

11th Civil Liberties and Privacy Report on the Activities of the National Security Agency/ Central Security Service

Civil Liberties, Privacy, and Transparency Office

January – December 2023



Message from the Director

As the Director of Civil Liberties, Privacy, and Transparency (CLPT) for the National Security Agency/Central Security Service (NSA/CSS), I am honored to present the NSA/CSS Civil Liberties and Privacy Report for 2023.

Section 1062 of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004 (Public Law 108-458) requires the NSA/CSS CLPT Office to issue an unclassified report containing the following information:

- The number and types of reviews undertaken;
- The types of advice provided and the responses given to such advice;
- The number and nature of complaints received that allege civil liberties or privacy violations; and
- A summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the CLPT Office's activities.

The National Defense Authorization Act for Fiscal Year 2023 (Public Law 117-263) recently amended the periodicity of this report from semi-annually to annually. The metrics in this report are presented for each half of 2023 for ease of comparison with prior NSA/CSS Biannual Reports. Our team has also added more specific metrics regarding the types of reviews we undertook, new metrics describing inquiries we received from the public, and unclassified summaries describing how our office implemented the NSA/CSS Civil Liberties and Privacy Program in conjunction with other NSA/CSS offices. These summaries include notable events and outreach undertaken by the CLPT Office in 2023 such as promotion of a Responsible AI Symposium for the NSA/CSS workforce and multiple oversight and public transparency initiatives.

I am proud of our team's accomplishments reflected in this report. Their public service plays a vital role in helping ensure that NSA/CSS protects our nation consistent with its democratic values.

T.D. STUCK
NSA/CSS Director, Civil Liberties, Privacy, and
Transparency



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EXECUTIVE SUMMARY

NSA/CSS is committed to protecting and incorporating safeguards for civil liberties and privacy, consistent with its mission to protect and defend the Nation. This report summarizes the work accomplished by the CLPT Office’s dedicated team of privacy professionals in 2023, which included establishment and publication of the **implementing policy for Executive Order 14086**, “Enhancing Safeguards for United States Signals Intelligence Activities,” and support to significant **oversight and transparency efforts for Section 702** of the Foreign Intelligence Surveillance Act (FISA), as notable accomplishments.

In 2023, the NSA/CSS CLPT Office conducted more than 800 reviews of the civil liberties and privacy impacts of NSA/CSS activities and reviewed the privacy safeguards applied to more than 700 NSA/CSS systems. This report provides further metrics detailing the particular types of reviews of NSA/CSS activities and reviews of NSA/CSS systems that resulted in additional safeguards.

This report provides unclassified examples of the advice the NSA/CSS CLPT Office provided in 2023 to the NSA/CSS workforce and public at large, and the agency’s responses to that advice. The examples demonstrate how NSA/CSS

incorporates civil liberties and privacy protections into mission activities, as well as the high level of responsiveness of the NSA/CSS workforce to civil liberties and privacy considerations at all decision-making levels.

In 2023, the CLPT Office received 2324 total questions, complaints, and other submissions from members of the public and the NSA/CSS workforce and the CLPT Director adjudicated 8 appeals of initial NSA/CSS determinations under the Privacy Act. This report provides further metrics regarding the general disposition of these submissions by the CLPT Office and the number of Privacy Act appeals granted or denied by the CLPT Director.

Finally, 2023 was a landmark period for Artificial Intelligence (AI) that saw increased public awareness of the need to ensure safe, responsible, and trustworthy AI development and use. A highlight of the outreach section of this report notes that **NSA/CSS held a “Responsible AI Symposium” for its workforce in November 2023**. The NSA/CSS Chief Responsible AI Official and NSA/CSS Director of Research hosted the symposium, which included a full day of expert presentations and discussion of topics consistent with the AI Ethical Principles of the Intelligence Community and Department of Defense. **More than one thousand members of the NSA/CSS workforce attended the symposium in-person and virtually across the globe.** The CLPT Office played a prominent role in the event – identifying a keynote speaker who presented research on biases reflected in AI algorithms, presenting, and dialoguing about responsible AI issues alongside NSA/CSS legal, policy, and technical experts.

2023 Metrics Snapshot

805 total reviews of NSA/CSS activities

708 total reviews of NSA/CSS systems

2324 total questions, complaints, etc.

9 total Privacy Act appeals adjudicated

I. OVERVIEW OF THE NSA/CSS CIVIL LIBERTIES AND PRIVACY PROGRAM

NSA/CSS strives to earn and retain public trust in its ability to protect civil liberties and privacy consistent with its core values: commitment to service, respect for the law, respect for people, integrity, transparency, and accountability. Since its establishment in 2014, the NSA/CSS CLPT Office has instituted a comprehensive NSA/CSS civil liberties and privacy program. The program addresses NSA/CSS activities through its key functions to advise NSA/CSS senior leaders; promote civil liberties, privacy, and transparency principles; protect the civil liberties and privacy interests; and enhance transparency in accord with law, regulation, and policy.

The CLPT Office employs a diverse team of professionals and includes personnel that possess privacy-specific experience and certifications, expertise relevant to the conduct and oversight of NSA/CSS activities, and rotating personnel from each NSA/CSS directorate. The CLPT Director oversees this team and serves as both the senior NSA/CSS official responsible for the protection of civil liberties and privacy, as required by Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Public Law 110-53, codified at 42 U.S.C. 2000ee-1 (hereinafter “Section 803”) and Intelligence Community Directive 107, “Civil Liberties Privacy and Transparency,” and as the Senior Component Official for Privacy, as required by Department of Defense Instruction 5400.11, “DoD Privacy and Civil Liberties Programs.”

The CLPT Director advises the NSA/CSS Board of Directors and reports directly to the NSA Director. At this level, the CLPT Director engages regularly with senior leadership and ensures that CLPT considerations are integrated throughout NSA/CSS operations. This placement within the agency’s organizational structure validates the CLPT Office’s role in developing and implementing policies that effectively protect civil liberties and privacy, managing civil liberties and privacy risks at all decision-making levels, and reporting on civil liberties and privacy aspects of NSA/CSS activities.

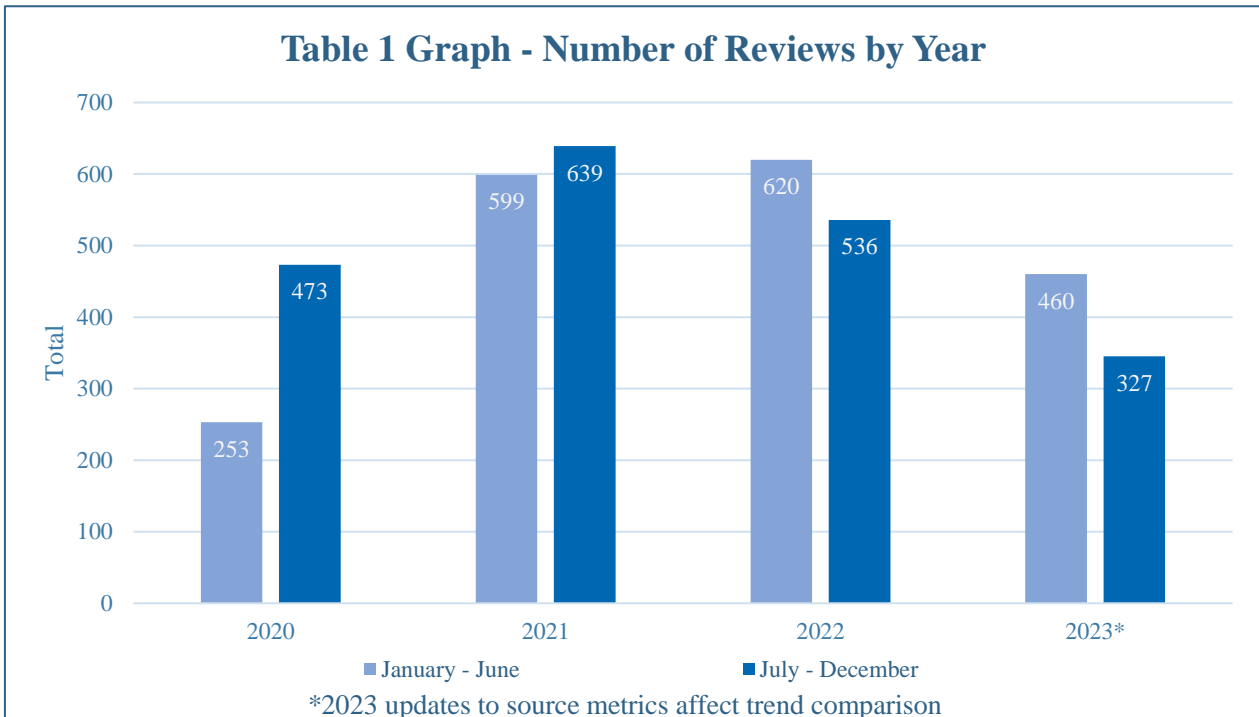
More details on the program can be found in NSA/CSS Policy 12-1, “NSA/CSS Civil Liberties and Privacy Program,” available on the NSA/CSS website (nsa.gov).

II. NUMBER AND TYPES OF REVIEWS

The CLPT Office evaluates the civil liberties and privacy impact of NSA/CSS activities through multiple types of reviews. These reviews help identify risks and potential mitigations early in the process, so that safeguards and mitigation strategies can be implemented with minimal impact to mission or duplication of effort. This section includes metrics that categorize these different types of reviews, which are further described in narrative form below Tables 1 and 2.

Table 1 – Number and Types of Reviews

Types of Reviews	Jan. – Jun.	Jul. – Dec.
Impact Assessment Reports	1	0
Risk Assessments	13	8
Data Protection Reviews	362	242
Classified Document Reviews	84	77
Total	460	327



Impact Assessment Reports: The CLPT Office produces two levels of privacy and civil liberties assessment reports: Threshold Analyses and Impact Assessments. Threshold Analyses take an initial look at an ongoing or proposed activity and help the CLPT Office determine whether a more detailed report is needed. Impact Assessments are a more detailed analysis of the sufficiency of any safeguards applied to an activity, and are based on the federal government’s Fair Information Practice Principles (FIPPs). These assessments may also analyze how NSA/CSS accesses data for national security purposes consistent with the Organization for Economic Cooperation and Development (OECD) Declaration on Government Access to Personal Data Held by Private Sector Entities adopted on December 13, 2022.

Impact Assessment reports help ensure that NSA/CSS missions, programs, policies and technologies appropriately account for civil liberties and privacy considerations.



- During January–June 2023, the CLPT Office completed one Threshold Analysis of NSA/CSS activities. This report conducted a review of the NSA Cybersecurity Collaboration Center “GovShield” Protective Domain Name Services (PDNS) developed to enhance Defense Industrial Base (DIB) security. The CLPT analysis concluded that the GovShield service incorporated adequate and specific privacy protections for DIB company data and did not necessitate a full Impact Assessment.
- During July–December 2023, the CLPT Office did not complete any Threshold or Impact Assessment Reports.

Risk Assessments: The CLPT Office plays a key role in the NSA/CSS Enterprise Risk process. The NSA/CSS Chief Risk Officer and Office of Enterprise Risk Management Office (OERM) oversees the NSA/CSS Enterprise Risk Framework in accordance with Office of Management and Budget Circular No. A-123, “Management’s Responsibility for Enterprise Risk Management and Internal Control.” The agency follows this framework when evaluating the risks of activities with potential threat to life or limb, major new programs or initiatives, significant changes in direction, and activities with strategic implications. The OERM tailors each risk assessment to the unique risks inherent to each activity, and Civil Liberties, Privacy, and Transparency are expressly included as a risk category. If the activity may implicate privacy and civil liberties, the CLPT Office provides subject matter expertise to help the assessment team evaluate the likelihood and severity of these risks.

Risk assessments inform NSA/CSS leadership of the risk that its activities could result in intrusions into the personal lives of individuals.

- During January–June 2023, the CLPT Office participated in 13 risk assessments.
- During July–December 2023, the CLPT Office participated in 8 risk assessments.

Data Protection Reviews: This metric is a combined total of several different types of reviews completed by the CLPT Office in conjunction with NSA/CSS mission elements. These reviews examine system or data analytics, commercial agreements, and computer security incident reports. The CLPT Office performs these reviews as part of established governance processes, although the metrics above also incorporate requests made outside of standard processes. Data protection reviews may evaluate privacy safeguards, potential data breaches, and other incidents involving personally identifiable information (PII).

Data protection reviews assess whether data collected, retained, and disseminated by NSA/CSS are afforded appropriate protection.

- During January–June 2023, the CLPT Office completed 362 total data protection reviews.
- During July–December 2023, the CLPT Office completed 242 total data protection reviews.

Classified Document Reviews: The CLPT Office serves as the focal point and coordinator for NSA/CSS reviews of classified documents prior to release to the public or NSA/CSS overseers. These documents often concern NSA’s mission activities, such as the Intelligence Community Annual Statistical Transparency Report (ASTR) and the Intelligence Oversight Quarterly (IOQ) report to the DoD Senior Intelligence Oversight Official. The CLPT Office may also review other classified documents containing national security information that require review by Original Classification Authorities in accordance with Executive Order 13526, “Classified National Security Information”, such as reports by the PCLOB. Additionally, the CLPT Office coordinates the NSA/CSS reviews of materials subject to mandatory declassification reviews pursuant to the Foreign Intelligence Surveillance Act (FISA).

Classified document reviews help NSA/CSS to be as transparent as possible while protecting national security information through appropriate classification.

- During January–June 2023, the CLPT Office reviewed 84 classified documents. A significant portion of these reviews involved classification and accuracy checks related to FISA Section 702 oversight and public transparency efforts.
- During July–December 2023, the CLPT Office reviewed 77 classified documents. A significant portion of these document reviews also involved classification and accuracy checks of FISA Section 702 oversight and transparency efforts.

Table 2 – NSA/CSS System Privacy Assessments

Systems Reviewed & Outcome of Review	Jan.-Jun.	Jul.-Dec.
Total systems reviewed	233	475
Review resulted in additional privacy safeguards (total)	24	35
Review resulted in additional privacy safeguards (percent)	10.3%	7.4%

NSA/CSS System Privacy Assessments: In addition to reviews completed by the CLPT Office, the NSA Chief Information Officer (CIO) has instituted a system privacy assessment process to evaluate all NSA/CSS systems in accordance with DoD Instruction 5400.16, “DoD Privacy Impact Assessment (PIA) Guidance.” This process involves identifying the PII present on each system, evaluating the existing physical, administrative, and technical safeguards in place, and aligning privacy protections with the sensitivity of the information. Table 2 (above) shows the total number of systems reviewed and the outcome of each review; namely, whether additional privacy protections were applied based on the CLPT Office’s analysis.

System Privacy Assessments must be completed before NSA/CSS systems are granted authority to operate.

- During January–June 2023, additional privacy protections were applied to 24 out of 233 systems reviewed (approximately 10.3%)



- During July–December 2023, additional privacy protections were applied to 35 out of 475 systems reviewed (approximately 7.4%).

III. SUMMARY OF ADVICE PROVIDED AND REPOSSES TO ADVICE

In addition to the reviews and assessments described above, the CLPT Office advises NSA/CSS on required and recommended practices to safeguard privacy and civil liberties throughout its operations. Section 803 requires that the public be informed of the activities of the CLPT Office “in a manner consistent with the protection of classified information and applicable law.” This section provides unclassified examples of CLPT advice to NSA/CSS affiliates and the public, and a brief summary of the responsiveness of NSA/CSS officials in implementing that advice.

- In January 2023, several NSA/CSS employees submitted complaints to the CLPT Office regarding a newly implemented IT Help Desk protocol that required users to provide their social security number as identity verification before receiving assistance. The CLPT office worked with the help desk team to revise this protocol in a way that would allow the IT department to verify user identities while limiting the amount of sensitive PII collected. The IT team responded positively to this feedback and incorporated the CLPT Office’s guidance into its practices.
- From March through May 2023, the CLPT Office participated in an NSA/CSS dissemination governance board process to evaluate several methods of sharing information across the U.S. Intelligence Community. The governance board took the CLPT Office’s recommendation into account in each of its determinations.
- Throughout this reporting period, the CLPT Office collaborated with NSA’s mission offices and the NSA/CSS Office of General Counsel (OGC) to draft a new policy implementing Executive Order 14086, “Enhancing Safeguards for United States Signals Intelligence Activities.” The CLPT Office played a significant role in shaping this new policy, which was signed into effect by the Director of NSA/CSS on June 29, 2023. The Office of the Director of National Intelligence (ODNI) publicly released this policy on July 3, 2024.
- In partnership with the NSA/CSS Cybersecurity Collaboration Center, the CLPT Office attended meetings and webinars with Defense Industrial Base (DIB) companies’ cybersecurity information security officers to understand whether privacy concerns presented any barriers to enrollment in no-cost security services developed by the agency. Following these meetings, the CLPT Office helped prepare a Frequently Asked Questions fact-sheet for the Collaboration Center’s use and distribution as a practical resource for companies considering the NSA/CSS GovShield service.
- Throughout 2023 the CLPT Office advised agency leadership on best practices for data governance. The CLPT Office was asked by agency leadership to take on a lead role in multiple interagency working groups and was regularly consulted by senior officials within NSA/CSS and the Intelligence Community. These working groups included one that supported ODNI in its development and implementation of policy frameworks to

enhance safeguards for privacy sensitive information in multiple contexts. As one example, in December 2023, the CLPT Office’s advice was relied on to increase privacy protections and anonymization of demographic data concerning the NSA/CSS workforce. This advice is expected to result in corresponding protections for other Intelligence Community employees in 2024.

IV. NUMBER AND NATURE OF COMPLAINTS RECEIVED

The CLPT Office receives numerous questions, complaints, and other inquiries (collectively “submissions”) from members of the public and the NSA/CSS civilian and military workforce. In order to be reflected in this report, a submission must be received in writing or otherwise documented by the CLPT Office as an allegation of harm, a violation of privacy or civil liberties protections, or a concern regarding the administration or operation of an NSA/CSS program. This section includes metrics reflecting the total volume and disposition of these submissions as further described below in Tables 3, 4, and 5.

Table 3 – Types of Submissions

Source	Jan.-Jun.	Jul.-Dec.
Public	1182	948
NSA/CSS Personnel	118	76
Total Received	1300	1024

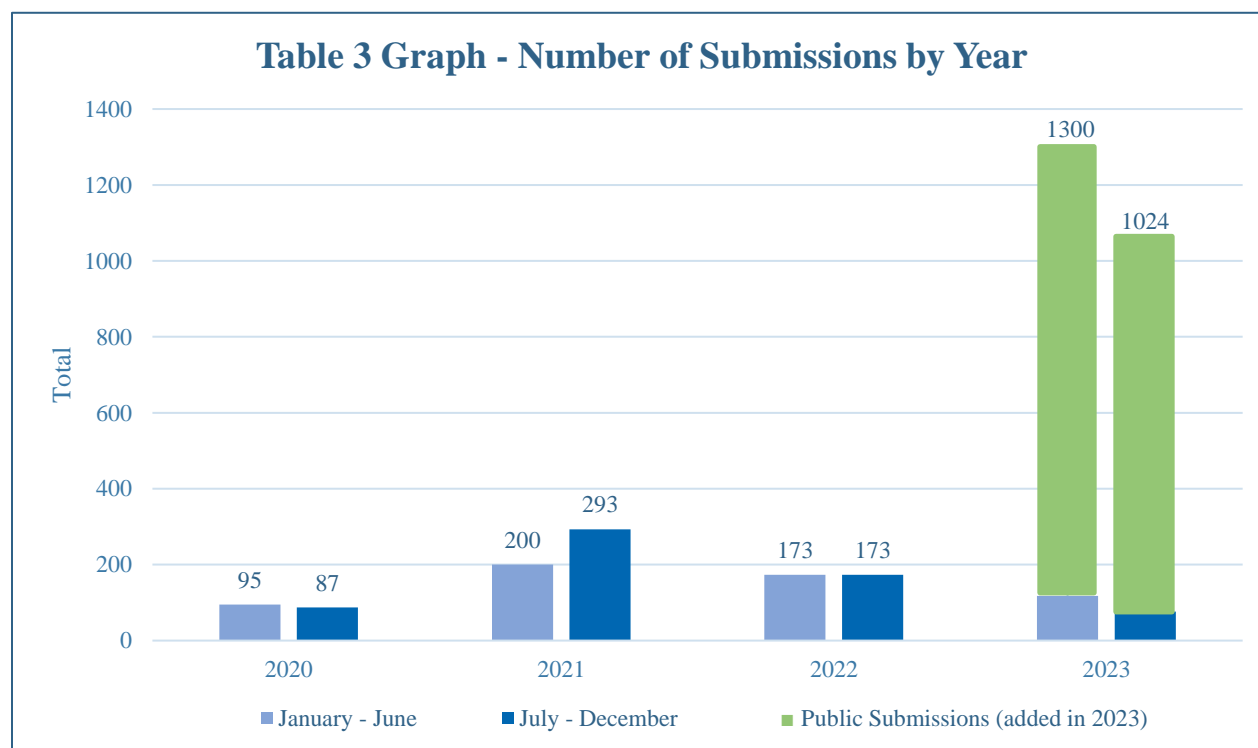


Table 3 displays the total number of submissions sent, openly or anonymously, to the CLPT Office during the reporting period by members of the public and NSA/CSS personnel. Members of the public can contact the CLPT Office by mail or a form on the NSA/CSS website (nsa.gov). NSA/CSS personnel may submit questions or complaints that include classified information via an internal email alias or anonymous form. The majority of submissions received by the CLPT Office come from members of the public through the NSA/CSS website. The total does not reflect the number of individuals who reached out to the CLPT Office during the reporting period. Repeat submissions are counted each time they are received.

Submissions to the CLPT Office typically cover a wide range of topics. Common topics include NSA/CSS workforce concerns related to protecting PII within agency systems or communications; questions by NSA/CSS personnel regarding how to handle sensitive PII information; notifications of potential PII breaches; questions related to how NSA/CSS collects or stores social security numbers in accordance with DoD guidelines; and requests by NSA/CSS personnel for help preparing Privacy Act statements.

- During January–June 2023, the CLPT Office received 1300 total submissions from the public and the NSA/CSS workforce.
- During July–December 2023, the CLPT Office received 1024 total submissions from the public and the NSA/CSS workforce.

Table 4 – Disposition of Submissions

Disposition	Jan.-Jun.	Jul.-Dec.
Referred to the NSA Inspector General	6	4
Referred to Other Offices	11	10
Addressed/Reviewed and Closed	1283	1010
Total Closed	1300	1024

The CLPT Office conducts an initial review of each submission to determine whether it contains a question or complaint relevant to civil liberties or privacy. Submissions received by the CLPT Office through its public web form are often frivolous, not credible, or not actually directed at NSA/CSS. Public submissions that do not include an actionable question, complaint, or request for redress are closed upon review. The CLPT Office refers misdirected submissions to the appropriate organization.

The CLPT Office provides written guidance in response to allegations of civil liberties or privacy violations and may respond directly to individuals who provide contact information. The CLPT office may also publish general guidance to address anonymous submissions or to address issues more broadly with the NSA/CSS workforce. If a submission contains potential evidence of a PII incident or breach, the CLPT Office conducts further assessment in conjunction with OGC and the affected organization. The CLPT Office is also responsible for notifying the DoD Senior Agency Official for Privacy (SAOP) of certain data breaches consistent with federal guidelines.

Table 5 – Privacy Act Appeal Responses

Privacy Act Appeal Responses	Jan.-Jun.	Jul.-Dec.
Adjudicated Responses	4	5

Privacy Act Appeal Responses: Under the Privacy Act, individuals can request copies of their personal records, including any item, collection, or grouping of information maintained by NSA/CSS and retrieved using the individual’s name or personal identifier. If the submitter appeals the NSA/CSS response to their initial request, the CLPT Director serves as the agency’s final adjudicator of the request. The NSA/CSS Privacy Act Office provides each individual written notice of the final adjudication of their request and their legal right to seek judicial review before a United States District Court.

- During January–June 2023, the CLPT Director denied four Privacy Act appeal requests.
- During July–December 2023, the CLPT Director adjudicated five Privacy Act appeal requests. The CLPT Director denied three of these requests and approved two, overturning the agency’s initial denial of one request and approving a request for expedited processing.

V. OUTREACH

Outreach is a key function of the NSA/CSS CLPT Office. Within NSA/CSS, for example, the CLPT Office holds trainings and events to increase workforce privacy awareness. The CLPT Office also actively participates in the Intelligence Community Transparency Council and the Federal Privacy Council; regularly attends conferences on data privacy, cybersecurity, and related topics; and engages with members of civil society and advocacy groups.

Experts inform the outreach conducted by the CLPT Office. The CLPT Director sponsors the NSA/CSS Advisory Board’s Civil Liberties and Privacy Panel, which advises the NSA Director on the management of civil liberties and privacy matters, including outreach with civil liberties and privacy experts and the application of technologies to enhance civil liberties and privacy. Additionally, the CLPT Office is the primary NSA/CSS liaison with the Privacy and Civil Liberties Oversight Board (PCLOB), consistent with the Board’s mission to ensure the federal government balances its efforts to prevent terrorism with the need to protect privacy and civil liberties. Notable outreach efforts specific to this reporting period include the following:

- In honor of International Data Privacy and Protection Day, the CLPT Office hosted the fourth NSA/CSS Privacy Day event on January 27, 2023.
- The CLPT Office supported ODNI outreach with civil society groups and national media outlets as part of transparency efforts surrounding the public releases of the ODNI’s 2023 Annual Statistical Transparency Report, various FISA orders and materials, and the Intelligence Community’s implementation policies for Executive Order 14086.

- In May 2023, the CLPT Director participated as a senior panelist in an agency event that addressed U.S. Intelligence Community efforts to protect the civil liberties and privacy of Americans of Chinese descent.
- The CLPT Office facilitated, and directly participated in, a significant number of notifications, briefings, and other engagements with the PCLOB in connection with the Board’s FISA Section 702 Oversight Report issued in September 2023.
- In September, October, and November 2023, the CLPT Director met with multiple international data protection and privacy law experts and spoke alongside representatives from the U.S. and allied nations at academic institutions, including the International Intelligence Oversight Forum at American University Washington College of Law.
- As highlighted in the executive summary for this report, following the President’s issuance of Executive Order 14110, “Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence,” on October 30, 2023, the CLPT Office helped facilitate and promote a “Responsible AI Symposium” at NSA/CSS on November 30, 2023.

VI. CONCLUSION

In accordance with Section 1062 of the IRTPA, this report summarizes the activities of the NSA/CSS CLPT Office from January through December 2023. Reports summarizing activities from prior bi-annual reporting periods, as well as more information on the NSA/CSS Civil Liberties and Privacy Program, are available on the NSA/CSS website ([nsa.gov](https://www.nsa.gov)).