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White House Edits to Privacy Board's Report Spur Resignation

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Washington Post Staff Writers
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The Bush administration made more than 200 [revisions](#) to the first report of a civilian board that oversees government protection of personal privacy, including the deletion of a passage on anti-terrorism programs that intelligence officials deemed "potentially problematic" intrusions on civil liberties, according to a draft of the report obtained by [The Washington Post](#).

One of the panel's five members, Democrat Lanny J. Davis, resigned in protest Monday over deletions ordered by [White House](#) lawyers and aides. The changes came after the congressionally created Privacy and Civil Liberties Oversight Board had unanimously approved the final draft of its first report to lawmakers, renewing an internal debate over the board's independence and investigative power.

Some of the [changes](#) sought by the administration ultimately were reversed, and some members of the panel said they were not opposed to the others.

But one section deleted by the administration would have divulged that the Office of the Director of National Intelligence's civil liberties protection officer had "conducted reviews of the potentially problematic programs and has established procedures" for intelligence officials to file complaints about possible civil liberties and privacy abuses.

The passage would have been the first public disclosure of an internal review identifying such potentially intrusive intelligence programs. In its place, White House officials suggested more modest language, which ended up as a substitution in the final report.

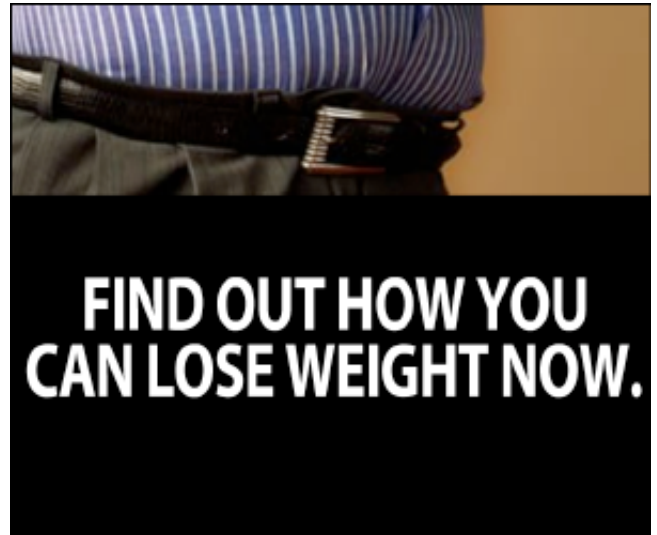
"I think that kind of involvement does a disservice to any notion of independence by the board and therefore subtracts greatly from the necessary independence that would give the board credibility," said Richard Ben-Veniste, a member of the Sept. 11 commission, which recommended the creation of the privacy board.

The panel was created by Congress to address concerns about the government's growing anti-terrorism surveillance powers but placed under the supervision of the White House without investigative tools such as subpoenas. Some in Congress are pushing to make the board completely independent.

White House spokeswoman [Dana Perino](#) called the [editing](#) "standard operating procedure," saying it was appropriate because the board remains legally under the supervision of the Executive Office of the President.

"When you have a formal document going to Congress from any part of the Executive Office of the President, it stands to reason that it must be formally reviewed before it is released," Perino said Monday

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evening.

The board's vice chairman, Republican Alan Raul, said Monday that he was not concerned about the revisions or the White House's dealings with the board. "I never considered it as though the board was yielding control over the document, but rather obtaining useful review and input," Raul said.

But Davis's resignation letter cited "the extensive redlining of the board's report to Congress by administration officials and the majority of the board's willingness to accept most" of the changes.

The 200-plus changes, most of them deletions, ranged from minor factual and grammatical corrections to revisions of whole passages. The board's report was made public in mid-April.

One change that stirred significant controversy among panel members was the deletion by White House aides of a passage on concerns about federal prosecutors' ability to detain "material witnesses" indefinitely in terrorism cases. It was reversed after protests by panel members.

Chairman Carol E. Dinkins told board members March 29 that the White House counsel's office had asked to delete the passage, fearing the revelation might inflame the ongoing political controversy over the administration's dismissal of nine U.S. attorneys, according to documents and interviews with board members.

Administration aides, speaking on the condition of anonymity because White House deliberations with the board are considered private, confirmed that the deletion was requested because of concerns the passage might be construed as White House examination of U.S. attorneys' conduct while Congress was investigating presidential aides' role in the firings.

The board was able to persuade White House counsel Fred F. Fielding to restore the material.

Another significant revision was the deletion of a reference to the panel's plan to investigate how the [Department of Homeland Security](#) assigns "risk" ratings to people entering the [United States](#) under the Automated Targeting System. The controversial program's scope has expanded over the past decade from screening cargo to targeting allegedly dangerous travelers, foreign and American. Customs officials have said they store the risk assessments for up to 40 years.

"The privacy board is right to want to investigate the program," said Marc Rotenberg, executive director of the Electronic Privacy Information Center. "It sounds like the White House is trying to bury the issue."

Fielding is trying to arrange a meeting between remaining board members and [President Bush](#) in the hope of addressing lingering concerns about the revisions, officials said.

Davis served as a special counsel to President [Bill Clinton](#) in the 1990s and has been friends with Bush since their college days at [Yale](#). He was appointed to the board by the White House.

Davis's resignation letter cited disagreements about whether the board should expand its scope to investigate civil liberties abuses of non-Americans. Davis wrote that he was "concerned that there may be current and developing anti-terrorist programs affecting civil liberties and privacy rights of which the board has neither complete knowledge nor ready access."

In a May 8 letter to Dinkins, Thomas H. Kean and Lee H. Hamilton, co-chairmen of the Sept. 11

commission, also questioned the board's effectiveness. "There are wide-ranging concerns expressed by the American public with respect to privacy and civil liberties beyond those you raise in your report," including the treatment of detainees at [Guantanamo Bay, Cuba](#).

Dinkins, the chairwoman, said she did not share most of Davis's concerns but was disappointed he resigned. The White House and other board members believed they had resolved them when Davis signed on to the report's final version, she said.


"We paid close to attention to Lanny," she said.

The document obtained by The Post shows the length that White House officials went to make some changes.

One deleted passage divulged that the board had sent a letter in late January asking Bush to issue an executive order to all federal agencies to fully cooperate with the privacy board. It was prompted by board members' concerns, including a lengthy delay in receiving a briefing on the [National Security Agency's](#) warrantless eavesdropping program and White House efforts to keep the media from attending a planned public board meeting scheduled just weeks before last November's election.

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