

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

(Small-Volume Agency)

2021 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 2020 – March 2021). Although the PCLOB is a small agency, it is committed to administering 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 to respond to FOIA requests.

The Coronavirus pandemic introduced unique challenges to the PCLOB's FOIA operations, including opportunities to attend FOIA trainings. Despite these challenges, the Board's FOIA Officer attended two virtual FOIA trainings for attorneys and access professionals during the reporting period.

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 agency's FOIA practice. While the review of records for release occurs on a case-by-case basis, the FOIA Officer reviews responsive records 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 redesigned its public website to be more user-friendly, and so the public may easily find official PCLOB correspondence, the Board's Oversight Reports, the Board's Semi-Annual Reports to Congress, and information about the

PCLOB's public meetings or events. All the PCLOB's required FOIA reports are also available on the public website.

With leadership input, the PCLOB's FOIA Officer works with information technology staff and our third-party provider to publish information onto our website. The Board's Chief FOIA Officer and 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 publish information about the Board's activities on its website, <https://www.pclob.gov>.

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 the request 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 FOIA in the spirit of cooperation and routinely corresponds with requesters through 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.

V. STEPS TAKEN TO GREATER UTILIZE TECHNOLOGY

The PCLOB continues to seek opportunities to utilize technology in our efforts to implement the FOIA. During the reporting period, the Board redesigned its website to be more user-friendly and so the public may easily find information about the Board's reports and activities. The PCLOB's FOIA Officer uses the latest version of Adobe Acrobat for efficiently performing all redactions in accordance with FOIA exemptions. The PCLOB also works with the Department of Justice's Office of Information Policy to ensure that the information on the PCLOB's public-facing page on the FOIA Portal is updated and current. 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.

VI. TIMELINESS IN RESPONDING TO REQUESTS AND REDUCING BACKLOGS

The Coronavirus pandemic introduced unique challenges to the PCLOB's FOIA operations, including its ability to produce timely responses to FOIA requests in some rare instances. To meet these challenges, the PCLOB affirmed its commitment to provide email and telephone updates to FOIA requesters about the status of their requests, including when the PCLOB directed the requests to other agencies for consultation. During the next reporting period, the Board's FOIA Officer will work with the Chief FOIA Officer to identify opportunities to improve our FOIA operations and response times, especially as the Board continues to navigate the Coronavirus pandemic.

VII. CONCLUSION

As the PCLOB continues to navigate the Coronavirus pandemic and refine its operations, FOIA remains at the forefront of the Board's 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.