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OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

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**Office of Civil Liberties, Privacy, and Transparency  
Semiannual Report:  
01 July 2021–31 December 2021**

July 2022

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## INTRODUCTION

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It is the mission of every intelligence agency throughout the world to provide a decision advantage to their leaders, but in the United States—not uniquely, but to a degree surpassed by no other nation—our intelligence agencies are equally tasked with ensuring this mission is accomplished in a manner that complies with the law and respects the foundational values of our free society. Chief among these values is that our Intelligence Community (IC) activities, programs, and policies protect privacy and civil liberties and incorporate an appropriate level of transparency to engender and enhance public trust. Acting in accordance with these values is the responsibility of every intelligence officer. The Office of Civil Liberties, Privacy, and Transparency (CLPT) acts as a focal point by providing advice, conducting reviews, and handling complaints regarding privacy and civil liberties within the Office of the Director of National Intelligence (ODNI). CLPT also integrates the privacy, civil liberties, and transparency efforts of the broader IC.

As required by Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (Pub. L. No. 110-53), as amended, this report provides information about the notable activities, from 01 July 2021 to 31 December 2021, of ODNI CLPT, to include the number of privacy and civil liberties reviews conducted and the types of complaints received. In the interest of enhancing transparency, it also provides a narrative overview of significant activities for the same period.

## ABOUT THE OFFICE OF CIVIL LIBERTIES, PRIVACY, AND TRANSPARENCY

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CLPT is led by the Civil Liberties Protection Officer, a position created by the Intelligence Reform and Terrorism Prevention Act of 2004. By leading the integration of civil liberties and privacy protections into the policies, procedures, programs, and activities of the IC, CLPT facilitates the conduct of intelligence activities in a manner that protects civil liberties and privacy, provides appropriate transparency, and promotes practices to earn and retain the trust of the American people. CLPT participation in developing and overseeing IC activities seeks to give the American people confidence that the IC is pursuing its vital national security mission in a manner consistent with our nation's values.

More specifically, CLPT examines the privacy and civil liberties ramifications of intelligence-related technologies, programs, and procedures. CLPT collaborates closely with ODNI's components to understand their initiatives or projects in detail, starting with the intelligence purpose for the specific activity, the authority pursuant to which data is obtained, and the characteristics and use of the data. Based on each set of individual circumstances, CLPT reviews the appropriateness of protective measures, reviews compliance with legal and policy mandates, and works with components to modify or formulate additional protections as necessary.

CLPT also reviews proposed legislation, policy documents, instructions, standards, guidance, testimony, reports, releases, and other materials to ensure that privacy and civil liberties issues are appropriately addressed and properly articulated. These reviews may pertain

specifically to ODNI or to other IC elements to the extent that the issues fall within ODNI's IC-wide responsibilities.

Additionally, CLPT reviews and investigates (as appropriate) alleged privacy and civil liberties abuses. When CLPT first receives a complaint, it must determine whether the complaint was properly directed to CLPT or whether it should have been referred to a different office or agency. For example, depending on the circumstances, certain complaints may be referred to the IC Inspector General, the Office of Equal Employment Opportunity, or another agency. If CLPT determines a complaint is not frivolous and merits a full review, it obtains and analyzes relevant information in light of the pertinent legal and policy standards. Based on its findings, CLPT determines the appropriate course of action to resolve the complaint, and notifies the complainant of disposition.

The Civil Liberties Protection Officer also serves as the ODNI's Chief Transparency Officer. CLPT is responsible for leading implementation of the *Principles of Intelligence Transparency for the Intelligence Community*.<sup>1</sup> The Intelligence Transparency Principles guide how the IC makes information available to the public in a manner that enhances the public's understanding of intelligence activities, while continuing to protect information when disclosure would harm national security.

CLPT carries out its duties in close consultation with other offices with relevant and complementary responsibilities, including offices of General Counsel, offices of Inspectors General, Intelligence Oversight offices, Civil Liberties and Privacy offices, and the Department of Justice (DOJ). CLPT champions the *Principles of Professional Ethics for the Intelligence Community: Mission, Truth, Lawfulness, Integrity, Stewardship, Excellence, and Diversity*.<sup>2</sup> These are fundamental, ethical principles that unite professionals across agencies and functions.

## **OVERVIEW OF KEY INITIATIVES DURING THE REPORTING PERIOD**

The following paragraphs provide a brief synopsis of some key initiatives undertaken by CLPT during the reporting period, pursuant to CLPT's roles in providing advice and conducting reviews regarding privacy and civil liberties protections. While these activities encompass topics of potentially greater public interest and are exemplars of comparable efforts on classified projects, they do not reflect the full scope of CLPT's efforts to protect privacy and civil liberties in the conduct of intelligence activities. A description of CLPT's other critical but routine activities is detailed in a subsequent section of this report.

### **Foreign Intelligence Surveillance Act**

During the reporting period, CLPT, in partnership with other ODNI offices, continued to conduct joint oversight with the DOJ of the IC's use of Section 702 of the *Foreign Intelligence Surveillance Act of 1978* (FISA). CLPT participated in on-site reviews, reviewed compliance

<sup>1</sup> The *Principles of Intelligence Transparency* are available at: <https://www.intelligence.gov/index.php/mission/our-values/341-transparency>.

<sup>2</sup> The *Principles of Professional Ethics for the Intelligence Community* are available at: <https://www.dni.gov/files/documents/CLPO/Principles%20of%20Professional%20Ethics%20for%20the%20IC.pdf>.

documentation and guidance, and worked with the DOJ to identify, resolve, and report incidents of noncompliance to the Foreign Intelligence Surveillance Court and Congress. In addition to reviewing individual incidents, CLPT also identified trends in compliance and provided privacy and civil liberties guidance on methods for reducing the number and impact of recurring compliance incidents. In particular, CLPT focused with the DOJ and the Federal Bureau of Investigation (FBI) on the querying of U.S. persons information in repositories containing unevaluated Section 702-acquired data. These oversight efforts resulted in substantial changes to FBI's systems, training, and procedures with regard to such queries.

CLPT's FISA oversight activities are extensively documented in joint DOJ and ODNI assessments, three of which were completed in this reporting period. CLPT has released one of these reports to the public in redacted form,<sup>3</sup> and will release the other two in the near future. CLPT also facilitated the Privacy and Civil Liberties Oversight Board's continuing oversight of Section 702 by coordinating the ongoing production of classified FISA documentation to the Board, including classified versions of these joint assessments.

### **Executive Order 12333 Guidance and Oversight**

Executive Order 12333 authorizes, guides, and limits the vast majority of activities conducted by the IC. Section 2.3 of Executive Order 12333 provides that the collection, retention, or dissemination of any information concerning U.S. persons in the course of these activities must be governed by procedures approved by the relevant head of the IC element and the Attorney General after consultation with the Director of National Intelligence. Separate, but related, procedures required by Section 2.9 of Executive Order 12333 prescribe the limited circumstances in which IC personnel may participate in a U.S. organization without disclosing their affiliation with their employer. Collectively, these procedures are commonly referred to as an IC element's "Attorney General Guidelines."

In this reporting period, CLPT continued to work with the DOJ, the relevant IC elements, and other ODNI components to update these Attorney General Guidelines. This effort, which has now extended over approximately a decade, has been designed to ensure that Attorney General Guidelines reflect best practices for protecting privacy and civil liberties in the collection and handling of digital information; adopt common definitions across the IC to improve intelligence integration and provide consistent protections; and are drafted to provide maximum transparency to the public regarding the law and policies that govern the IC's activities.<sup>4</sup> During this reporting period, CLPT worked closely with the Department of the Treasury and the Drug Enforcement Administration to further develop their Attorney General procedures.

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<sup>3</sup> See the ODNI and Department of Justice's 22<sup>nd</sup> Joint Assessment of the Section 702 program (available at: <https://www.intel.gov/index.php/ic-on-the-record-database/results/1107-release-of-the-22nd-joint-assessment-of-section-702-compliance>). In this reporting period, CLPT also released a redacted version of the 21st Joint Assessment, which was completed in a prior reporting period (available at: <https://www.intel.gov/index.php/ic-on-the-record-database/results/1082-release-of-the-21th-joint-assessment-of-section-702-compliance>).

<sup>4</sup> CLPT has created a chart with links to the current Attorney General Guidelines for every element of the Intelligence Community, available at: [https://www.intel.gov/assets/documents/guide/Chart\\_of\\_EO\\_12333\\_AG\\_approved\\_Guidelines\\_March\\_2021.pdf](https://www.intel.gov/assets/documents/guide/Chart_of_EO_12333_AG_approved_Guidelines_March_2021.pdf).

In addition to our efforts related to the drafting of these Attorney General Guidelines, CLPT continued to lead interagency efforts to develop the oversight and compliance programs that must be completed and approved before an IC element may obtain raw signals intelligence under Section 2.3 of Executive Order 12333. CLPT facilitated dialogue to ensure that proposed oversight and compliance programs included appropriate monitoring activities necessary to establish comparable protections to those governing the activities of the National Security Agency (NSA). CLPT approved the compliance and oversight program for the first such program in July 2021.

CLPT also worked within ODNI to advise and oversee the implementation of ODNI's own Attorney General procedures. More specifically, in January 2021, ODNI released to the public new procedures governing the activities of ODNI itself.<sup>5</sup> These are the first set of Attorney General Guidelines that apply uniformly to all ODNI activities; previously, ODNI activities were governed either by the Central Intelligence Agency's Attorney General Guidelines or specific Attorney General Guidelines for the National Counterterrorism Center (NCTC). The single, uniform set of ODNI Attorney General Guidelines were created to better reflect both ODNI's unique authorities to integrate intelligence from across the IC, as well as limitations in Executive Order 12333 on the types of collection ODNI itself is authorized to collect. To better facilitate public understanding, CLPT developed and proactively disclosed a narrative document describing the scope and nature of the ODNI Attorney General Guidelines.<sup>6</sup> In addition, and in order to apply further privacy and civil liberties protections (particularly in the area of domestic terrorism), CLPT worked closely with the National Counterterrorism Center and other ODNI components to develop additional National Counterterrorism Center implementing procedures, which were released to the public in March 2021.<sup>7</sup>

During this reporting period, CLPT advised components on the application of the new ODNI Attorney General procedures with respect to new datasets ODNI collected or gained access to in furtherance of its intelligence mission. CLPT also worked closely with NCTC and other partners on ensuring that intelligence activities with respect to domestic terrorists complied with privacy and civil liberties controls. For example, CLPT advised NCTC on the development of the December 2021 *U.S. Violent Extremist Mobilization Indicators* booklet,<sup>8</sup> which provides specific guidance to federal, state, local, and tribal officials on how to spot potential indications of mobilization to violence by both foreign and domestic terrorists, while continuing to respect the Constitutional rights of all Americans. CLPT, in conjunction with ODNI's Office of General Counsel, also developed a process to conduct reviews of potential NCTC projects regarding

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<sup>5</sup> The ODNI's Attorney General Guidelines are available at:

[https://www.intelligence.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20guidelines%20as%20approved%20by%20AG%2012.23.20\\_OCR.pdf](https://www.intelligence.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20guidelines%20as%20approved%20by%20AG%2012.23.20_OCR.pdf).

<sup>6</sup> This narrative document is available at:

[https://www.intelligence.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20Attorney%20General%20Procedures%20Narrative%20Summary\\_OCR.pdf](https://www.intelligence.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20Attorney%20General%20Procedures%20Narrative%20Summary_OCR.pdf).

<sup>7</sup> The National Counterterrorism Center Implementation procedures are available at:

[https://www.dni.gov/files/NCTC/documents/news\\_documents/NCTC\\_Implementation\\_Procedures\\_executed\\_3\\_22\\_21\\_U\\_final.pdf](https://www.dni.gov/files/NCTC/documents/news_documents/NCTC_Implementation_Procedures_executed_3_22_21_U_final.pdf).

<sup>8</sup> This booklet is available at:

[https://www.dni.gov/files/NCTC/documents/news\\_documents/Mobilization\\_Indicators\\_Booklet\\_2021.pdf](https://www.dni.gov/files/NCTC/documents/news_documents/Mobilization_Indicators_Booklet_2021.pdf).

domestic terrorism to ensure privacy and civil liberties protections were incorporated into new proposed intelligence products from their inception.

### Principles of Artificial Intelligence Ethics for the IC

The IC must lead in developing and using technology crucial to its national security mission, but it is broadly recognized that the use of technologies, such as artificial intelligence (AI), can result in unique and complex ethical concerns, many of which sound in our values of protecting privacy and civil liberties. Moreover, as it is the IC's mission to provide decision advantage through accurate and objective analysis, no institution has a stronger business case for ensuring its use of technology provides results that are unbiased and appropriately explainable to end users of the analytic product.

To help the IC meet these challenges, CLPT led an effort under the auspices of the IC Civil Liberties and Privacy Council to bring together data scientists, data managers, privacy and civil liberties officers, mission leads, and other stakeholders to develop a common and consistent approach to the exercise of ethical judgment in the use of advanced analytics, such as AI and machine learning. As a result of this effort, in July 2020, the Director of National Intelligence approved the *Principles of Artificial Intelligence Ethics for the Intelligence Community (AI Ethics Principles)*.<sup>9</sup> Specifically, the *AI Ethics Principles* declare the IC's commitment to ensuring that its design, development, and use of AI will be consistent with the following:

- **Respect the Law and Act with Integrity.** We will employ AI in a manner that respects human dignity, rights, and freedoms. Our use of AI will fully comply with applicable legal authorities and with policies and procedures that protect privacy, civil rights, and civil liberties.
- **Transparent and Accountable.** We will provide appropriate transparency to the public and our customers regarding our AI methods, applications, and uses within the bounds of security, technology, and releasability by law and policy, and consistent with the *Principles of Intelligence Transparency for the Intelligence Community*. We will develop and employ mechanisms to identify responsibilities and provide accountability for the use of AI and its outcomes.
- **Objective and Equitable.** Consistent with our commitment to providing objective intelligence, we will take affirmative steps to identify and mitigate bias.
- **Human-Centered Development and Use.** We will develop and use AI to augment our national security and enhance our trusted partnerships by tempering technological guidance with the application of human judgment, especially when an action has the potential to deprive individuals of constitutional rights or interfere with their free exercise of civil liberties.
- **Secure and Resilient.** We will develop and employ best practices for maximizing reliability, security, and accuracy of AI design, development, and use. We will

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<sup>9</sup> The *Principles of Artificial Intelligence Ethics for the Intelligence Community* are available at: [https://www.intelligence.gov/images/AI/Principles\\_of\\_AI\\_Ethics\\_for\\_the\\_Intelligence\\_Community.pdf](https://www.intelligence.gov/images/AI/Principles_of_AI_Ethics_for_the_Intelligence_Community.pdf).

employ security best practices to build resilience and minimize potential for adversarial influence.

- **Informed by Science and Technology.** We will apply rigor in our development and use of AI by actively engaging both across the IC and with the broader scientific and technology communities to utilize advances in research and best practices from the public and private sector.

In developing the *AI Ethics Principles*, the IC-wide working group, led by CLPT, consulted many academic and private sector sources of information, and examined governmental regulatory approaches from around the world. While these external efforts deeply informed the approach to the *AI Ethics Principles*, publicly available materials primarily described potential problems and presented high-level philosophical approaches regarding how to meet these challenges; they did not generally provide real-world guidance on how to actually implement AI in an ethical manner across many potential use cases.

To fill this implementation gap, and building on the expertise of the IC's data scientists in meeting AI challenges in a manner consistent with American values, the CLPT-led effort therefore created the *Artificial Intelligence Ethics Framework for the Intelligence Community (AI Ethics Framework)*.<sup>10</sup> The *AI Ethics Framework* is designed to provide practical guidance to personnel who are determining whether and how to procure, design, build, use, protect, consume, and manage AI and other advanced analytics. The *AI Ethics Framework* is not a checklist, but instead provides a structured analytic process that covers all aspects of the AI development and use process. The common set of questions found in the *AI Ethics Framework* extend to: understanding the goals and risks of a potential AI implementation; making determinations on implementation that will best preserve human judgment and accountability at critical decision points; assessing how undesired bias may be mitigated; and addressing the unique testing and oversight challenges associated with complex analytics that are, by their very nature, non-static in design.

Like the *AI Ethics Principles*, the *AI Ethics Framework* is unclassified and was proactively released to the public to facilitate collaboration with industry partners and provide transparency regarding the IC's use of this technology to the public. Within the U.S. Government more broadly, the *AI Ethics Framework* has been used as a model for developing comparable standards and processes that extend beyond the use of AI in intelligence. During this reporting period, CLPT continued to lead the IC's implementation of the *AI Ethics Principles* and the *AI Ethics Framework*. These efforts included briefing AI subject matter experts in workshops and conferences, reviewing proposals for AI implementations, and holding regular interagency, multi-stakeholder meetings to share best practices in the adoption of ethical AI models.

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<sup>10</sup> The *Artificial Intelligence Ethics Framework for the Intelligence Community* is available at: [https://www.intelligence.gov/images/AI/AI\\_Ethics\\_Framework\\_for\\_the\\_Intelligence\\_Community\\_1.0.pdf](https://www.intelligence.gov/images/AI/AI_Ethics_Framework_for_the_Intelligence_Community_1.0.pdf).



## Privacy and Civil Liberties Oversight Board

During the reporting period, CLPT facilitated the important advice and review functions performed by the Privacy and Civil Liberties Oversight Board. These activities included working with IC elements to seek the advice of the Board regarding the updates to the Executive Order 12333 Attorney General Guidelines described above. CLPT also provided substantial support to the Board in its ongoing review of NCTC's implementation of the ODNI Executive Order 12333 procedures that are discussed above.

## Screening and Vetting

During the reporting period, CLPT, in conjunction with ODNI's Office for Mission Performance, Analysis, and Collection, continued to engage in interagency efforts relating to National Security Presidential Memorandum 9, *Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise*. The Civil Liberties Protection Officer served as an advisory member to the National Vetting Governance Board and co-chaired that board's Privacy, Civil Rights, and Civil Liberties working group. The working group gave advice regarding vetting new proposals and the privacy and civil liberties protections necessary for existing screening and vetting processes.

## Report on Protecting Americans of Chinese Descent

During this reporting period, CLPT developed ODNI's report on *Best Practices to Protect Privacy, Civil Liberties, and Civil Rights of Americans of Chinese Descent in the Conduct of U.S. Intelligence Activities*. The report was completed and released to the public in May 2022.<sup>11</sup> Conducted with the assistance of civil liberties and privacy officials throughout the IC, the report examines the privacy, civil liberties, and related civil rights controls used by the IC when conducting intelligence and counterintelligence activities to counter the national security threats posed by the People's Republic of China.

The report states that the law is clear that no IC agency or component may conduct an intelligence activity or otherwise make an employment decision based upon the ethnic or racial background of any United States person. The report finds that IC policies and procedures reflect an appropriate focus on the protection of privacy, civil liberties, and civil rights. The report also makes several recommendations to further ensure the protection of the privacy, civil liberties, and civil rights of all Americans, including Americans of Chinese descent. Implementing these recommendations will be a focus of CLPT in forthcoming reporting periods.

## International Activities

CLPT routinely meets with international partners to describe civil liberties and privacy protections that have been embedded in the U.S. IC; to detail the activities of the IC to be more transparent regarding its mission, authorities, and oversight mechanisms; and to learn from our international partners regarding the comparable protections and programs that they have

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<sup>11</sup> This report is available at:

[https://www.dni.gov/files/CLPT/documents/ODNI\\_Report\\_on\\_Best\\_Practices\\_to\\_Protect\\_Privacy\\_Civil\\_Liberties\\_and\\_Civil\\_Rights\\_of\\_Americans\\_of\\_Chinese\\_Descent\\_in\\_ConductOf\\_US\\_Intelligence\\_Activities\\_May\\_2022.pdf](https://www.dni.gov/files/CLPT/documents/ODNI_Report_on_Best_Practices_to_Protect_Privacy_Civil_Liberties_and_Civil_Rights_of_Americans_of_Chinese_Descent_in_ConductOf_US_Intelligence_Activities_May_2022.pdf)

instituted in the service of our common values. During this reporting period, these efforts included providing subject matter expertise to the ongoing effort of the Organization of Economic Co-operation and Development (OECD) to develop common principles regarding government access to personal data held by the private sector.<sup>12</sup> CLPT is one of a number of privacy, national security, and law enforcement agencies from many OECD countries engaged in this effort.

Following the Court of Justice of the European Union's (CJEU) July 2020 invalidation of the European Commission's adequacy agreement involving the European Union (EU)/U.S. Privacy Shield Agreement, CLPT has also provided information to the U.S. negotiating team regarding the publicly announced efforts by the United States and the EU to devise a new agreement related to U.S./EU commercial data transfers. In March 2022, the United States and the European Commission issued a joint statement announcing that they had reached a new agreement in principle, the Trans-Atlantic Data Privacy Framework (TADPF), to protect trans-Atlantic data flows while responding to the CJEU's decision.<sup>13</sup>

### Intelligence Transparency

As is reflected in the sections above, to include the links to documents released to the public by CLPT, intelligence transparency is integral to the execution of CLPT's duties pursuant to Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*. In addition to advocating for and coordinating the public release of key documents, CLPT has developed or supported efforts across the IC to explain in a more clear, concise, and effective manner the mission, activities, authorities, and oversight mechanisms of the IC. The chief digital component of this effort may be found at the CLPT-managed [www.intelligence.gov](http://www.intelligence.gov), a comprehensive resource for information concerning the IC. Of particular note during this reporting period, in October 2021 the National Counterintelligence and Security Center (NCSC), in close cooperation with CLPT, released to the public the first installment of the digital Wall of Spies, an online, museum-quality exhibit that details the history and evolution of espionage activities conducted in the United States.<sup>14</sup>

CLPT's transparency efforts are not limited to the release of material, but also involve direct engagement with the public, academics, the private sector, and non-governmental organizations (NGO). Examples of such engagement during this reporting period include, but are not limited to: participating in panel discussions regarding surveillance issues sponsored by NGOs; facilitating academic and NGO engagements between the IC, NGOs, and academics on topics such as institutionalizing intelligence transparency efforts; and more fully incorporating diversity, equity, and inclusion into the conduct of intelligence activities. In order to bring the

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<sup>12</sup> The OECD announced this effort in a public statement which may be found at: <https://www.oecd.org/digital/trusted-government-access-personal-data-private-sector.htm>.

<sup>13</sup> The U.S. and EU's joint statement on the TADPF may be found at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/25/united-states-and-european-commission-joint-statement-on-trans-atlantic-data-privacy-framework/>. A factsheet detailing the agreement in principle may be found at: <https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/25/fact-sheet-united-states-and-european-commission-announce-trans-atlantic-data-privacy-framework/>.

<sup>14</sup> The digital Wall of Spies is available at: <https://www.intel.gov/evolution-of-espionage>.

best ideas from outside government in to government decision-making, CLPT also engages in more informal consultations with outside experts on issues ranging from data privacy standards, the use of commercially available information, and identifying/mitigating disparate impacts to minority communities in the conduct of intelligence activities.

### **IC Civil Liberties and Privacy Council and Intelligence Transparency Council**

Consistent with the role of the ODNI in integrating intelligence activities across the IC, CLPT leads both the IC Civil Liberties and Privacy Council and Intelligence Transparency Council. During the reporting period, each of the activities described above was coordinated, and often only achieved as a result of the collaboration with civil liberties, privacy, and transparency officers from other IC elements who serve on these two councils. In particular, the development of the *AI Ethics Principles* and *AI Ethics Framework* is an exemplar of CLPT's goal to fully utilize both councils as a policy generation engine to integrate civil liberties, privacy, and transparency in a strong and consistent manner. During this reporting period, CLPT continued to lead multiple policy, training, and other activities to execute the IC Enterprise 2019–2024 Strategy for Civil Liberties, Privacy, and Transparency. CLPT has released the top-level of this strategic document to the public.<sup>15</sup> Of particular note during this reporting period were ongoing efforts to update the privacy requirements governing all national security systems. CLPT anticipates that this effort will be complete in early 2023.

### **OTHER ACTIVITIES OF THE OFFICE OF CIVIL LIBERTIES, PRIVACY, AND TRANSPARENCY**

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In addition to these key initiatives, CLPT continued its regular but critical functions in providing privacy and civil liberties advice across a broad array of ODNI and IC functions. CLPT reviews every IC Directive and ODNI internal instruction to ensure that privacy and civil liberties concerns have been fully addressed. CLPT also routinely reviews draft legislation with national security implications in order to assess potential impact to privacy and civil liberties and to provide technical assistance both within the Executive Branch and, when requested, to Congress.

CLPT also provides extensive advice within ODNI regarding activities undertaken by the agency which may impact privacy and civil liberties. For example, CLPT has embedded personnel in both NCTC and the NCSC in order to provide privacy and civil liberties guidance at early stages of proposed intelligence activities and to review draft intelligence products before they are disseminated. Similarly, CLPT provides direct support to the IC Chief Data Officer, the IC's Chief Information Officer, ODNI's Intelligence Advanced Research Projects Activity (IARPA), the National Intelligence University, and other ODNI components who have critical roles in directing or implementing intelligence activities. Of particular significance in this reporting period, CLPT worked closely with many ODNI components to ensure that ODNI's efforts to mitigate the effects of the COVID-19 pandemic on the ODNI workforce were both effective and conducted in a manner that protected medical privacy. For example, in order to implement guidance from the Safer Federal Workforce Taskforce, CLPT and other partners in ODNI developed toolkits, templates, workforce notices, and standard operating procedures

<sup>15</sup> The strategy is available at: [https://www.dni.gov/files/CLPT/documents/CLPT\\_Enterprise\\_Strategy\\_OCR.pdf](https://www.dni.gov/files/CLPT/documents/CLPT_Enterprise_Strategy_OCR.pdf).

related to vaccination requirements. CLPT also provided periodic training related to protecting medical privacy.

In addition to these advice functions, CLPT also conducts regular reviews to ensure that privacy and civil liberties controls are properly applied. For example, and in addition to the extensive reviews of the use of FISA described in the “Key Initiatives” section above, CLPT:

- Works with system owners and security personnel to conduct privacy assessments that evaluate the privacy controls on all new or substantially updated ODNI systems;
- Reviews reports of potential breaches involving personally identifiable information and directs any necessary remedial efforts.
- Evaluates proposed new projects funded by IARPA to ensure that appropriate privacy and civil liberties controls are applied in all funded research activities.
- In conjunction with ODNI’s Office of General Counsel, assists in ensuring ODNI meets its oversight obligations to the President’s Intelligence Oversight Board (IOB). These duties include reporting potential intelligence compliance issues to the IOB and evaluating the IOB incident submissions of all other IC elements to ensure that appropriate steps have been taken to rectify and mitigate compliance issues.

A quantitative measure of CLPT’s review activity is provided in the final “Metrics” section of this report. During this reporting period, CLPT also substantially revised and updated the templates it uses to conduct reviews of ODNI systems.

To ensure privacy and civil liberties protections are fully integrated into the IC’s processes, CLPT also conducts regular training activities for IC personnel and professional development activities for privacy and civil liberties officers. These activities included periodic in-person and online trainings to explain or clarify civil liberties and privacy protections, as well as trainings that share best practices in the promotion of transparency. CLPT also continued to organize and host the annual IC Civil Liberties, Privacy, and Transparency Summit. These summits highlight best practices in privacy, civil liberties, and transparency from across the IC, while also bringing external advocates and subject matter experts to broaden the perspectives of the IC’s civil liberties, privacy, and transparency professionals. In addition to these activities within the IC, CLPT also contributes to U.S. Government-wide efforts by participating in panels and other training opportunities sponsored by the Federal Privacy Council that are designed to increase the privacy acumen of professionals throughout the U.S. Government.

## **COMPLAINTS**

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Consistent with the statutory authority of the Civil Liberties Protection Officer, CLPT ensures that there is an avenue to redress complaints, address concerns, or answer questions having to do with privacy and civil liberties, whether broadly focused (e.g., the privacy implications of intelligence activities) or related to narrow, individual concerns (e.g., how a particular personal record may have been used). CLPT is also the hub of ODNI’s incident response team to be convened upon notice of any lapse (actual or suspected) in the application of technical protocols involving systems containing personally identifiable information.

During the covered reporting period, CLPT received six formal complaints, as detailed in the metrics section below. In addition to the formal complaints received, CLPT routinely addressed broader privacy and civil liberties concerns and questions raised with CLPT by IC personnel, other government personnel, and members of the public. Much of this work is reflected in the summary of key initiatives discussed above.

While the details of formal complaints must remain anonymous to protect the confidentiality of the complainants, more generally, two of the complaints did not involve potentially credible allegations of actions by the ODNI or an element of the IC. Three complaints were made by ODNI employees or contractors regarding Federal mandates in response to the COVID-19 pandemic. One complaint alleged improper release of personally identifiable information as a result of a release under the Freedom of Information Act.

Anyone can report a potential civil liberties and privacy violation or file a complaint by providing a written, detailed description of the incident and surrounding circumstances, to include copies of any unclassified documentation pertaining to the matter, to the following address:

Office of the Director of National Intelligence  
ATTN: Office of Civil Liberties, Privacy, and Transparency  
Washington, DC 20511

No action constituting a reprisal, or threat of reprisal, will be made against a federal employee for making a complaint or for disclosing information to the CLPT that indicates a possible violation of civil liberties or privacy protections in the administration of ODNI programs and operations, unless the complaint is made or the information is disclosed with the knowledge that it was false, or made with willful disregard for its truth or falsity.

## METRICS

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As required by Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (P.L. 110-53), codified at 42 U.S.C. § 2000ee-1, this report documents the number of reviews conducted and complaints received during this reporting period. In calculating these metrics, and consistent with the methodology used in prior Section 803 reports, CLPT used the following definitions:

- **Review:** An examination of activities or processes as required by controlling privacy and civil liberties authorities.
- **Information Sharing Complaint:** A written allegation made to CLPT of harm arising from ODNI sharing of terrorism data in the context of the Information Sharing Environment (ISE).
- **Privacy Act Complaint:** A written allegation made to CLPT regarding ODNI non-compliance with a requirement of the Privacy Act.
- **Privacy and Civil Liberties Complaint:** A written allegation charging violation of information privacy rights and/or civil liberties (e.g., relating to improper collection, use, retention, and dissemination of the information about U.S. persons, or violation

of First Amendment rights of free speech and association, or Fifth Amendment guarantees of due process and equal protection).

Category	01 July 2021 to 31 December 2021
Reviews	79
ISE Complaints	0
Privacy Act Complaints	1
Privacy and Civil Liberties Complaints	5

## CONCLUSION

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As required by Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, this report provides information about CLPT's activities from 01 July 2021 through 31 December 2021. These activities continue to assist ODNI and the IC in meeting its obligations to the American people by ensuring that intelligence activities are conducted in a manner that protects privacy and civil liberties.