

SEC. 901. PRIVACY AND CIVIL LIBERTIES OVERSIGHT 3

BOARD. 4

(a) **IN GENERAL.**—There is established within the 5 Executive Office of the President a Privacy and Civil Lib- 6 erties Oversight Board (referred to in this title as the 7 “Board”). 8

(b) **FINDINGS.**—Consistent with the report of the Na- 9 tional Commission on Terrorist Attacks Upon the United 10 States, Congress makes the following findings: 11

(1) In conducting the war on terrorism, the 12 Government may need additional powers and may 13 need to enhance the use of its existing powers. 14

(2) This shift of power and authority to the 15 Government calls for an enhanced system of checks 16 and balances to protect the precious liberties that 17 are vital to our way of life and to ensure that the 18 Government uses its powers for the purposes for 19 which the powers were given. 20

(c) **PURPOSE.**—The Board shall— 21

(1) analyze and review actions the Executive 22 Branch takes to protect the Nation from terrorism; 23 and 24

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(2) ensure that liberty concerns are appro- 1 priately considered in the development and imple- 2 mentation of laws, regulations, and policies related 3 to efforts to protect the Nation against terrorism. 4

(d) **FUNCTIONS.**— 5

(1) **ADVICE AND COUNSEL ON POLICY DEVEL- 6 OPMENT AND IMPLEMENTATION.**—The Board 7 shall— 8

(A) review proposed legislation, regula- 9 tions, and policies related to efforts to protect 10 the Nation from terrorism, including the devel- 11 opment and adoption of information sharing 12 guidelines under section 201(e); 13

(B) review the implementation of new and 14 existing legislation, regulations, and policies re- 15

lated to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 201(e); (C) advise the President and Federal executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

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(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the executive department or agency has explained—

(i) that the power actually materially enhances security; and

(ii) that there is adequate supervision of the executive's use of the power to ensure protection of civil liberties.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures and the implementation of the regulations, policies, procedures, and related laws of Federal executive departments and agencies to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of Federal executive departments and agencies to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines promulgated under section 201(e) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

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(C) other actions by the Executive Branch

related to efforts to protect the Nation from 2
terrorism to determine whether such actions— 3

(i) appropriately protect privacy and 4
civil liberties; and 5

(ii) are consistent with governing 6
laws, regulations, and policies regarding 7
privacy and civil liberties. 8

(3) RELATIONSHIP WITH PRIVACY AND CIVIL 9
LIBERTIES OFFICERS.—The Board shall review and 10
assess the activities of privacy and civil liberties offi- 11
cers described in section 902 and, where appro- 12
priate, shall coordinate their activities. 13

(e) REPORTS.— 14

(1) IN GENERAL.—The Board shall— 15

(A) receive and review reports from privacy 16
and civil liberties officers described in section 17
902; and 18

(B) periodically submit, not less than semi- 19
annually, reports to Congress and the Presi- 20
dent. 21

(2) CONTENTS.—Not less than 2 reports sub- 22
mitted each year under paragraph (1)(B) shall 23
include— 24

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(A) a description of the major activities of 1
the Board during the relevant period; and 2

(B) information on the findings, conclu- 3
sions, and recommendations of the Board re- 4
sulting from its advice and oversight functions 5
under subsection (d). 6

(f) INFORMING THE PUBLIC.—The Board shall 7
hold public hearings, release public reports, and oth- 8
erwise inform the public of its activities, as appro- 9
priate and in a manner consistent with the protec- 10
tion of classified information and applicable law. 11

(g) ACCESS TO INFORMATION.— 12

(1) AUTHORIZATION.—If determined by the 13
Board to be necessary to carry out its responsibil- 14

ities under this section, the Board may— 15
(A) secure directly from any Federal execu- 16
tive department or agency, or any Federal of- 17
ficer or employee, all relevant records, reports, 18
audits, reviews, documents, papers, or rec- 19
ommendations, including classified information 20
consistent with applicable law; 21
(B) interview, take statements from, or 22
take public testimony from personnel of any 23
Federal executive department or agency or any 24
Federal officer or employee; 25

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(C) request information or assistance from 1
any State, tribal, or local government; and 2
(D) require, by subpoena, persons other 3
than Federal executive departments and agen- 4
cies to produce any relevant information, docu- 5
ments, reports, answers, records, accounts, pa- 6
pers, and other documentary or testimonial evi- 7
dence. 8

(2) ENFORCEMENT OF SUBPOENA.—In the case 9
of contumacy or failure to obey a subpoena issued 10
under paragraph (1)(D), the United States district 11
court for the judicial district in which the subpoe- 12
naed person resides, is served, or may be found may 13
issue an order requiring such person to produce the 14
evidence required by such subpoena. 15

(h) MEMBERSHIP.— 16

(1) MEMBERS.—The Board shall be composed 17
of a chairman and 4 additional members, who shall 18
be appointed by the President, by and with the ad- 19
vice and consent of the Senate. 20

(2) QUALIFICATIONS.—Members of the Board 21
shall be selected solely on the basis of their profes- 22
sional qualifications, achievements, public stature, 23
and relevant experience, and without regard to polit- 24
ical affiliation. 25

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(3) INCOMPATIBLE OFFICE.—An individual appointed to the Board may not, while serving on the Board, be an elected official, an officer, or an employee of the Federal Government, other than in the capacity as a member of the Board.

(i) COMPENSATION AND TRAVEL EXPENSES.—

(1) COMPENSATION.—

(A) CHAIRMAN.—The chairman shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day during which the chairman is engaged in the actual performance of the duties of the Board.

(B) MEMBERS.—Each member of the Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per

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diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) STAFF.—

(1) APPOINTMENT AND COMPENSATION.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of

an executive director and such other personnel as 11
may be necessary to enable the Board to carry out 12
its functions, without regard to the provisions of 13
title 5, United States Code, governing appointments 14
in the competitive service, and without regard to the 15
provisions of chapter 51 and subchapter III of chap- 16
ter 53 of such title relating to classification and 17
General Schedule pay rates, except that no rate of 18
pay fixed under this subsection may exceed the 19
equivalent of that payable for a position at level V 20
of the Executive Schedule under section 5316 of title 21
5, United States Code. 22

(2) DETAILEES.—Any Federal employee may 23
be detailed to the Board without reimbursement 24
from the Board, and such detailee shall retain the 25

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rights, status, and privileges of the detailee's regular 1
employment without interruption. 2

(3) CONSULTANT SERVICES.—The Board may 3
procure the temporary or intermittent services of ex- 4
perts and consultants in accordance with section 5
3109 of title 5, United States Code, at rates that do 6
not exceed the daily rate paid a person occupying a 7
position at level IV of the Executive Schedule under 8
section 5315 of such title. 9

(k) SECURITY CLEARANCES.—The appropriate Fed- 10
eral executive departments and agencies shall cooperate 11
with the Board to expeditiously provide the Board mem- 12
bers and staff with appropriate security clearances to the 13
extent possible under existing procedures and require- 14
ments, except that no person shall be provided with access 15
to classified information under this section without the ap- 16
propriate security clearances. 17

(l) TREATMENT AS AGENCY, NOT AS ADVISORY COM- 18
MITTEE.—The Board— 19

(1) is an agency (as defined in section 551(1) 20
of title 5, United States Code); and 21

(2) is not an advisory committee (as defined in 22

section 3(2) of the Federal Advisory Committee Act 23
(5 U.S.C. App.)). 24

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(m) AUTHORIZATION OF APPROPRIATIONS.—There 1
are authorized to be appropriated such sums as may be 2
necessary to carry out this section. 3