



U.S. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

SEMI-ANNUAL REPORT

JANUARY - JUNE 2024

Privacy and Civil Liberties Oversight Board

Semi-Annual Report: January - June 2024

AUGUST 2024

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
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WASHINGTON, DC 20002

This report is available at www.pclob.gov/SemiAnnual.
Send comments or questions to info@pclob.gov or to the mailing address above.

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REPORT DISTRIBUTION

In accordance with Section 801 of the Implementing Recommendations of the 9/11 Commission Act of 2007, the Privacy and Civil Liberties Oversight Board is providing this Semi-Annual Report, which covers the period from January 2024 to June 2024, to the President and the Members of Congress listed below.

The Honorable Joseph R. Biden, Jr.
President of the United States of America

The Honorable Patty Murray
Chair
U.S. Senate Committee on Appropriations

The Honorable Susan Collins
Vice Chair
U.S. Senate Committee on Appropriations

The Honorable Tom Cole
Chair
U.S. House of Representatives Committee on Appropriations

The Honorable Rosa DeLauro
Ranking Member
U.S. House of Representatives Committee on Appropriations

The Honorable Gary C. Peters
Chair
U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Rand Paul
Ranking Member
U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Mark Warner
Chair
U.S. Senate Select Committee on Intelligence

The Honorable Marco Rubio
Vice Chair
U.S. Senate Select Committee on Intelligence

The Honorable Mike Turner
Chair
U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Jim Himes
Ranking Member
U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Richard Durbin
Chair
U.S. Senate Committee on the Judiciary

The Honorable Lindsey Graham
Ranking Member
U.S. Senate Committee on the Judiciary

The Honorable Jim Jordan
Chair
U.S. House of Representatives Committee on the Judiciary

The Honorable Jerrold Nadler
Ranking Member
U.S. House of Representatives Committee on the Judiciary

The Honorable Mark Green
Chair
U.S. House of Representatives Committee on Homeland Security

The Honorable Bennie Thompson
Ranking Member
U.S. House of Representatives Committee on Homeland Security

The Honorable James Comer
Chair
U.S. House of Representatives Committee on Oversight and Accountability

The Honorable Jamie Raskin
Ranking Member
U.S. House of Representatives Committee on Oversight and Accountability



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EXECUTIVE SUMMARY

In accordance with its enabling statute, 42 U.S.C. § 2000ee, this Semi-Annual Report has been developed by the Privacy and Civil Liberties Oversight Board (PCLOB) for distribution to the President of the United States and to appropriate committees of Congress, as listed on the preceding Report Distribution. This report describes PCLOB's major activities from January 2024 through June 2024, providing information on findings, conclusions, and recommendations of PCLOB resulting from its authorized advice and oversight functions.

PCLOB is an independent agency within the executive branch, established in its current form by the Implementing Recommendations of the 9/11 Commission Act of 2007.¹ A bipartisan, five-Member Board, each appointed by the President and confirmed by the Senate, ensures that the Federal Government's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties. PCLOB conducts oversight and provides advice regarding executive branch regulations, policies, procedures, and activities related to efforts to protect the nation from terrorism.

During the reporting period of this Semi-Annual Report, PCLOB conducted several oversight projects, including but not limited to:

- Facial Recognition in Aviation Security;
- Government Efforts to Address Foreign Racially Motivated Violent Extremist Organizations;
- The National Counterterrorism Center;
- Domestic Terrorism; and
- The Terrorist Watchlist.

¹ Pub. L. No. 110-53 § 801 (2007), codified at 42 U.S.C. § 2000ee.



PCLOB remained committed to enhancing its workforce throughout the reporting period by increasing its efforts to obtain a more diverse workforce. Additionally, PCLOB has taken initial steps to improve the agency's organizational health and performance as PCLOB's newly designated Performance Improvement Officer began efforts to lead our agency in the assessment and update of the agency's work environment plan as well as guiding leadership in the development of new performance targets and measurement procedures.

PCLOB maintained administrative, managerial, and organizational capabilities, allowing the agency to operate while recognizing accomplishments in regard to its human resources and financial management, information technology, and security of agency data, among other things.



MISSION ACTIVITIES

Oversight Function

Facial Recognition in Aviation Security

PCLOB continued its ongoing review of the use of facial recognition in aviation security. The Transportation Security Agency (TSA) has piloted Credential Authentication Technology (CAT) machines to employ facial recognition at domestic airports. In 2023, TSA awarded a significant contract to acquire these devices to deploy the technology nationwide. PCLOB's review will provide transparency regarding how this CAT technology works and provide the public with a better understanding of this screening process as it is deployed at additional airports. Additionally, PCLOB continued to track developments regarding advanced and emerging technologies through an artificial intelligence and machine learning working group and will consider various areas for possible oversight and advice.

Government Efforts to Address Foreign Racially Motivated Violent Extremist Organizations

Section 824 of the Consolidated Appropriations Act of 2022 directed PCLOB to assess adverse impacts on the privacy and civil liberties of Americans concerning the use or recommended use of any federal laws, regulations, and policies used to address significant threats to the United States and Americans associated with foreign racially motivated violent extremist organizations. PCLOB has been coordinating with intelligence agencies to gather information needed to produce the report, which will include recommendations on options to develop protections to mitigate such adverse impacts.

Domestic Terrorism

PCLOB continued its oversight project examining government policies and activities designed to counter domestic terrorism. PCLOB is focusing this project on the impact on First Amendment rights and the impact on privacy and civil liberties of particular groups, such as those with shared racial, religious, political, or ideological affiliations. PCLOB staff have begun meeting with staff from relevant agencies and gathering information in support of this oversight review.



Terrorist Watchlist

PCLOB has been reviewing the operation of the Terrorist Screening Database, commonly known as the Terrorist Watchlist (Watchlist), which contains information on known and suspected terrorists. PCLOB staff has maintained regular engagement with the Terrorist Screening Center (TSC), which manages the Watchlist, during this reporting period. PCLOB is working to finalize recommendations regarding the Watchlist program operation.

Other Active Oversight Projects

PCLOB staff continued its work on several other projects during the first half of 2024, including, among other things, a review of the FBI's acquisition and use of data from open-source or commercially available sources as part of its efforts to protect the nation against terrorism.

Agency staff also continued a review of the National Counterterrorism Center's (NCTC's) access to and handling of datasets containing non-terrorism information and assessing, among other things, whether NCTC's policies and practices concerning such materials are consistent with governing laws, regulations, and policies and appropriately balance privacy and civil liberties interests with national security interests relating to counterterrorism.²

Advice Function

PCLOB's advice is valued by other executive branch agencies. Since 2016, PCLOB has provided advice on every significant issuance, revision, or re-issuance by an Intelligence Community (IC) element of its Attorney General-approved guidelines governing the handling of U.S.-person information collected under Executive Order 12333, *United States Intelligence Activities*.³

Other Mission Activities

Coordination of Executive Branch Privacy and Civil Liberties Activities

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 requires agencies' Privacy and Civil Liberties (PC/L) officers to issue Semi-Annual Reports about their activities to their respective agency heads,

² PCLOB Projects, <https://www.pclob.gov/Projects>.

³ E.O. 12333, United States Intelligence Activities (<https://www.archives.gov/federal-register/codification/executive-order/12333.html>)



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Congress, and PCLOB. PCLOB regularly receives and reviews Section 803 reports from federal departments and agencies.

PCLOB's authorizing statute instructs the agency to advise covered agencies on their efforts to protect privacy and civil liberties and to coordinate those activities on relevant interagency matters. As such, PCLOB has regular interactions with agency PC/L officers, promoting information sharing of privacy best practices.

Outreach to the Public, Congress, and Other Federal Agencies

The Board is committed to ensuring that its work is available, relevant, and informative for the public, Congress, and other federal agencies. The Board strives to be a valuable resource to Congress through its work and written reports, briefings, and testimony on matters within the Board's jurisdiction. The Board's statute also requires it to "hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law."⁴

During the reporting period, Board Members provided, among other things, multiple briefings on Capitol Hill regarding congressional deliberations on the reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA).⁵ Board Members continue to remain available to provide technical assistance on legislative matters and testify about matters within the agency's jurisdiction.

To foster a better understanding of its mission and work, Board Members continued to speak at events hosted by other government agencies, as well as by a variety of groups and organizations, including bar associations and educational institutions. Board Members and staff also continued their past practice of interacting with representatives of non-governmental organizations, international counterparts, and other entities with interest in issues within the Board's jurisdiction.

⁴ 42 U.S.C. § 2000ee(f)(2)

⁵ Board Members provided a detailed analysis of FISA Section 702 in the agency's "Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act." The report, released in September 2023, can be found at www.pclob.gov/Oversight.



OPERATIONAL ACTIVITIES

During the reporting period, PCLOB further strengthened its institutional capacity by working to bolster its workforce, cybersecurity posture, and financial controls.

Workforce

The work performed by PCLOB's staff requires an agile and diverse mix of talent equipped with critical skills that align with the evolving strategic workforce needs of the agency. As funds have allowed each year, the agency has sought to fill vacancies and grow its staff by recruiting skilled professionals with backgrounds in intelligence, counterterrorism, privacy and civil liberties, oversight and investigations, federal accounting, human resources, and information technology. During the reporting period, PCLOB hired several new staff members to contribute to mission projects and agency operations.

PCLOB continues to implement the agency's Diversity, Equity, Inclusion, and Accessibility (DEIA) Strategic Plan to advance and embed DEIA throughout PCLOB's workforce. Throughout the reporting period, the PCLOB DEIA Team met regularly to discuss work performed and what actions were still necessary to achieve goals defined in both the DEIA Strategic Plan and the annual progress reports. In May 2024, PCLOB issued its DEIA Annual Progress Report for 2023, highlighting the agency's accomplishments as well as opportunities for growth. PCLOB also hired a new part-time EEO Director, a role previously performed as a collateral duty for another PCLOB staff member. The new EEO Director's responsibilities include co-leading the agency's DEIA Team.

PCLOB has also been working to respond to guidance from the Office of Management and Budget (OMB) on measuring, monitoring, and improving organizational health and organizational performance. The agency's first Performance Improvement Officer, appointed in September 2023, has been working closely with leadership to develop new performance targets which correlate with mission, service, stewardship, and other crosscutting strategic objectives in the agency's 2022-2026 Strategic Plan, as well as procedures for tracking and reporting progress. While these efforts may take time to fully implement, the cumulative performance reviews will foster a culture of continuous learning and improvement, with data and evidence gathered from periodic performance reviews being used to continually improve planning, performance, evaluation, and budgeting processes.



Information Technology Systems and Cybersecurity

PCLOB's information technology (IT) staff remains focused on solidifying the agency's cybersecurity posture while maintaining infrastructure and strategies to support a hybrid work environment.

Information security continues to be a top priority for the agency. During the reporting period, the independent review of PCLOB's information security controls found the controls to be effective. PCLOB's annual Federal Information Security Management Act (FISMA) audit concluded that its internal controls were effective in protecting information resources. Two independent penetration tests detected no critical or high vulnerabilities across PCLOB's network infrastructure.

PCLOB did not experience any major cybersecurity incidents during the reporting period.

PCLOB continues to leverage shared-service providers and contractor support to augment its boundary protection. IT staff implemented, maintained, and documented technical controls to comply with federal standards and DHS's Cross-Agency Priority Goals for cybersecurity. These goals include managing asset security, protecting networks and data, and limiting personnel access. In the coming months, PCLOB will continue to focus its efforts on implementation of Zero Trust strategies.

Financial Management

PCLOB has maintained its positive momentum in improving its financial management. In May 2024, PCLOB received its second Certificate of Excellence in Accountability Reporting (CEAR) award from the AGA, who presents the esteemed award each year to federal agencies that produce high-quality Performance and Accountability Reports (PAR) and Agency Financial Reports (AFR). The AGA praised the PCLOB AFR as being "informative, well organized, and professionally written." Further, PCLOB received a special award for "Demonstrated Commitment to Improving Accountability Reporting", praising the agency's commitment to excellence in accountability reporting as "noteworthy and a tribute to its leadership and staff." PCLOB was the smallest federal agency in both 2022 and 2023 to receive an award for its PAR or AFR.



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The Office of the Chief Financial Officer has continued to strengthen PCLOB's fiscal management by:

- Maximizing efficiencies through shared service providers for financial, payroll and human resources, and procurement services;
- Scrutinizing numerous new procurement efforts for cost savings; and
- Enhancing the agency's budget monitoring process.

Protecting Classified and Sensitive Information

PCLOB maintains its focus on protecting sensitive and classified materials. The agency continues to engage in government-wide efforts to modernize the security clearance process. This includes continued implementation of Trusted Workforce (TW) 2.0 and NSPM-28, which directs agencies to implement an Operations Security (OPSEC) program and allows PCLOB's insider threat program to maintain the standards required by EO 13587, *Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information*. PCLOB also continues its efforts to ensure Controlled Unclassified Information (CUI) received from other agencies is protected.

CONCLUSION

PCLOB continued to fulfill its statutory mission during the first half of 2024, addressing key issues to ensure that efforts to protect the nation against terrorism also safeguard privacy and civil liberties. The agency looks forward to further engagement with Congress, the public, and other stakeholders while identifying future oversight projects and transparency initiatives.

PCLOB appreciates the collaborative efforts of Congress, the executive branch, nongovernmental organizations, private-sector entities, and members of the public who have engaged with this agency in support of its mission.