

January 31, 2025

Dear Speaker Johnson, Minority Leader Jeffries, Majority Leader Thune, Minority Leader Schumer, Chairman Jordan, Ranking Member Raskin, Chairman Grassley, and Ranking Member Durbin,

We write to strongly condemn the White House firing of three Privacy and Civil Liberties Oversight Board (PCLOB) members, which shattered the independence that is key to the Board's effectiveness. We urge Congress to act expeditiously to restore that independence.

PCLOB was originally proposed by the 9-11 Commission and has existed for nearly two decades as a critical oversight entity for protecting rights and combatting surveillance abuse. Its investigations and reports have debunked false claims by the intelligence community about mass surveillance programs, prompted declassification and disclosure of key facts about surveillance that had needlessly been kept secret, and spurred important legislative reforms.

Firing PCLOB members will significantly undermine the Board's independence, and could make it impossible for it to conduct this type of effective oversight in the future. If at-will termination becomes acceptable, a President of either party will be able to block investigation of controversial or improper surveillance activities by removing any PCLOB member who begins to scrutinize conduct that the executive wants to keep hidden. The White House could kill any reports or findings from PCLOB it does not want issued, firing Board members to halt the release of information the White House wants covered up. Even the mere threat of firings would chill PCLOB from properly performing its duties, with members seeking to stay in the good graces of the White House rather than acting as a vigilant watchdog. It is for precisely this reason that Congress in 2007 *removed* a provision of PCLOB's statutory charter indicating that its members "serve at the pleasure of the President."¹

The effort to destroy PCLOB's independence, and thereby significantly undermine its basic effectiveness as an oversight entity, raises significant concerns over how the executive's surveillance powers could be misused by this or future administrations.

Additionally, PCLOB plays a crucial role in the EU-US Data Privacy Framework, which permits the flow of personal data from Europe to the U.S. that is essential to the functioning of the U.S. tech economy. PCLOB is charged with ensuring that surveillance guidelines adopted as part of the Framework are consistent with its requirements. Weakening the PCLOB throws this oversight into doubt and heightens the risk that the Framework will fail court review in Europe.

We urge Congress to re-double its own oversight activities given the harm to PCLOB, as well as to restore the Board's independence, shield it from interference, and strengthen PCLOB so it can again perform its vital work protecting Americans' rights and guarding against improper surveillance.

Sincerely,

Access Now
Advocacy for Principled Action in Government

¹ PUBLIC LAW 110-53 (August 3, 2007), <https://perma.cc/7JZK-W9GM>.

American Civil Liberties Union
American Governance Institute
Asian Americans Advancing Justice | AAJC
Brennan Center for Justice at NYU School of Law
Center for Democracy & Technology
Center for Digital Democracy
Citizens for Responsibility and Ethics in Washington (CREW)
Common Cause
Defending Rights & Dissent
Demand Progress
Due Process Institute
Electronic Frontier Foundation
Electronic Privacy Information Center (EPIC)
Fight for the Future
Free Press Action
Freedom of the Press Foundation
Global Network Initiative
Government Information Watch
Media Alliance
Muslim Advocates
New America's Open Technology Institute
Oakland Privacy
Project On Government Oversight
Surveillance Technology Oversight Project
Wikimedia Foundation