



Privacy and Civil Liberties Oversight Board

# SEMI-ANNUAL REPORT

*Working to ensure that efforts by the Executive Branch to protect the nation from terrorism appropriately safeguard privacy and civil liberties.*

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July 2020

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# **PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD**

Semi-Annual Report  
July 2020

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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 (PCLOB or the Board) is providing this Semi-Annual Report, which covers the period from January 2020 to July 2020, to the President and the Members of Congress listed below.

The Honorable Richard Shelby  
Chairman  
U.S. Senate Committee on Appropriations

The Honorable Patrick Leahy  
Vice Chairman  
U.S. Senate Committee on Appropriations

The Honorable Ron Johnson  
Chairman  
U.S. Senate Committee on Homeland Security and Governmental Affairs

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

The Honorable Marco Rubio  
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The Honorable Mark Warner  
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The Honorable Lindsey Graham  
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The Honorable Carolyn B. Maloney  
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The Honorable James Comer  
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U.S. House of Representatives Committee on Oversight and Reform

The Honorable Jerrold Nadler  
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The Honorable Jim Jordan  
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The Honorable Nita M. Lowey  
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The Honorable Kay Granger  
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The Honorable Bennie G. Thompson  
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The Honorable Mike Rogers  
Ranking Member  
U.S. House of Representatives Committee on Homeland Security

The Honorable Adam Schiff  
Chairman  
U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Devin Nunes  
Ranking Member  
U.S. House of Representatives Permanent Select Committee on Intelligence

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# Introduction

Because of the COVID-19 pandemic and stay-at-home orders that defined a significant part of the reporting period, the Board implemented its Continuity of Operations (COOP) plan, which enabled Board Members and staff to quickly adapt to the difficult and evolving circumstances our nation continues to face. The Board's highest priority remains continuing to work to fulfill its oversight and advice functions while ensuring the health and safety of Board Members and staff, as well as the many stakeholders and government officials that have ongoing interactions with the Board.

During the reporting period, the Board continued to work on more than a dozen oversight and advice projects.

In February 2020, the Board released its first major report since returning to a full panoply of Board Members. The [report](#) examined the National Security Agency (NSA)'s collection of Call Detail Records (CDR) under the USA FREEDOM Act.<sup>1</sup> The report was the result of a year-long examination of the CDR program that began in January 2019.

Consistent with its ongoing goal of ensuring transparency consistent with the protection of classified information, the Board was successful in its efforts to obtain declassification of several important, never disclosed facts about the program. The Board also provided a classified version of the report to the Congress and other cleared recipients in the government.

During the reporting period, the Board has also prioritized its project on the use of facial recognition in airports by the Department of Homeland Security. This oversight project, titled "From Booking to Baggage Claim," is an examination of how facial recognition and other biometric technologies are used to verify identity at each phase of an air travel journey. The Board is considering both operational benefits and privacy and civil liberties concerns arising from the use of biometric technologies in the aviation-security context.

In addition to many virtual and in-person meetings and briefings related to this project, the Board visited two airports, McCarran International Airport and Atlanta Hartsfield Jackson International Airport, to observe first-hand and discuss the current uses and development of facial recognition in the aviation environment. The Board plans to hold a virtual public forum on this project this fall and hopes to release a written product with recommendations later this year.

The Board has also taken several steps to further inform itself about the use of Title I of the Foreign Intelligence Surveillance Act (FISA) by the Federal Bureau of Investigation (FBI) and Department of Justice. On June 24, 2020, the Board held a virtual public forum to discuss the past and future of FISA.<sup>2</sup> The virtual event provided Board Members with a diverse range of viewpoints on the FISA process, the law's use for counterterrorism, challenges for privacy and civil liberties, and proposals for changes in the law.

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<sup>1</sup> The report and an accompanying fact sheet can be found on the Board's website, [www.pclob.gov](http://www.pclob.gov).

<sup>2</sup> A video recording of the FISA virtual public forum can be found on the Board's website: <https://www.pclob.gov/Projects/Details/85>.

As part of the Board's continuing oversight of FISA, the FBI and Department of Justice were asked to provide the Board with documents and information regarding counterterrorism-related FISA applications. These responses are expected to be classified. In addition, the Board invited nearly two dozen FISA experts representing a diverse range of views to submit written comments that will be posted to the Board's website.

As state and local jurisdictions in the Washington, DC area moved into more advanced phases of the COVID-19 quarantine reopening process, the Board has implemented a rigorous health protocol to enable Board Members and staff to use the agency's Sensitive Compartmented Information Facility (SCIF) for work on classified oversight projects. The protocol in part permits a limited number of Board Members and staff wearing masks to be in the SCIF at any given time to ensure social distancing.

During the reporting period, the Board also had several significant accomplishments on the operational side of the agency.

In April 2020, the Board's second audit of its financial statements was completed and resulted in an unmodified (clean) audit opinion with no required audit adjustments. Three weaknesses that auditors identified in the Board's first audit were completely remediated. Additionally, the Board's first full internal controls assessment found no waste, fraud, or abuse. These findings are a result of the Board's commitment to implementing robust controls and achieving the highest level of federal financial management.

The Board also continued to build a workforce equipped with the skills required to achieve its mission. The Board increased its staffing level from less than 50 percent in early fiscal year (FY) 2019 to nearly 90 percent in FY 2020. Key filled positions include additional oversight attorneys and analysts, a full-time accountant, and the appointment of a Chief Financial Officer.

Efforts by the Board's Information Technology (IT) staff helped to ensure a seamless transition to remote unclassified work after state and local officials mandated stay-at-home orders. Continued efforts to strengthen the agency's cybersecurity posture led to a 100 percent rating on the Board's 2019 FISMA Audit.

As the challenges related to the pandemic continue into the next reporting period, the Board is well-positioned to continue pursuing its vigorous oversight and advice agenda, despite these challenging circumstances.

## I. Board Background and Authorities

The Board 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.<sup>3</sup> The bipartisan, five-member Board is appointed by the President and confirmed by the Senate.

The Board's mission is to ensure that the Executive Branch's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.

The Board's enabling statute authorizes it to review and analyze 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 to ensure that liberty concerns are considered in the development and implementation of laws, regulations, and policies related to efforts to protect the nation from terrorism.

Under the statute, the Board has two primary functions: oversight and advice.

- 1) In its oversight role, the Board is charged with continually reviewing the regulations, policies, and procedures of the Executive Branch, as well as other actions to protect the nation from terrorism, to ensure that such actions (i) protect privacy and civil liberties; and (ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.<sup>4</sup>
- 2) Under the Board's advice function, Executive Branch agencies are able to consult with the Board at an early stage in the development of new policies, programs, guidelines, or regulations, to ensure that privacy and civil liberties protections are factored into their initial design.<sup>5</sup>

The Board also coordinates with agency Privacy Officers. Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 requires certain Executive Branch departments and agencies to designate at least one senior official as a privacy and civil liberties officer and issue reports about their activities.<sup>6</sup> The Board's authorizing statute directs the Board to make recommendations to these Privacy Officers regarding their activities and to coordinate those activities on relevant interagency matters.<sup>7</sup>

The Board also has responsibilities under Executive Order 13636 on Critical Infrastructure Cybersecurity and Presidential Policy Directive 28 (PPD-28) on authorized signals intelligence.

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<sup>3</sup> Pub. L. No. 110-53, § 801 (2007), codified at 42 U.S.C. § 2000ee.

<sup>4</sup> 42 U.S.C. § 2000ee(d)(2).

<sup>5</sup> *Id.* § 2000ee(d)(1).

<sup>6</sup> Pub. L. No. 110-53 § 803 (2007), codified at 42 U.S.C. § 2000ee-1(a). The entities covered are the Office of the Director of National Intelligence, the Central Intelligence Agency, National Security Agency, Federal Bureau of Investigation, and the Departments of Defense, Health and Human Services, Homeland Security, Justice, and Treasury. *Id.* § 2000ee-1(f). Before its amendment in 2014, the statute required quarterly reports.

<sup>7</sup> 42 U.S.C. § 2000ee(d)(3). In addition, the Board may designate new departments, agencies, or elements of the Executive Branch for coverage by the requirements of Section 803. *See id.* § 2000ee-1(a).

## II. Executive Summary of Board Activities During the Reporting Period

This section highlights the Board’s oversight activities, provision of advice to other federal agencies, and organizational and managerial activities during the reporting period. These activities are described in greater detail in parts III and IV of this report.

*Oversight.* The Board continued to conduct vigorous oversight of efforts by the Executive Branch to protect the nation against terrorism. As reported in the previous Semi-Annual report, in February 2020, the Board issued an oversight report on the collection of CDRs under the USA FREEDOM Act of 2015, to help inform Congress as it continues to consider reauthorization of that Act.

As part of the Board’s continuing oversight of FISA, the Board held a June 24, 2020 virtual public forum to examine the past and future of FISA in light of recent Department of Justice Inspector General reports on the law’s use.<sup>8</sup> The forum provided Board Members the opportunity to hear a diverse range of viewpoints on the FISA process, the law’s use for counterterrorism, challenges for privacy and civil liberties, and proposals for changes to the law.

In addition, the FBI and Department of Justice were asked to provide documents and information regarding counterterrorism-related FISA applications. The responses are expected to be classified. Moreover, the Board invited nearly two dozen FISA experts representing a diverse range of views to submit written comments that will be posted to the Board’s website.

The Board continued to focus on its oversight project related to the use of facial recognition in aviation security. In addition to the visits to McCarran International Airport and Atlanta Hartsfield Jackson that provided Board Members first-hand insight into TSA and CBP’s use of recognition technology for identity verification, Board Members and staff have hosted or participated in numerous in-person and virtual meetings and briefings.

The biometrics project is titled, “From Booking to Baggage Claim,” and is a review of how facial recognition technologies are used to verify identity at each phase of an air travel journey, considering both operational benefits and privacy and civil liberties concerns.

The Board plans to hold a virtual public forum on the biometrics project, and hopes to release a written product with recommendations later this year.

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<sup>8</sup> DoJ Office of the Inspector General Memorandum for the Director of the FBI Regarding the Execution of the Woods Procedures For Applications Filed with the FISA Court Relating to U.S. Persons: <https://oig.justice.gov/reports/2020/a20047.pdf>.

The Board also has continued to work on other oversight projects approved by the prior Board, such as NSA’s use of XKEYSCORE as an analytic tool, as well as projects detailed in the Board’s current agenda,<sup>9</sup> including a review of the Terrorist Watchlist and the FBI’s querying and compliance practices conducted under Section 702 of FISA and related authorities. The Board continued work on other classified activities conducted under Executive Order 12333.

*Advice.* During the reporting period, the Board continued to work on one advice project.

*Operations and Management.* The Board is committed to achieving the highest standards for its workforce, cybersecurity, financial management, operational capacity, and protection of classified information. The Board had several significant accomplishments in these areas during the reporting period.

Highlights of these accomplishments include: Achieving a 100 percent rating on the Board’s FISMA audit; completing the Board’s first full internal controls assessment, which found no waste, fraud, or abuse; completing the Board’s second-ever audit of its financial statements, resulting in an unmodified (clean) audit opinion; and implementing collaboration tools and a Virtual Desktop Infrastructure platform to ensure continuity of operations.

To continue its investment in internal capacity and achieve better value for taxpayer dollars, the Board migrated its financial services and human resources to shared services provided by the Departments of Treasury and Interior, respectively. The Board is also working to migrate its security clearance services to the Defense Counterintelligence and Security Agency.

The Board launched a new, modernized website that makes access to information about its work more user-friendly.

### **III. Oversight and Advice Activities of the Board During the Reporting Period**

#### **Oversight Function:**

#### **USA FREEDOM Act**

Three national security provisions modified or extended by the USA FREEDOM Act expired this spring. One notable expiring provision concerns the collection of CDRs. In February 2020, early in the reporting period, the Board released a report on the USA FREEDOM Act call records program. The report was the culmination of a more than year-long in-depth examination into the program to help inform Congress as it continues to consider reauthorization. Classified and unclassified versions of the report were issued. In the report, the Board secured declassification and public release of several important facts about the program.

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<sup>9</sup> The Board’s agenda can be found on the Board’s website: <https://bit.ly/2ZcJQch>.

This topic was also the subject of a 2014 Board report on the telephone records program as it existed at the time. The Board looks forward to continuing to be a resource to Congress, the executive branch, and the American public on this program.

### **Facial Recognition and Other Biometric Technologies Used in Aviation Security**

The Board has continued its review on the use of facial recognition and other biometric technologies to verify identity at each phase of an air travel journey, considering both the operational benefits and privacy and civil liberties concerns. During the past year, the Board conducted two site visits to examine the use of facial recognition technology by CBP and TSA. Board staff received numerous in-person and virtual briefings from entities within the DHS and reviewed documents related to these programs, and the Board has engaged with both government and external stakeholders on these issues. The Board staff also held roundtables with privacy, civil liberties, and civil rights organizations, as well as a virtual colloquium with academic experts on biometric technologies and privacy.

The Board plans to hold a virtual public forum on this project soon and hopes to release a written product with recommendations later this year.

### **Other Active Oversight Projects**

The Board continues to work on several oversight projects previously approved by the Board. These projects examine programs within the Board's jurisdiction conducted by several federal agencies and in part relate to data aggregation and access, terrorist watchlists, and the government's use of open-source data. This work includes meetings and briefings (now telephonic and virtual) and obtaining and reviewing relevant documents.

In July 2019, the Board released an agenda of its active oversight projects, representing the most comprehensive public description of the Board's work in its history. This document was updated in January 2020. Notably, the project agenda disclosed for the first time the subject of the Board's NSA "deep dive" review, a capability known as XKEYSCORE.

The Board continues to anticipate that work related to this deep dive will remain classified. The agenda also described several previously unannounced projects approved by the Board in early 2017.

Attaining the greatest possible transparency was one of the five "strategic goals" in the Board's 2019-2022 Strategic Plan. To achieve that goal, the Board committed in the Strategic Plan that it would "seek to identify publicly the subjects of its oversight reviews." Publicly describing all of the Board's active oversight projects reflects the Board's commitment to giving the public and other stakeholders the greatest possible insight into the Board's work, consistent with the need to protect classified information and with other applicable law.

## **Advice Function:**

The Board continued to perform its advice function, which entails providing pre-decisional advice to agencies involved in efforts to protect the nation against terrorism. During the reporting period, the Board continued to work on one advice project.

## **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 Officers to issue Semi-Annual Reports about their activities to their respective agency heads, Congress, and the Board. The Board regularly receives and reviews Section 803 reports from federal departments and agencies.

The Board's authorizing statute instructs the Board to advise covered agencies on their efforts to protect privacy and civil liberties and to coordinate those activities on relevant interagency matters. As such, the Board has regular interactions with agency Privacy Officers. Among other advantages, these interactions promote information sharing and privacy best practices. Board Members also attend and address meetings and events hosted by agency Privacy Officers.

## **IV. Organizational and Managerial Activities During the Reporting Period**

During the reporting period, the Board continued to strengthen its institutional capacity, and bolster its workforce, cybersecurity posture, and financial controls. The Board had several significant accomplishments during the reporting period.

### **Workforce**

The Board strives to build a workforce equipped with the skills required to achieve its mission. It has made substantial progress in reaching its full operational level. The Board increased its staffing level from less than 50 percent in early FY 2019 to nearly 90 percent in FY 2020. Additional positions are expected to be filled during the next reporting period.

By actively recruiting highly qualified personnel, the Board made significant progress in filling key vacant positions. Vigorous recruitment continued even through the many challenges caused by the pandemic.

The Board will continue to ensure that its staff encompasses a broad range of professional backgrounds, including experience in intelligence, counterterrorism, privacy and civil liberties, oversight and investigations, and technology.

The Board has also remained focused on increasing efficiency in its operations. Specifically, the Board recently migrated to the Department of Interior as its human resources shared service provider. This migration provides the agency with new technological systems.

These systems provide new capabilities to the Board by automating business processes, reducing manpower demands, and increasing productivity, which will enhance the employee experience. Employee engagement and retention also remains a priority for the Board and are addressed through cost-efficient benefits and initiatives to bolster employee morale, retention, and professional development.

## **Nominations**

On March 18, 2020, the White House renominated Board Member Aditya Bamzai to a full six-year term. This nomination allows him to continue to serve on the Board pursuant to the Board's statutory holdover provision. The Board is grateful to the White House for this re-nomination and to the Senate for its consideration of Board nominees.

## **Information Technology Systems and Cybersecurity**

The Board also remains focused on strengthening its cybersecurity posture and ensuring continuity of operations as many employees work remotely. The Board achieved a 100 percent (or fully compliant) rating in its most recent FISMA audit, which is a testament to the hard work of the Chief Information Officer and the IT staff. This is particularly noteworthy because this was only the Board's second FISMA audit. In addition, a recent independent penetration test detected no critical or high vulnerabilities across the network infrastructure.

The Board's IT staff continue to strengthen the agency's cybersecurity posture and improve the efficiency of remote operations. To that end, IT staff have patched vulnerabilities, upgraded the Board's remote desktop platform, and implemented OPM guidance. Specifically, the Board:

- Implemented DHS Emergency Directive 20-02 *Mitigate Windows Vulnerabilities* to remediate critical Windows 10, Server 2016, and Server 2019 vulnerabilities within ten calendar days.
- Responded to the Office of Management and Budget IPv6 transition mandate. The IT team implemented IPv6 capabilities on all Managed Trusted Internet Protocol Service circuits.
- Implemented collaboration tools and a Virtual Desktop Infrastructure platform to support the agency's remote requirement in response to COVID-19.

In addition, the Board has transitioned to a new agency website, which is easier to use and better supports the Board's mission.

The Board continues to leverage shared-service providers and contractor support to enhance its boundary protection. The Board's 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, the Board will continue to focus its efforts on the cybersecurity Cross-Agency Priorities. The IT team also continues to work diligently on FISMA priorities.

## **Financial Controls and Contracting**

During the reporting period, the Board achieved several significant milestones in strengthening the agency's internal controls.

The agency's second audit of its financial statements concluded in April 2020. This audit resulted in an unmodified (clean) opinion over the fiscal 2019 financial statements, with no new audit findings and no required audit adjustments. These findings are a substantial achievement for a second-ever audit and are the result of diligent efforts by the Chief Financial Officer and finance team to respond to 2018 audit findings and to successfully implement corrective action plans.

The Board also completed its first full internal controls assessment, which found no waste, fraud, or abuse.

The Board has also taken the following steps to further refine and strengthen its internal controls and accounting practices:

- Appointed a Chief Financial Officer and hired a full-time accountant to increase oversight of accounting functions on the finance team.
- Procured and successfully transitioned to a new financial service provider, the Bureau of Fiscal Service's Administrative Resource Center, as well as a new payroll service provider, the Department of the Interior's Interior Business Center, to ensure the Board obtains excellent service, responsiveness, and value for taxpayer dollars.
- Analyzed each contract to optimize efforts and streamline the procurement process to reduce overall contracting costs.

The fiscal year 2020 financial audit is currently underway, with completion expected by November 2020. At that time, the Board expects to issue its first comprehensive Agency Financial Report.

## **Protecting Classified and Sensitive Information**

The Board is committed to ensuring the security of the information with which it is entrusted. In accordance with Executive Order 13587, which requires federal agencies that operate or access classified computer networks to establish an insider threat program, the Board achieved Full Operating Capability in July 2020 by meeting all 23 minimum standards.

The Board's Chief Security Officer (CSO) is working closely with the DCSA as a shared services provider to transition its security portfolio and allow for a more streamlined process for personnel security clearances. The Board is also working with the Office of the Director of National Intelligence to ensure the workforce is enrolled in the Continuous Evaluation program and is part of the Trusted Workforce 2.0.

Additionally, the Board continues to develop best practices by participating in various working groups to ensure a robust security program, as well as awareness of security trends identified by larger agencies. Through these interactions with other agencies, the CSO was selected to serve a three-year membership on the Counter Insider Threat Professional Certification Governance Council.

The Board remains focused on protecting classified information through the review of derivatively classified documents with Original Classification Authorities (OCAs) within the Intelligence Community. Specifically, the Board will:

- Maintain its robust self-inspection program through review of derivatively classified documents with OCAs.
- Phased implementation of its Controlled Unclassified Information program.

### **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's statute 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."<sup>10</sup>

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. During the reporting period, Board Members and staff held several briefings on Capitol Hill to provide updates on the Board's work and, upon request, to provide technical assistance on legislative matters. Board Members continue to remain available to testify about matters within its jurisdiction.

To foster a better understanding of its mission and work, Board Members and staff continued to speak at events, including webinars, hosted by other government agencies, as well as by a variety of groups and organizations, including bar associations, business organizations, educational institutions, and non-governmental organizations. While many of these interactions were virtual during the last reporting period, Board Members and staff also continued their past practice of meeting with representatives of non-governmental organizations, the private sector, international counterparts, and other entities with interest in issues within the Board's jurisdiction.

## **Conclusion**

Despite the many challenges our nation has faced during the COVID-19 pandemic, the Board has continued to move vigorously to carry out its statutory mission, pursuing work on its oversight and advice projects that address important issues related to efforts to protect the nation against terrorism while safeguarding privacy and civil liberties.

The Board looks forward to engaging with Congress, the public, and other stakeholders as it continues to identify future oversight projects and transparency initiatives.

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<sup>10</sup> 42 U.S.C § 2000ee(f)(2).

The Board appreciates the continued collaborative efforts of Congress, the Executive Branch, nongovernmental organizations, private-sector entities, and members of the public who have engaged with the Board in support of its mission.

Privacy and Civil Liberties Oversight Board  
**Active Oversight Projects and Other Engagements**  
July 2020

**INTRODUCTION**

The Privacy and Civil Liberties Oversight Board is committed to “inform[ing] the public of its activities ... as appropriate and in a manner consistent with the protection of classified information and applicable law.”<sup>11</sup> To that end, the Board’s 2019-2022 Strategic Plan expressed the Board’s intention to “identify publicly the subjects of its oversight reviews, to the extent consistent with the protection of classified information.”<sup>12</sup>

This document describes the Board’s active oversight projects and other engagements. The shorthand descriptions below are intended to provide public transparency, consistent with the protection of classified information and other applicable law. They do not authoritatively delimit the scope of any project.

Not every project will result in a formal report. The level of formality of any resulting reports will depend on the nature of the Board’s findings. Where oversight projects result in formal written reports, the Board will make them available to the public to the greatest extent consistent with the protection of classified information and other applicable law.

**ACTIVE OVERSIGHT PROJECTS**

- ***USA Freedom Act authorities*** - The Board concluded its oversight of the NSA’s collection of call detail records under the USA Freedom Act of 2015, issuing a public report containing its findings on February 26, 2020. The Board continues to conduct oversight of the use of other authorities covered by the USA Freedom Act.
- ***The Foreign Intelligence Surveillance Act (FISA)*** – The Board voted 3-2 to hold a public forum on FISA and request documents and information from FBI and DOJ on counterterrorism-related FISA applications.
- ***Facial Recognition and Other Biometric Technologies in Aviation Security*** - The Board is reviewing how biometric technologies are used to verify identity at each phase of an air journey, considering both operational benefits and privacy and civil liberties concerns. The Board has conducted two on-site visits to airports to examine their use of biometrics and facial recognition.

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<sup>11</sup> 42 U.S.C. § 2000ee(f)(2).

<sup>12</sup> Privacy and Civil Liberties Oversight Board, *Strategic Plan for 2019-2022*, at 21-23, available at [https://www.pclob.gov/library/StrategicPlan\\_2019-2022.pdf](https://www.pclob.gov/library/StrategicPlan_2019-2022.pdf).

- ***Examination of certain counterterrorism-related activities conducted pursuant to Executive Order 12333*** - In 2015, the Board announced that it would review counterterrorism-related activities conducted pursuant to Executive Order 12333, including three “deep dive” reviews of specific activities conducted by the CIA and NSA.

Two of those remain active:

- ***NSA “Deep Dive” Review – XKEYSCORE*** - The Board is examining the National Security Agency’s use of XKEYSCORE as an analytic tool for counterterrorism purposes and its implications for privacy and civil liberties.
- ***CIA “Deep Dive” Review*** - The Board is reviewing a classified counterterrorism-related activity conducted by the Central Intelligence Agency and that activity’s implications for privacy and civil liberties.
- ***FBI Open-Source Collection*** - The Board is reviewing 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, as well as the legal, policy, and technological safeguards in place to protect privacy and civil liberties.
- ***FBI Querying, Compliance, and Information Technology*** - The Board is reviewing the FBI’s querying of data obtained pursuant to Section 702 of the Foreign Intelligence Surveillance Act and related authorities. The review will also examine the procedures and technology used to record queries and ensure compliance with applicable rules.
- ***Terrorist Finance Tracking Program*** - The Board is reviewing the Treasury Department’s Terrorist Finance Tracking Program and its implications for privacy and civil liberties.
- ***Terrorist Watchlisting*** - The Board is reviewing the operation of the Terrorist Screening Database, which contains information on known and suspected terrorists.
- ***Passenger Name Records*** - The Board is conducting oversight related to the use of airline Passenger Name Records.
- ***Recommendations Assessment Report*** - The Board intends to issue a report providing an update on the status of recommendations made in the Board’s past reports on Section 702, Section 215, and Presidential Policy Directive 28.
- ***Ongoing Oversight: Section 702*** - The Board maintains ongoing oversight of the intelligence community’s implementation of Section 702, the subject of a Board report in 2014.
- ***Ongoing Oversight: Presidential Policy Directive 28*** - The Board maintains ongoing oversight of the intelligence community’s implementation of the recommendations in the Board’s report on Presidential Policy Directive 28.

## ADVICE PROJECTS

The Board continues to work on one project to provide advice to an Executive Branch agency.

## PUBLIC EVENTS

On June 24, 2020, the Board held a virtual public forum to examine the past and future of the Foreign Intelligence Surveillance Act (FISA).<sup>13</sup> The virtual event provided Board Members with a diverse range of viewpoints on the FISA process, the law’s use for counterterrorism, challenges for privacy and civil liberties, and proposals for changes in the law.

The Board plans to hold additional virtual public events in the coming months.

## OTHER ACTIVITIES

***Coordinating Civil Liberties and Privacy Officers*** - The Board regularly convenes and “coordinates the activities of ... privacy officers and civil liberties officers on relevant interagency matters” and topics of mutual interest.

***Section 803 reports*** - The Board continues to receive and review reports from Civil Liberties and Privacy Officers under Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007.

***Executive Order 13636 reports*** - The Board continues to receive and review reports under Executive Order 13636, *Improving Critical Infrastructure Cybersecurity*.

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<sup>13</sup> Video recording of the FISA virtual public forum can be found on the Board’s website: <https://www.pclob.gov/Projects/Details/85>.