

# STATE OF THE NET



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## 02 Keynote with Beth Williams

### State of the Net – Feb 11 2025

**Hon. Beth Williams:** Thank you .Steve, for that very kind introduction, and good morning to all of you, thank you so much for being inviting me to be with you. It's State of the Net 2025. As Steve said, I'm here today to talk about the Privacy and Civil Liberties Oversight Board, our current projects and our role moving forward.

The board, as you may know, is also known as PCLOB in what is widely understood to be one of the worst shortened names in Washington and, and that's quite a feat. For those of you who are unfamiliar with our agency, PCLOB was established by the September 11th Commission Act of 2007. Our mission is to ensure that the federal government's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.

I recognize, as Steve mentioned, that there's a lot of recent interest in PCLOB. My message to you today is a simple one. We are open for business. Our work conducting important, independent oversight of the intelligence community has not ended just because we are currently sub quorum. In fact, the board has been sub quorum several times before, most recently from 2021 to 2022.

Even then, Our staff continued its important work. As recently as three years ago, the staff produced recommendations regarding CIA activity conducted pursuant to Executive Order 12333 under what the Board called Deep Dive 2. You're welcome to review these staff recommendations on our website.

This time, however, we're in a stronger position than ever before to continue our mission work during a sub quorum period.

This is largely because we have a new policy. This past October, the quorate board adopted a new governing policy to ensure that our operations could continue more fully than they could have before if the board went sub quorum. That policy provides quite a bit of flexibility within the bounds of our enabling statute.

It provides for significant and substantive work to continue to move forward the analysis and reports produced by our professional staff. And it provides for that work to be publicly released as long as one member remains. PCLOB members have always relied on a professional staff of lawyers, policy analysts, and technologists, most with backgrounds in national security, privacy, and civil liberties.

Their work continues as we speak on the many projects that the board voted to open while it had a quorum. Among those is review of the intelligence community's implementation of Executive Order 14086, which I know is of particular interest to many of you and to our partners in Europe. Under the sub quorum policy I just mentioned, with my approval, the agency may publish staff reports with recommendations to the intelligence community on open projects.

Those reports can also be made public and provided to Congress. Our new sub quorum policy also makes it clear that I may direct substantial work in my individual member capacity. Under my authority, the agency may request documents from executive branch departments, perform interviews and take statements from government officials and non governmental advocates and experts, receive briefings from them, and obtain public testimony from them.

I can also, in my individual official capacity, issue reports and white papers, advise the president and officers of the executive branch, and brief members of Congress and their staffs, as well as testify before Congress.

It is true, of course, that without at least three members, the board cannot act at its fullest capacity. Among other things, until I am joined by two more members, the board can't officially open new projects. But that does not mean we cannot lay the groundwork for them.

Let me turn now to a few of our current projects and talk a bit about what I hope our future projects will be.

Of particular note to this audience, as I mentioned, the PCLOB staff is going to continue diligently working on the board approved oversight project on enhancing safeguards for U. S. signals intelligence as established by EO 14086. This is in conjunction with what's known as the EU-U. S. transatlantic Data Privacy Framework.

But, before I describe what we will do, let me review for you what the board has already done. As requested by the Executive Order, the board provided advice to the Attorney General on the selection of members of the Data Privacy Review Court.

The Board also reviewed and provided advice on the Intelligence Agency's Attorney General Guidelines as updated to implement the Privacy and Civil Liberties Safeguards in the Executive Order.

And this past July, the board fully participated in the first joint U. S. EU review of the Transatlantic Data Privacy Framework.

Now, the PCLOB has two further duties that we agreed to assume pursuant to the Executive Order. First, we will review the implementation of the updated policies and procedures that the Intelligence Agency has adopted pursuant to EO 14086. Our review will ensure that those policies are consistent with the enhanced safeguards contained in the Executive Order.

Second, we will review the redress process established by the executive order. The board voted to open a project covering both of those tasks last fall, and the staff has been working diligently since then. Our team is coordinating with the Office of the Director for the National Intelligence and the administrators of the Data Privacy Review Court.

As of last week, eight Intelligence Community Agencies have provided us with hundreds of pages of material describing their implementation of the Executive Order. These include, among other items, training materials for Intelligence Community employees so that they may comply with the Executive Order's added safeguards.

Next, I'd like to turn to domestic terrorism, which is another key investigation that the board approved, and that our team continues to pursue. Our domestic terrorism work is proceeding along two lines of effort. First, how do the government's counter disinformation efforts impact the free speech of American citizens?

And second, do the government's efforts to counter domestic terrorism uniquely affect the privacy and civil liberties of particular groups? For that second question, we're especially looking at whether those impacts may be disproportionate to the actual threat. The staff had made progress on this investigation since it was opened some time ago.

I have spoken before about the importance of this project in my individual official capacity. Specifically, I'm committed to moving forward rapidly in our current investigation into the government's efforts to counter speech it labels mis-, dis-, and malinformation. We have already seen substantial evidence that the government

pressured social media and other companies to censor Americans free speech in the name of combating domestic terrorism.

Tying disfavored speech to counter terrorism paves the way for censorship under the guise of national security. I have been advocating for this oversight project for years. In 2022, I requested that the then Secretary of Homeland Security Alejandro Mayorkas turn over detailed information about his Disinformation Governance Board and other DHS efforts to limit speech it labeled dis mis and malinformation.

A year later, I got a response from DHS justifying its work, and providing no more information than had already been pried out by Congress and the public embarrassment over the DGB. I am hopeful that our renewed efforts with the current administration will yield more transparency, and I hope that we will be able to recommend safeguards to prevent improper government coercion to suppress speech in the future.

Another of our open projects is examining facial recognition in aviation security. The board has been working for years on this important topic to consider both the operational benefits as well as privacy and civil liberty concerns with the use of facial recognition in airports. These new technologies have now become almost ubiquitous. I know this is a key area of interest for many in Congress as well as the flying public. We're moving forward expeditiously with this report.

Finally, the last project I will highlight today is the update to our 2023 report concerning Section 702 of the Foreign Intelligence Surveillance Act, or FISA. As you may be aware, the Board published a detailed 300 page report on Section 702 in the fall of 2023.

Those familiar with our work may know that my former colleague, Member Richard DiZinno, and I wrote an extensive separate statement that functioned largely as a minority report. In our separate statement, we were highly critical of the FBI. We specifically called out the troubling FISA abuses that predicated the national security investigation related to the 2016 presidential transition.

While many of the most egregious violations did not involve Section 702, Member DiZinno and I heavily criticized the FBI's failure to follow its own rules with regard to that program. We recommended major structural and cultural reforms to the FBI. We also recommended additional safeguards to prevent future abuses of the program.

Specifically, we issued several recommendations to guard against potential political weaponization and misuse of the Section 702 program going forward. Our goal was to maximally protect privacy and civil liberties while maintaining the crucial national security value of the program. I was glad to see that Congress adopted many of our recommendations.

Section 702 is again up for reauthorization next spring. In anticipation of that, the past board opened a new project on Section 702, to focus on recent changes to the program and evaluate the effects of both the reforms the intelligence community voluntarily adopted, and those that Congress mandated. We will be working on this in the sub quorum period, and I hope that we can issue the update, either as a staff report or hopefully as a board report, when a new quorum is confirmed.

Finally, there are a number of other timely issues that the board should investigate -- that I believe the board should investigate -- such as the debanking of people alleged to present terrorism threats. As many of you have likely heard, there are worrisome allegations that the government may have used its counterterrorism authorities to pressure financial institutions into cutting off disfavored customers.

People are concerned about these stories. This is exactly the type of investigation the board can and should consider. Another potential area of inquiry is the breadth of government access to databases of U. S. persons' financial data. Of particular note is the Consolidated Audit Trail established by the Securities and Exchange Commission.

This program monitors in real time the identities, transactions, and investment portfolio of everyone who invests in the stock market. Government surveillance of Americans financial activities, especially in the name of counterterrorism, is ripe for oversight. I know that Congress is looking at both of these issues now, and I look forward to investigating such projects, either in my individual official capacity, or formally following the appointment of new members of the Board.

I'd like to close by talking for a minute about what it means to serve on the Board.

Oversight of intelligence programs means calling out problems where you see them, not putting a thumb on the scale, either for or against the intelligence community. Most importantly, it means having an open mind. It means coming into an investigation with analytic rigor, and basing conclusions on the evidence presented.

It means targeting solutions to real problems, and that is the kind of oversight that I am committed to. It's the kind of oversight I have demonstrated in my past work, and it is what I will continue to do as PCLOB moves forward.

Of course, I am only one person, but the Board has been led in similar circumstances before. In 2017 and 2018, one Republican led the Board. In 2021 and 2022, two Democrats were the only members. One of my board colleagues, who is speaking at this conference later today, was one of those two Democrats. Just last week, he said, quote, Americans should not be fooled into thinking that board members have partisan agendas.

Just because there's only one member now does not mean our work stops or ceases to be meaningful. With the aid of our excellent staff, the agency can continue our important advice and oversight projects until new members join us. And now, with our new sub quorum policy, it can do so with greater ability than ever before.

I hope I've provided you all with an explanation of how the PCLOB is continuing to contribute to independent oversight of the U. S. intelligence community. We are open for business, we are moving forward, and our team is fully engaged. We're full steam ahead. Thank you.

[Applause]

**Steve DelBianco:** Beth?

**Hon. Beth Williams:** Yes, I have time for a few minutes for questions, if anybody has any.

**Steve DelBianco:** Thank you. I was particularly intrigued by your initiative to investigate and prevent the jawboning, the notion that an all powerful government can pressure websites to keep up or take down content. And you mentioned the executive order, but how will we make this more permanent than an executive order that finishes with the administration?

**Hon. Beth Williams:** Yeah, that's a great question. I know Congress is looking into some of these, and there's several initiatives and bills that have already been proposed. But honestly, that's the kind of work that PCLOB can really help with, because if we can look into what happened, provide transparency, and then recommend guardrails going forward, if there was, bad acts that were committed, or mistakes, or over use of power, by the executive branch.

The type of work that PCLOB can really be helpful with, and provide helpful recommendations for, is exactly these things. How do you put guardrails? Who's making these decisions? How are you determining whether something really is bad information, whether it's imminently dangerous? These are big questions.

And these are the types of things that I'm hoping that the board can weigh in on.

**Jake Laperruque:** Hi, Jake Laperruque, Center for Democracy and Technology. I'm a bit surprised to hear how much you seem to be saying that the board is engaged in business as usual amid the current firings. I'm curious, do you believe that if the president has the ability to fire members of PCLOB without cause effectively to fire members of PCLOB for any reason, including investigating matters that he doesn't want investigated, does that undermine the independence and effectiveness of the board?

And do you think that should be allowed in the future?

**Hon. Beth Williams:** Thanks, Jay. I don't think it's appropriate for me to comment on the President's personnel decisions. I would refer you to our statute, which, unlike some other statutes, doesn't have for cause protections, but what I'm focused on is our ability to continue to operate moving forward.

And luckily, this past October, we put a new policy in place that allows that more fully than ever before. So, thank you.

Okay. Thank you very much. [Applause]