a new hire for whom FOIA is his first and foremost priority, which is consistent with the PCLOB's commitment to transparency. The FOIA Officer is the PCLOB professional who initially processes individual FOIA requests and responds to requestor inquiries. The appointment of a full-time FOIA Officer demonstrates the PCLOB's continued focus on responding to all FOIA requests in a timely and comprehensive manner. FOIA will continue to be a priority for the Board.

II. PRESUMPTION OF OPENNESS

As described in previous Chief FOIA Officer Reports submitted by the PCLOB, the presumption of openness is an inherent principle of our FOIA practice. While the review of records for release occurs on a case-by-case basis, the FOIA Officer reviews a responsive record that may be subject to a FOIA exemption to determine whether (a) the applicable exemption permits release under the foreseeable harm standard, and (b) whether the PCLOB's interest that

is protected by the exemption would be harmed. If the responsive record is subject to an exemption that permits release and the agency would not suffer harm, the PCLOB will release that record. The Board's practice is to disclose as much information as possible in a manner that is consistent with protecting pre-decisional and deliberative information, as well as national security, physical security, systems security, personal privacy, and law enforcement interests.

To foster increased transparency, the PCLOB maintains a public website that provides access to official PCLOB correspondence, the Board's Semi-Annual Reports to Congress, as well as Federal Register notices for the Board's public meetings or events and the resulting comments from the public. Furthermore, all the PCLOB's required FOIA reports are publicly available on the website.

With leadership input, the PCLOB's Acting FOIA Officer works with information technology staff to post information on our website. The Board's Chief FOIA Officer and Acting FOIA Officer evaluate records for proactive disclosure by means of professional judgment, public feedback, review of FOIA requests received, and analysis of correspondence and requests.

Throughout the reporting period, the PCLOB continued to proactively post information about the Board's activities on its website, <https://www.pclob.gov>.

PPD-28 Report Release

During this reporting period, the PCLOB released and posted online its report on the implementation of Presidential Policy Directive 28 (PPD-28), which provides principles to guide how the United States conducts signals intelligence activities for authorized foreign intelligence and counterintelligence purposes. This report was the subject of numerous FOIA requests and its release demonstrates the PCLOB's commitment to furthering transparency efforts by keeping the public informed about the PCLOB's role in overseeing federal government counterterrorism activities and appropriately balancing those activities with national security and privacy and civil liberties interests.

III. EFFECTIVENESS OF PCLOB'S SYSTEM FOR RESPONDING TO FOIA REQUESTS

The PCLOB's system for responding to FOIA requests has become more streamlined as the Board continues to refine its operations. The PCLOB uses specific internal procedures that are triggered when a FOIA request is received to ensure that it receives a timely response. For example, the PCLOB uses individualized tracking numbers to track requests and ensure that response times are prompt.

Additionally, the PCLOB is committed to administering its FOIA-related responsibilities in the spirit of cooperation. The Board routinely corresponds with requesters though email and telephone to ensure that the Board's response will result in relevant information and is processed in the most effective manner. The Board also provides requesters the option to contact the PCLOB with questions to efficiently address issues with individual FOIA requests.

The PCLOB has posted instructions for filing a FOIA request on our website.

IV. STEPS TAKEN TO INCREASE PROACTIVE DISCLOSURES

The Board's Chief FOIA Officer and FOIA Officer make determinations concerning the proactive disclosure of records by means of professional judgment, public feedback, review of FOIA requests received, and analysis of correspondence and requests. Importantly, the PCLOB is committed to the disclosure of records that are of particular importance to the agency's work, such as those related to the publication of PPD-28, as described in Section II above.

V. STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

The PCLOB continues to seek opportunities to utilize technology in our efforts to implement FOIA. Currently, the Board's FOIA Officer uses Adobe Acrobat Pro for efficiently performing all redactions in accordance with FOIA exemptions. The PCLOB also worked with the Department of Justice's Office of Information Policy to develop the PCLOB's public-facing page on the FOIA Portal, which serves as the online portal that allows the public to submit requests for records under FOIA to any federal agency from a single website. The PCLOB has provided additional text on its portal page to clarify the agency's mission and provide greater transparency to foster more responsive FOIA requests from the public.

The PCLOB also continues to consider ways to make its website more useful and user-friendly for requesters who seek to submit a FOIA request.

VI. TIMELINESS IN RESPONDING TO REQUESTS AND REDUCING BACKLOGS

The PCLOB timely responded to all requests received during the reporting period, although some requests were sent for consultations with other agencies. During the next reporting period, the Board's new FOIA Officer will work with the Chief FOIA Officer to identify additional opportunities to improve our FOIA operations and response times.

VII. CONCLUSION

As the PCLOB continues to grow, FOIA remains at the forefront of our priorities. The Board has a statutory mandate to inform the public, consistent with its obligations to protect classified and other sensitive information. The disclosure of information pursuant to FOIA requests and through proactive disclosures is one of the primary ways in which the Board satisfies its obligation to inform the public.