



U.S. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Board Members Ed Felten and Travis LeBlanc's Statement on Executive Order 12333 Public Report

April 2, 2021

Today, the Privacy and Civil Liberties Oversight Board ("PCLOB" or "the Board") brings to conclusion its initial oversight review of Executive Order 12333 ("E.O. 12333") through release of a public report. We thank the PCLOB staff and the Intelligence Community ("IC") for their diligence in working to support the PCLOB's efforts on this report.

In general, [Executive Order 12333](#) establishes the overarching framework for United States intelligence activities and outlines "general principles . . . intended to achieve the proper balance between the acquisition of essential information and protection of individual interests." It is then the responsibility of the 17 individual IC elements to implement E.O. 12333 and apply its general principles to each element's specific intelligence activities.

Accordingly, as the project progressed, it unfortunately proved difficult and impractical for the Board to address the full framework of counterterrorism activities governed by E.O. 12333. Additionally, as noted in the report, most of the Board's work on E.O. 12333 remains classified.

Accepting these facts, we voted to approve this report for two primary reasons. First, this report is the only public, unclassified document released by PCLOB regarding our initial review of the privacy and civil liberties implications of counterterrorism activities undertaken pursuant to E.O. 12333. The Board completed three additional deep dive reviews of activities conducted under E.O. 12333 by the CIA (2) and NSA (1) that have been provided to Congress and the respective agencies. We found that those classified deep dive reviews ultimately were more meaningful and impactful regarding our balancing of privacy and civil liberties with national security value compared to what we could say publicly in an unclassified manner about E.O. 12333.

Second, our Board is a relatively small agency with limited resources. When presented with the option to carry on with a very broad oversight review of E.O. 12333, balanced against our need also to work on other timely, critical, and impactful issues affecting the privacy and civil liberties of Americans, we decided that there are other important issues today that demand our attention. We believe the Board now can and should focus its resources on other projects, which likely will continue to include oversight of specific counterterrorism activities conducted under E.O. 12333.

We look forward to the future where we can work with our fellow Board Members on issues such as:

1. Domestic terrorism, including implications for First Amendment-protected activities and minority groups;
2. Any use of counterterrorism authorities or resources directed at movements, protesters, demonstrations, or other public gatherings, such as the events following the killing of George Floyd last year;
3. The use of new and enhanced technologies to support counterterrorism activities, including facial recognition technology, artificial intelligence, information technology vulnerabilities, responses to changes in encryption technology, and other surveillance mechanisms;
4. Counterterrorism efforts directed at specific communities and/or narratives (such as Countering Violent Extremism programs), including First Amendment implications for speech, religion, and association; and
5. Federal government use of commercially-available or open source data (e.g., social media) for counterterrorism purposes.

As terrorism threats evolve, so, too, must the Board's priorities. Fortunately, the Board's staff is comprised of innovative, dedicated, and expert individuals who every day demonstrate their commitment to the Board's mission. We are grateful for their continued diligence in safeguarding privacy and civil liberties. And we are excited about the opportunity to continue our important work in the months and years to come.