

February 10, 2022

The following staff-level recommendations are a result of the Privacy and Civil Liberties Oversight Board's oversight review of one CIA counterterrorism activity conducted pursuant to Executive Order 12333. While the substance of the report remains fully classified and cannot be released publicly, the staff recommendations, with appropriate redactions to protect classified information, can be released publicly and are provided below.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

[redacted]

US PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

(U) Recommendations from PCLOB Staff

[redacted]Recommendation 1: The CIA should draft implementing guidance for the CIA's Attorney General Guidelines that would specifically apply[redacted]

[redacted]The CIA has explained that it is still in the process of implementing its Attorney General Guidelines that came into effect in 2017, and the CIA has not yet developed any new implementing policies, procedures, or guidance regarding how the Guidelines apply to the data that is the subject of this deep dive. The CIA should expeditiously develop such implementing guidance. The guidance should specifically address how the CIA classifies this collection and the retention period (or factors relevant to determining the retention period) that applies to the data that is the subject of this deep dive.

[redacted] Recommendation 2: CIA analysts should memorialize the Foreign Intelligence (FI) justification[redacted] queries involving known or presumed U.S. person information, [redacted] in an easily reviewable manner.

[redacted] The CIA has explained that when CIA analysts seek to [redacted] using information deemed by the system to relate to U.S. persons,[redacted] a pop-up box will appear to remind the analysts that an FI purpose is required for such a query. However, analysts are not required to memorialize the justification for their queries. As a result, auditing or reviewing U.S. Person (USP) queries is likely to be challenging and time-consuming. Given the volume and type of information that is included[redacted] it is appropriate to require analysts to provide a written justification for USP queries.

[redacted] Recommendation 3: The Privacy and Civil Liberties Officer should, in consultation with relevant mission personnel, design a framework sufficient to routinely identify, review, and address issues related to USP information [redacted]

[redacted] The CIA has delegated the authority to conduct USP information reviews, including the authority to review USP information [redacted] to the Privacy and Civil Liberties Officer. Accordingly, the Privacy and Civil Liberties Officer should develop a framework to guide its review of such information.

[redacted]

[redacted]

[redacted] The framework should specifically examine how to audit or review the justifications for queries with USP information by [redacted] users on a routine basis. The framework should be sufficiently robust to detect, identify, and remedy issues. Consider whether using a sampling-based approach would effectively allocate limited resources.

[redacted] In developing this framework, the Privacy and Civil Liberties Officer should consider the proportion [redacted] that involve USP information and the frequency with which USP information is returned in response [redacted]

[redacted] Recommendation 4: The CIA should determine how best to address the retention and use of legacy data that may include USP information.

[redacted] includes legacy data obtained by the CIA before its 2017 Guidelines came into effect. Addressing the appropriate retention period for such legacy data, the CIA explained, is an agency-wide challenge.

[redacted] CIA should develop a strategy for addressing [redacted] records that are the subject of this deep dive. The strategy should consider the likelihood that various legacy datasets will include USP information (considering the CIA's presumptions, if relevant); the potential or likely value of such datasets to the mission; and the cost or time required to review and implement changes affecting legacy data.

[redacted] Recommendation 5: Conduct periodic efficacy assessments in coordination with the Counterterrorism Mission Center to analyze whether the use of [redacted] provides continuing value.

[redacted] Recommendation 6: The CIA should consider the adoption of automated tools to assist with the auditing, oversight, and compliance of matters or issues related to [redacted] especially with regard to U.S. Persons.