

July 6, 2016

President Barack Obama
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear President Obama:

The undersigned organizations request that you act quickly to nominate someone with a strong background in privacy and civil liberties to fill the position of Privacy and Civil Liberties Oversight Board (PCLOB) chair, which became vacant on July 1, 2016.

The PCLOB has unique importance within government. It was created in response to a recommendation by the 9/11 Commission, which understood that the dramatic expansion of our nation's counterterrorism authorities required institutionalizing the consideration of civil liberties. The PCLOB is the only independent agency inside the executive branch whose sole mission is to ensure that counterterrorism measures take privacy and civil liberties into account.

Given the size and scope of the counterterrorism apparatus it must oversee, the PCLOB's resources are minimal: the board has only five members, a staff of twenty, and an annual operating budget of \$10 million. Moreover, for the majority of its 12-year history, it sat vacant. Even despite these limitations, the PCLOB has made critical contributions in the past three years, most notably through its reports on the NSA's bulk collection of Americans' telephone records under Section 215 of the Patriot Act and on surveillance activities under Section 702 of FISA. While the undersigned organizations do not agree with all of the reports' conclusions and recommendations, we acknowledge the tremendous service the board performed by obtaining the declassification of a large amount of information on these activities, and by calling public attention to some of the civil liberties issues they raise.

The PCLOB's role is too important to allow it to slip back into dormancy, even for a few months. As long as the chairmanship remains vacant, the work of the board will be impeded; many of the board's powers require a quorum in the chair's absence, and the board has interpreted existing statutes as granting the chair sole, non-delegable authority to hire staff.

It is equally important that the individual nominated to chair the PCLOB have a strong background in privacy and civil liberties. There are, to be sure, many other important dimensions and ramifications of counterterrorism policies. Other agencies and institutions exist to focus on these. As noted, the PCLOB is the only independent agency charged solely with the consideration of privacy and civil liberties. It is vital that all members of the board, but particularly its chair, come equipped with both a deep understanding and significant practical experience in this area. Appointing a chair who lacks this background would risk undermining the board's mission. Moreover, a board chaired by an individual without the appropriate qualifications would risk losing the support of the civil liberties community – support that we believe has been integral to the board's actual and perceived effectiveness.

We know that you appreciate the value of the PCLOB, and we hope and trust that you will act quickly to appoint a qualified individual with a background in privacy and civil liberties to the position of chair.

Sincerely,

Access Now
Advocacy for Principled Action in Government
American Civil Liberties Union
American-Arab Anti-Discrimination Committee (ADC)
American Library Association
Arab American Institute
Bill of Rights Defense Committee/Defending Dissent Foundation
Brennan Center for Justice
Center for Democracy & Technology
The Constitution Project
Constitutional Alliance
Council on American-Islamic Relations
Demand Progress
Electronic Frontier Foundation
Electronic Privacy Information Center
Fight for the Future
Free the People
Free Press
Friends Committee on National Legislation
Government Accountability Project
Liberty Coalition
New American's Open Technology Institute
Niskanen Center
OpenTheGovernment.org
PEN America
Project On Government Oversight
Restore the Fourth
Sunlight Foundation
TechFreedom