



PRIVACY & CIVIL LIBERTIES OVERSIGHT BOARD

July 24, 2013

BOARD MEMBERS

**David Medine,
Chairman**

Rachel Brand

**Elisebeth Collins
Cook**

James Dempsey

Patricia Wald

The Honorable Nancy Pelosi
Democratic Leader
U.S. House of Representatives
Washington, DC 20515

Dear Leader Pelosi:

Thank you for your letter of July 11, 2013, and your congratulations. It is an honor to serve as Chairman of the Privacy and Civil Liberties Oversight Board (“Board”). As you note, the Implementing Recommendations of the 9/11 Commission Act, Pub. L. 110-53, signed into law in August 2007, established the Board as an independent, bipartisan agency within the executive branch. The Board is vested with two fundamental authorities: (1) to review and analyze actions the executive branch takes to protect the Nation from terrorism, ensuring the need for such actions is balanced with the need to protect privacy and civil liberties; and (2) to ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

The Board has been conducting a review of two classified intelligence collection programs that have been disclosed to the press (“the programs”). The first program, operating pursuant to Section 215 of the USA Patriot Act, involves the collection of certain telephone metadata records under a Foreign Intelligence Surveillance Court (FISC) order. The second program relates to the collection of information under Section 702 of the Foreign Intelligence Surveillance Act (FISA).

Your letter raises a number of important matters. First, you express a concern whether these surveillance programs are being conducted consistent with Congressional intent. Second, you indicate your belief that greater transparency is needed for the FISC so that the public and Congress can better understand its procedures, and that non-governmental parties should be able to express their views to the FISC. Third, you assert that it is crucial for the American public to better understand the FISC’s decisions and interpretations of law. And fourth, you raise the question whether technological advances would permit the government to protect our national security while also preserving privacy and civil liberties. The Board is committed to providing an unclassified report to the public and Congress regarding whether the programs: (1) are being conducted within the statutory authority provided by Congress; and (2) take

appropriate precautions to protect the privacy and civil liberties of U.S. citizens under the Constitution.

In addition, your letter directs the Board's attention to two legislative proposals, H.R. 2399, introduced by Congressman John Conyers, requiring, among other things, unclassified summaries of FISC opinions, and H.R. 2475, introduced by Congressman Adam Schiff, which would require either declassification of FISC opinions or preparation of unclassified summaries. The Board will take into account these two legislative proposals as it considers making recommendations to the Congress regarding the two programs.

PCLOB has already begun to exercise its oversight responsibilities with regard to both programs mentioned in your letter. Prior to my confirmation, the four part-time members of the Board began the process of oversight of the implementation of the FISA Amendments Act, with a specific focus on Section 702. After receiving an initial briefing, my colleagues requested additional information, and that dialogue was ongoing at the time of the public disclosures. We also convened a public workshop on July 9 to hear from academics, experts and advocates about these programs.

I appreciate your recognition of the fact that I was only recently confirmed. Prior to my confirmation, the Board was not authorized to hire staff. While the four part-time members working with two detailees made substantial progress in creating an institutional footing for the Board, we continue to face challenges in becoming fully operational. Nonetheless, oversight of the two programs is central to the Board's mission, and we have made this review a top priority. We look forward to working with the Congress on these important issues.

If you need any additional information, please contact me or Sue Reingold, Chief Administrative Officer, at (202) 331-1986.

Sincerely,


David Medine
Chairman