



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable John McCain  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2017, October 1, 2016, through March 31, 2017.

The DoD is committed to promoting and protecting privacy and civil liberties as it carries out its programs and missions. Consistent with 42 U.S.C. § 2000ee-1, the DoD Privacy and Civil Liberties Officer ensures that privacy and civil liberties are considered in the decision and policy-making activities of the Department and oversees the Department's compliance with applicable privacy and civil liberties laws, requirements, and policies through the Directorate for Oversight and Compliance.

In accordance with 42 U.S.C. § 2000ee-1, this report is also being sent to the Chairmen of the appropriate congressional committees as delineated in subsection (f)(1). Should you have questions about the report, you or your staff may contact Joo Y. Chung, Director, Directorate for Oversight and Compliance, Office of the Deputy Chief Management Officer, Office of the Secretary of Defense, at 703-692-2746, or at [joo.y.chung2civ@mail.mil](mailto:joo.y.chung2civ@mail.mil).

A handwritten signature in blue ink, appearing to read "David Tillotson III", is positioned above the printed name.

David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Jack Reed  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Richard M. Burr  
Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2017, October 1, 2016, through March 31, 2017.

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Mark Warner  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Elijah E. Cummings  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Charles E. Grassley  
Chairman  
Committee on Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Dianne Feinstein  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Ron Johnson  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Claire McCaskill  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable William M. "Mac" Thornberry  
Chairman  
Committee on Armed Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Adam Smith  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Devin Nunes  
Chairman  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2017, October 1, 2016, through March 31, 2017.

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable Adam B. Schiff  
Ranking Member



**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

The Honorable Robert W. Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2017, October 1, 2016, through March 31, 2017.

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
The Honorable John Conyers, Jr.  
Ranking Member





**DEPUTY CHIEF MANAGEMENT OFFICER**  
9010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-9010

MAY 05 2017

Privacy and Civil Liberties Oversight Board  
Suite 500  
2100 K Street NW  
Washington, DC 20427

Dear Members of the Board:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2017, October 1, 2016, through March 31, 2017.

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David Tillotson III  
Privacy and Civil Liberties Officer

Enclosure:  
As stated

cc:  
U.S. Senate Committee on Armed Services  
U.S. Senate Committee on Homeland Security and Governmental Affairs  
U.S. Senate Committee on Judiciary  
U.S. Senate Select Committee on Intelligence  
U.S. House of Representatives Committee on Armed Services  
U.S. House of Representatives Committee on the Judiciary  
U.S. House of Representatives Committee on Oversight and Government Reform  
U.S. House of Representatives Permanent Select Committee on Intelligence

**Department of Defense**  
**Privacy and Civil Liberties Officer Report**



**Semiannual Report for Fiscal Year 2017**

**October 1, 2016 – March 31, 2017**

Preparation of this study/report cost the  
Department of Defense a total of approximately \$21,800  
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## I. INTRODUCTION

The Department of Defense (“DoD” or “Department”) submits this Privacy and Civil Liberties Officer Report covering the activities of the DoD Privacy and Civil Liberties Officer (PCLO) for the first semiannual reporting period of fiscal year 2017: October 1, 2016 through March 31, 2017.

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), 42 U.S.C. § 2000ee-1 (hereinafter referred to as “Section 803”) requires the DoD to designate a senior officer to serve as the Department’s principal advisor on privacy and civil liberties matters, and to report on a semiannual basis the activities of this officer.<sup>1</sup> The Deputy Chief Management Officer (DCMO)<sup>2</sup> of the Department serves as the PCLO and reports to and advises the Deputy Secretary of Defense and the Secretary of Defense on these matters.

Section 803 Reports describe the privacy and civil liberties activities of the DoD PCLO, to include:

- Information on the number and types of reviews undertaken;
- The type of advice provided and response given to such advice;
- The number and nature of the complaints received by the Department for alleged violations; and
- A summary of the disposition of such reported complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.
- 

The DoD is committed to protecting and promoting privacy and civil liberties in its operations and programs, consistent with the Department’s national defense mission. In keeping with the Department’s dedication to leadership and collaboration in this area, this report has been prepared to include the activities of the PCLO and the efforts of DoD Component privacy and civil liberties officials who perform the day-to-day work of safeguarding the personal information, privacy, and civil liberties of individuals. The PCLO provides oversight and procedural guidelines to the DoD components, while each component executes its program in a manner effective to its unique functions.

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<sup>1</sup> See 42 U.S.C. § 2000ee-1, “Implementing Recommendations of the 9/11 Commission Act of 2007” .

<sup>2</sup> See <http://dcmo.defense.gov/Home.aspx> for further information regarding the Office of the Deputy Chief Management Officer.

## II. THE DOD PRIVACY AND CIVIL LIBERTIES PROGRAM

The DoD Privacy and Civil Liberties Program was developed and implemented to ensure compliance with applicable federal statutes concerning privacy and civil liberties and Office of Management and Budget (OMB) guidelines. On behalf of the PCLO, the Directorate for Oversight and Compliance (DO&C) establishes DoD policy and oversees the day-to-day functions of DoD component privacy and civil liberties programs.

The DoD Privacy and Civil Liberties Program began with the establishment of the Defense Privacy Office in 1975, after the passage of Section 552a of Title 5, United States Code (U.S.C.), also known as “The Privacy Act of 1974,” as amended.<sup>3</sup> In response to the enactment of Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, the office expanded to become the Defense Privacy and Civil Liberties Office. The program continues to meet the new challenges and technological capabilities of the modern world. The DoD privacy and civil liberties program focuses on ensuring the protections of individuals’<sup>4</sup> rights, consistent with the Department’s mission. The DoD privacy and civil liberties program objectives and requirements with regard to protecting privacy and civil liberties are established in DoD Directive (DoDD) 5400.11, “DoD Privacy Program,” October 29, 2014;<sup>5</sup> DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007;<sup>6</sup> and DoD Instruction (DoDI) 1000.29, “DoD Civil Liberties Program,” December 14, 2014.<sup>7</sup>

As a result of changes promulgated in agency privacy program guidance by the OMB over the past year, the DoD issuances cited above are undergoing substantial revision. In addition, the DoD privacy regulation (32 C.F.R. Part 310) is undergoing revision and will be published as a final rule in subsequent months.

Due to its size, the Department has a decentralized privacy and civil liberties program, with each of its components implementing its program within the DoD policy established by the PCLO. This decentralized approach enables DoD-wide compliance with federal agency requirements and ensures that privacy and civil liberties are appropriately considered in all Department activities. Figure 1 provides the structure and responsibilities of the DoD Privacy and Civil Liberties Program.

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<sup>3</sup> The Privacy Act of 1974, 5 U.S.C. § 552a (2012) took effect on September 27, 1975, and can generally be characterized as an omnibus “code of fair information practices” that attempts to regulate the collection, maintenance, use, and dissemination of personal information of individual by federal executive branch agencies.

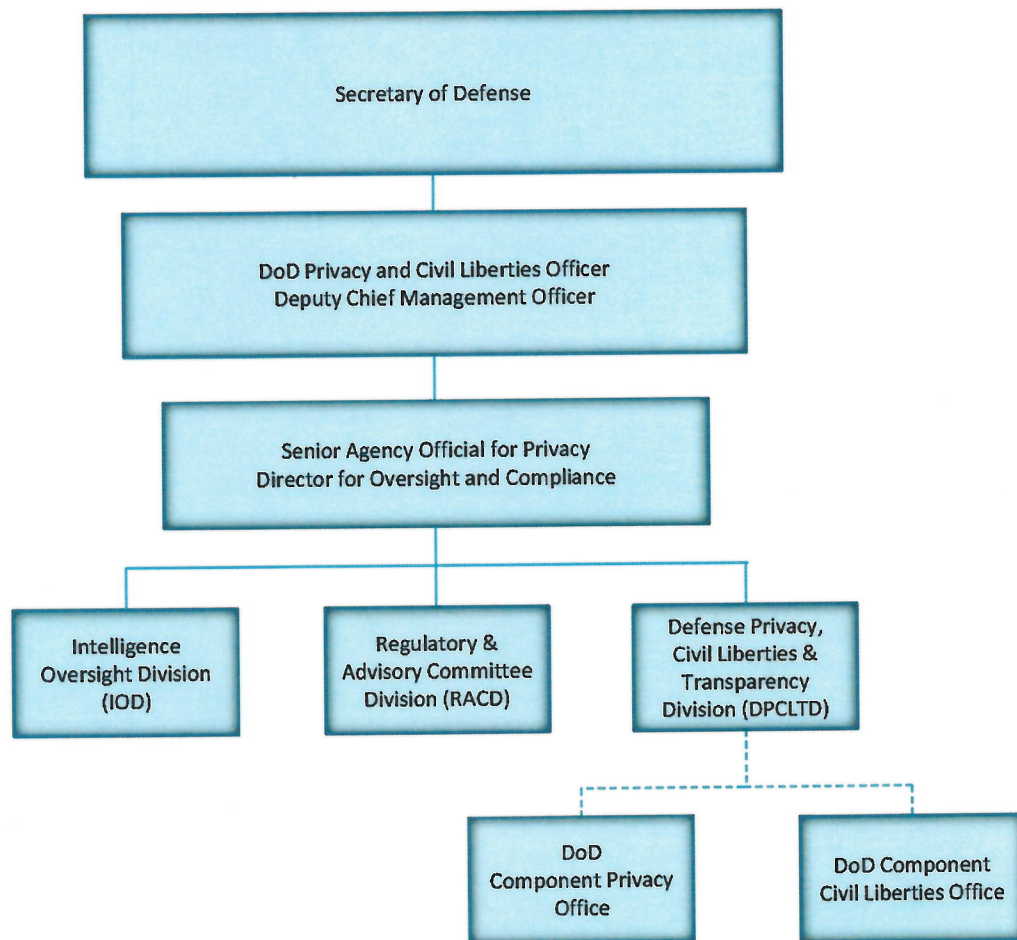
<sup>4</sup> “Individual,” as defined by the Privacy Act means “a citizen of the United States or an alien lawfully admitted for permanent residence.” 5 U.S.C. 552a(a)(2).

<sup>5</sup> Available at <http://www.dtic.mil/whs/directives/corres/pdf/540011p.pdf>

<sup>6</sup> Available at <http://www.dtic.mil/whs/directives/corres/pdf/540011r.pdf>

<sup>7</sup> Available at <http://www.dtic.mil/whs/directives/corres/pdf/100029p.pdf>

**Figure 1: DoD Privacy and Civil Liberties Program Structure**



## **A. The Office of the Deputy Chief Management Officer (ODCMO)**

The Deputy Chief Management Officer (DCMO) serves as the DoD PCLO and reports to and advises the Deputy Secretary of Defense, who is the Chief Management Officer, and the Secretary of Defense. Other DCMO responsibilities include advising the Secretary and Deputy Secretary on business transformation, and leading the Department's efforts to streamline business processes to improve efficiencies in management, headquarters, and overhead functions. As the PCLO, the DCMO exercises leadership on privacy and civil liberties issues that may impact Department programs.

## **B. The Directorate for Oversight and Compliance (DO&C)**

The DO&C within the ODCMO comprises three divisions: the Intelligence Oversight Division (IOD), the Defense Privacy, Civil Liberties, and Transparency Division (DPCLTD), and the Regulatory and Advisory Committee Division. The Director of O&C reports to the DCMO and apprises the DCMO of privacy and civil liberties concerns within the Department, particularly those matters which require the authority of the DCMO or other senior leaders to implement program requirements.

The Director of O&C has also been designated as the DoD Senior Agency Official for Privacy (SAOP). The SAOP has Department-wide responsibility for privacy, including implementation of information privacy protections, compliance with Federal laws, regulations, and policies relating to privacy, and development and evaluation of legislative, regulatory, and other policy proposals that implicate privacy issues. The SAOP also oversees the DoD Privacy and Civil Liberties Program and provides recommendations directly to the PCLO.

## **C. The Intelligence Oversight Division**

The IOD is responsible to the Secretary of Defense for the independent oversight of all intelligence, counterintelligence, and intelligence-related activities of the Department. The IOD inspects all intelligence or intelligence-related activities conducted by any of the DoD Components to ensure that these activities comply with federal law, Executive Orders, Presidential Directives, Intelligence Community Directives, and DoD issuances. Due to the importance of protecting privacy and civil liberties when conducting intelligence activities, the IOD is integral to how DO&C supports the PCLO. The Chief, IOD also serves as the DoD Senior Intelligence Oversight Official (SIOO), reporting directly to the Secretary of Defense, and serves as the Deputy Director, DO&C.

## **D. The Defense Privacy, Civil Liberties, and Transparency Division (DPCLTD)**

Under the leadership of the Director of O&C, the DPCLTD assists the PCLO and SAOP in implementing the DoD Privacy and Civil Liberties Program by providing guidance to Component officials, reviewing publications and legislative activities, facilitating official reporting, and training in both privacy and civil liberties content and program administration.

The DPCLTD communicates routinely on a wide range of activities with privacy and civil liberties officials at each DoD Component, the OMB, the Privacy and Civil Liberties Oversight Board (PCLOB), and other Federal departments and agencies, to facilitate the Department-wide execution of Federal privacy and civil liberties program requirements, and to exchange ideas on the development and business practices for privacy and civil liberties.

### **E. DoD Office of General Counsel (OGC)**

The DoD OGC provides legal advice to senior DoD officials, the DO&C, and the DoD Components in support of the DoD privacy and civil liberties program. In addition to the many attorneys throughout the Department who work on privacy and civil liberties matters, including complaints, the DoD OGC assigned legal advisors work directly with the DO&C and the DPCLTD to provide legal reviews for privacy and civil liberties issues and to ensure the development of privacy and civil liberties policy is consistent with the law.

### **F. DoD Component Privacy and Civil Liberties Officials**

The DoD Components are responsible for administering privacy and civil liberties programs, including the establishment and implementation of Component-level privacy and civil liberties policies, procedures, and training. The Director of O&C and the Chief, DPCLTD, communicate regularly with privacy and civil liberties officials in the DoD Components to ensure compliance with law and policy.

#### **1. Senior Component Officials for Privacy (SCOPs) and Component Privacy Officers (CPOs)**

To enhance the strength and implementation of the privacy and civil liberties program, the DoD requires the designation of Senior Component Officials for Privacy (SCOPs). Each SCOP works closely with the CPO to understand existing or potential compliance issues requiring executive level intervention, and to identify issues and recommend action for matters needing the attention of the appropriate Component leadership. DoD CPOs and support staff assist the SCOPs at the Service, Component, and Combatant Command levels. In addition, the SCOPs provide information and advice to the Director of O&C/SAOP to assist in policy making at the Departmental level.

#### **2. Component Chief Civil Liberties Officers (CCLOs) and Points of Contact (POCs)**

DoD Components are also responsible for designating a senior service member or civilian employee to serve as the CCLO, and another service member or civilian employee to serve as the Component's civil liberties POC. Generally, the CCLO has authority to act on behalf of the Component Head to direct the Component's compliance with Section 803 and the DoD Civil Liberties Program. The civil liberties POC is responsible for fulfilling the requirements of the DoD Civil Liberties Program within the Component, under the direction of the CCLO.

## **III. REVIEWS**

The DoD considers privacy and civil liberties concerns when proposing, developing, and



implementing laws, regulations, policies, procedures, and guidelines.<sup>8</sup> On behalf of the DCMO and the Director of O&C, the DPCLTD performs privacy and civil liberties reviews for all Department-level issuances, as well as proposed federal legislation, testimony, and reports. In doing so, the DPCLTD analyzes language and activities for impacts on privacy and civil liberties. The division recommends edits fostering privacy and civil liberties to documents when appropriate. When requested, the DPCLTD reviews and comments on other federal agency documents which may affect the Department's operational mission and concomitant structure. The total number of documents reviewed by the DPCLTD during this review period is identified in Table 1.

Privacy and civil liberties reviews are conducted in accordance with the Privacy Act of 1974, as amended, and OMB guidance. The Department also ensures compliance and alignment with the Federal Information Security Modernization Act of 2014 and the E-Government Act of 2002 (44 U.S.C. § 3501). For the purposes of this report, privacy compliance reviews are defined as follows and are summarized in Table 1.

### **A. System of Records Notice (SORN) Reviews**

A SORN is a public notice published in the Federal Register that describes the existence and character of a system of records.<sup>9</sup> DoD Components must submit their SORNs to DPCLTD for review and approval. The number listed in this report represents the SORNs that DPCLTD has reviewed, approved, forwarded to OMB and Congress, and sent to the Office of the Federal Register for publication during this review period.

### **B. Exemption Rule Reviews**

A Privacy Act exemption rule is promulgated when a system of records is exempted from certain general or specific provisions of the Privacy Act of 1974.<sup>10</sup> For the purposes of this report, the number reported represents new exemption rules reviewed by DPCLTD and the DoD OGC and published as a final rule during the reporting period.

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<sup>8</sup> See 42 U.S.C. § 2000ee-1.

<sup>9</sup> See 5 U.S.C. § 552a (e) (4).

<sup>10</sup> See 5 U.S.C. § 552a (j), (k).

**Table 1: Privacy and Civil Liberties Reviews**

<b>PRIVACY and CIVIL LIBERTIES REVIEWS</b>	
<b>Type of Review</b>	<b>Number of Reviews</b>
System of Records Notices (SORNs)	
➤ Additions:	0
➤ Modifications:	8
➤ Amendments:	0
➤ Rescindments:	3
➤ Re-instatements:	0
Exemption Rules	0
Matching Agreements	1
Privacy Breach Reviews	438
SSN Justification Memoranda	7
DoD Issuances:	
➤ DoD Directive:	5
➤ DoD Instruction:	30
➤ DoD Manual:	25
➤ Directive Type Memo:	5
Federal Legislation, Testimony, and Reports:	71

### **C. Matching Agreement Reviews**

Matching Agreement (MA) Reviews – An MA is a written agreement between a source agency and a recipient agency (federal or non-federal agency) when automated data is matched between the agencies, typically to determine eligibility of individuals for a specific federal service or benefit.<sup>11</sup> For the purposes of this report, the number reported represents MAs reviewed and completed during this period, in which DoD is either the source agency or the recipient agency.

### **D. Privacy Breach Reviews**

A breach is defined as the loss of control, unauthorized disclosure, unauthorized acquisition or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses personally identifiable information or (2) an unauthorized user accesses personally identifiable information for an other than authorized purpose.<sup>12</sup> DoD Components report all privacy

<sup>11</sup> See 5 U.S.C. § 552a (8) and (o).

<sup>12</sup> OMB M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information," January 3, 2017.

breaches to the DPCLTD, which compiles the breach reports to identify and analyze trends, and to inform the Department's senior leadership. The number reported herein is the total number of privacy breaches across all Components that were reported to DPCLTD.

### **E. Social Security Number (SSN) Justification Reviews**

An SSN Justification Memorandum is submitted by a DoD Component to DPCLTD for approval of its justification for each record system or form that collects SSNs. This effort is directed at reducing, and ultimately eliminating, the use of SSNs on DoD Forms to ensure greater protection of PII. The number reported in Table 1 is the total number of memoranda approved by DPCLTD.

### **F. Other Privacy and Civil Liberties Reviews**

DPCLTD also reviews DoD issuances for privacy and civil liberties issues and provides comments and recommendations as appropriate. In addition, DPCLTD reviews and coordinates comments on proposed legislation, reports and testimony when requested. Table 1 lists privacy reviews of DoD and other federal agency documents.

## **IV. TYPE OF ADVICE AND RESPONSE**

The DCMO provides advice and documents responses to advice on privacy and civil liberties matters for all DoD Components. This advice and response to advice serves as important guidance for DoD Component privacy and civil liberties program implementation.

### **A. Advice**

For the purpose of this report, advice encompasses the written issuance of DoD policies, procedures, or guidance pertaining to privacy and civil liberties by the DCMO or SAOP. The DCMO did not issue formal privacy or civil liberties advice in the form of a written issuance during this reporting period. As noted previously, as a result of OMB's numerous policy guidance issued during the last portion of 2016, the Department's guidance to the privacy and civil liberties program is being updated. Issuances being revised include DoDD 5400.11, "DoD Privacy Program;" DoD 5400.11-R, "Department of Defense Privacy Program;" and DoDI 1000.29, "DoD Civil Liberties Program."

### **B. Programmatic Achievements**

The DoD is committed to engaging privacy and civil liberties stakeholders in the DoD community, including through outreach and training to Department privacy and civil liberties officials. The following activities highlight a few key DO&C and DPCLTD programmatic efforts during this period.

- Defense Privacy and Civil Liberties Board. This group of DoD component privacy and civil liberties officers/POCs met on three occasions during this reporting period to discuss innovation in current privacy compliance mechanisms, as well as changes to Department policy following the new OMB Circulars A-130 and A-108 and the Breach Policy and Web

Site Memoranda. During this semiannual period, the Board also discussed DoD's SSN reduction efforts, planned updates to DoD privacy and civil liberties policies and procedures, and the requirements for privacy training at all levels.

- In order to comply with the requirements of the OMB Circular No. A-130, published in July of last year, the SAOP had an October meeting with the Department Chief Information Security Officer (CISO) to establish a more collaborative working relationship at all levels of DoD in managing information systems with respect to privacy and information security.
- In November, the DPCLTD briefed the CIO's Risk Management Framework Technical Advisory Group to initiate discussion and identify privacy requirements in the development of information systems. The discussion included all steps of the Risk Management Framework and the necessary coordination to safeguard personal information.
- In January 2017, the SAOP and CISO co-chaired a meeting of the component Authorizing Officials to provide information and plan a way forward regarding changes in the "Authorization to Operate" (ATO) procedure.
- The Risk Management Framework Knowledge Service (KS) portal now hosts a page which defines privacy's role in this process, linking users to references which detail actions required to protect privacy as well as information security.
- Over 300 DoD personnel were trained at two Freedom of Information Act and Privacy Act training events.
- One Privacy Act Compliance and Management (PACMAN) training event resulted in the training of 20 DoD employees. This training is a three-day privacy and program compliance course, designed for privacy officers and privacy analysts throughout the DoD. Key aspects of the training included component-specific System of Records Notices (SORN) training as well as a simulated breach exercise to help participants use the materials that were discussed.
- Office of the Secretary of Defense Action Officer Course. Each quarter, the DPCLTD briefs new hires and action officers about DoD's privacy and civil liberties programs and relevant regulations. The objective is to advise new hires and action officers of mandatory privacy and civil liberties training and increase awareness of privacy and civil liberties requirements and available resources.
- DoD Joint Inspector General (IG) Course. The IG is one of the primary conduits for submitting civil liberties complaints. Each quarter, DPCLTD briefs new IG employees about the DoD Privacy and Civil Liberties Program, with a focus on civil liberties, and the IG's role in identifying and reporting civil liberties complaints.

## V. COMPLAINTS

DoD policy requires the DoD Components to have established procedures for processing

complaints from individuals who allege that the DoD violated their privacy or civil liberties.<sup>13</sup> Complaints received directly by DPCLTD are forwarded to the appropriate DoD Component for further processing. Generally, complaints are reviewed by the receiving Component privacy and civil liberties program office and reported to the Component command or appropriate official. Upon receipt of the complaint, the command may initiate an investigation and, as necessary, direct corrective action. The complaints identified in this report were received in accordance with these procedures. For the purposes of this report, a complaint is an allegation of a violation of an individual's privacy rights or civil liberties. Privacy or civil liberties complaints arising out of non-judicial punishments, military courts-martial, and administrative separations are not included in this report. Complaints which fall under the Health Insurance Portability and Accountability Act (HIPAA) are also not listed herein.

This report includes the number of complaints received by DoD Components during the reporting period for which (1) responsive action was taken, or (2) action is pending. "Responsive action taken" means the complaint was reviewed and resolved. It also includes any action taken to remediate the violation and prevent recurrence. "Pending" means the complaint is under review to determine what actions may be required to resolve the complaint.

A privacy complaint is an allegation of a violation of privacy protections in the administration of the programs and operations of the Department. Privacy complaints are separated into three categories:

- Procedural Issues (such as appropriate consent, collection, and/or notice);
- Redress Issues (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); and
- Operational Issues (Privacy Act matters not including requests for access, disclosure, or amendment).

For samples of DoD Privacy Complaints, please refer to the Appendix of this report.

A civil liberties complaint is an allegation of a violation of civil liberties in the administration of the programs and operations of the Department. For this report, civil liberties complaints involve the assertion of a violation of the rights and freedoms guaranteed by the first 10 amendments to the U.S. Constitution, the Bill of Rights. Types of civil liberties complaints include, but are not limited to:

- First Amendment (e.g. freedom of speech, religion, assembly, and association);
- Second Amendment (right to keep and bear arms);
- Fourth Amendment (protection against unreasonable search and seizure);
- Fifth Amendment (due process);
- Sixth Amendment (speedy and fair trial);
- Eighth Amendment (no cruel/unusual punishment) and
- Ninth Amendment ("unenumerated" rights).

For samples of DoD civil liberties complaints, for illustrative purposes only, please refer to the

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<sup>13</sup> See DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007; DoDI 1000.29, "DoD Civil Liberties Program," December 14, 2014.

Appendix of this report.

**Table 2: Privacy and Civil Liberties Complaints**

Nature of Privacy Complaints	Number Received	Disposition of Complaint	
		Responsive Action Taken	Pending
Procedural	10	5	5
Redress	0	0	0
Operational	0	0	0
<b><i>Sub Total for Privacy Complaints:</i></b>	10	5	5
<b>Nature of Civil Liberties Complaints</b>			
First Amendment	13	12	1
Second Amendment	2	2	0
Fourth Amendment	8	5	3
Fifth Amendment	44	36	8
Ninth Amendment	6	3	3
Fourteenth Amendment	27	18	9
Fourth and Fifth Amendments	0	0	0
Fourth and Eight Amendments	0	0	0
Fifth and Sixth Amendments	0	0	0
<b><i>Sub Total for Civil Liberties Complaints:</i></b>	100	76	24
<b>TOTAL 1<sup>st</sup> &amp; 2nd Qtr FY17</b>	<b>110</b>	<b>81</b>	<b>29</b>

## **VI. CONCLUSION**

In accordance with Section 803, this report summarizes the semiannual activities of the DoD Privacy and Civil Liberties Officer from October 1, 2016 through March 31, 2017. DoD will continue to work with Congress, the OMB, the PCLOB, and other federal agencies to ensure that it proactively protects privacy and civil liberties, and continues to expand its achievements in this endeavor while accomplishing the Department's missions.

## APPENDIX: Samples of Privacy and Civil Liberties Complaints

### Sample DoD Privacy Complaints

#### *Sample Complaint #1:*

**Description of Complaint:** A complainant alleged that a co-worker released PII and other sensitive information about complainant to personnel who did not have a need-to-know.

**Findings:** Unsubstantiated. It was confirmed that the co-worker did have a need-to-know of the PII. There was no substantial evidence that the PII and other sensitive information was released or shared with other personnel in the office. The complainant was notified. Privacy Act training was conducted to ensure everyone within the directorate understood how to properly handle PII and sensitive information.

**Disposition:** Responsive Action Taken.

#### *Sample Complaint #2:*

**Description of Complaint:** A complainant alleged that an application form that was used for applying for access was not compliant with the Privacy Act.

**Findings:** After review of the form, it was found that a Privacy Act statement was required. The information on the form is “For Official Use Only/Freedom of Information Act” (FOUO/FOIA) exempt information and contained PII. The form should be encrypted when sent electronically and safeguarded when stored with limited access by those with a need-to-know, and then destroyed (shredded). In accordance with the reviewing officer’s findings and recommendations, the form in question was revised to make it compliant with the Privacy Act.

**Disposition:** Responsive Action Taken.

### Sample DoD Civil Liberties Complaints

#### *Sample Complaint #1:*

**Description of Complaint:** Alleged Second Amendment violation. The complainant, a soldier, alleged that his unit commander unlawfully confiscated his personally owned weapons.

**Findings:** Inquiry indicated that the unit had improperly confiscated these weapons. The unit’s confiscation rationale, that the complainant was suspended from duty and under investigation for an inappropriate relationship, was not justified under Section 1062 of the National Defense Authorization Act of FY 2011 and Army policy. The unit returned the personally owned weapons to the soldier.

**Disposition:** Responsive Action Taken.

#### *Sample Complaint #2:*

**Description of Complaint:** Alleged Fourth Amendment violation. The complainant, a civilian,



alleged that security forces violated the complainant's rights against unlawful search and seizure.

**Findings:** An internal investigation was conducted and appropriate training was provided.

**Disposition:** Responsive Action Taken.