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OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

**Office of Civil Liberties, Privacy, and
Transparency Activities**

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INTRODUCTION

The DNI must prioritize transparency, accountability, analytic rigor, facilitating oversight and diverse thinking to ensure our 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 January 2019 through 30 June 2021, of the ODNI Office of Civil Liberties, Privacy, and Transparency, 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. Due to the COVID-19 pandemic and staffing changes, the finalization of this report has been delayed. As a result, this consolidated report covers five semiannual reporting periods.

ABOUT CLPT

The ODNI's Office of Civil Liberties, Privacy, and Transparency 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's 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*.¹ 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. CLPT champions the *Principles of Professional Ethics for the Intelligence Community: Mission, Truth, Lawfulness, Integrity, Stewardship, Excellence, and Diversity*.² These are fundamental, ethical principles that unite professionals across agencies and functions.

OVERVIEW OF KEY INITIATIVES DURING THE REPORTING PERIODS

The following provide a brief synopsis of some of the key initiatives undertaken by CLPT during the reporting periods 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.

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

² 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>.

Principles of Artificial Intelligence Ethics for the Intelligence Community

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 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, during this reporting period 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 (DNI) approved the *Principles of Artificial Intelligence Ethics for the Intelligence Community (AI Ethics Principles)*.³ 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 IC. 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 employ security best practices to build resilience and minimize potential for adversarial influence.

³ 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.

- **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)*.⁴ 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. The CLPT-led effort continued after the formal adoption of both the *AI Ethics Principles* and the *AI Ethics Framework* to further refine the *AI Ethics Framework* and facilitated communication between practitioners on how both documents have been integrated into IC governance processes, AI implementations, and as contract terms with external partners.

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 United States persons in the course of

⁴ 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.

these activities must be governed by procedures approved by the relevant head of the IC element and the Attorney General after consultation with the DNI. 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 Department of Justice, 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. During the reporting periods covered by this report, multiple Attorney General Guidelines and related documents were updated and released to the public as a result of these activities.

More specifically, in January 2021, the ODNI released to the public new procedures governing the activities of ODNI itself.⁵ 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. 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.⁶ In addition, and in order to apply further privacy and civil liberties protections (particularly in the area of domestic terrorism), CLPT worked closely with National Counterterrorism Center and other ODNI components to develop additional National Counterterrorism Center implementing procedures, which were released to the public in March 2021.⁷

CLPT also worked closely with other IC elements to update their Attorney General Guidelines or associated documents. In February 2021, the Coast Guard's National Intelligence element released to the public their updated Attorney General Guidelines, which are modeled

⁵ 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.

⁶ This narrative document is available at https://www.intelligence.gov/assets/documents/702%20Documents/declassified/AGGs/ODNI%20Attorney%20General%20Procedures%20Narrative%20Summary_OCR.pdf.

⁷ 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.

after those of the Department of Defense but which incorporate protections specific to the Coast Guard's unique mission.⁸ CLPT also provided guidance in the development of a substantial update to an annex to the Department of Defense's Attorney General Guidelines that was completed in early 2021. This annex details the extensive privacy and civil liberties protections governing all Department of Defense signals intelligence activities.⁹ Additionally, CLPT closely advised the Department of the Treasury and the Drug Enforcement Administration to further develop their own Attorney General procedures.¹⁰

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, along with ODNI's Office of General Counsel, also led the effort for all IC elements to develop procedures implementing IC Policy Guidance (ICPG) 107.1, which requires agencies to promulgate procedures governing how to "unmask" United States person identities that were originally masked in an intelligence dissemination. ICPG 107.1 also contains reporting requirements on the number of those unmasking requests. While most of the elements completed the drafting of their procedures prior to the reporting periods, some elements continued finalizing them; all elements, however, began tracking their unmasking requests in January 2019. CLPT has published every IC element's unmasking procedures¹¹ and CLPT began reporting the total number of unmasking decisions to the public on behalf of the IC in April 2020¹² and annually thereafter.¹³

⁸ The Coast Guard's Attorney General Guidelines are available at [https://www.intel.gov/assets/documents/702%20Documents/declassified/AGGs/CIM3820.12A_Final_26_JAN_21.pdf%20\(CG2%20Signature\)_OCR.pdf](https://www.intel.gov/assets/documents/702%20Documents/declassified/AGGs/CIM3820.12A_Final_26_JAN_21.pdf%20(CG2%20Signature)_OCR.pdf).

⁹ The Signals Intelligence Annex is available at [https://www.intelligence.gov/assets/documents/702%20Documents/declassified/Redacted%20Annex%20DODM%2005240.01-A\(1\).pdf](https://www.intelligence.gov/assets/documents/702%20Documents/declassified/Redacted%20Annex%20DODM%2005240.01-A(1).pdf).

¹⁰ 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.

¹¹ The Intelligence Community elements' unmasking procedures are available at <https://icontherecord.tumblr.com/post/616837375018041344/icpg-107-1-unmasking-procedures>.

¹² The unmasking numbers were first reported in the Calendar Year 2019 Annual Statistical Transparency Report Regarding Use of National Security Authorities, available at https://www.intelligence.gov/assets/documents/702%20Documents/statistical-transparency-report/2020_ASTR_for_CY2019_FINALOCR.pdf.

¹³ See Calendar Year 2020 Annual Statistical Transparency Report Regarding Use of National Security Surveillance Authorities, available at https://www.intel.gov/assets/documents/702%20Documents/statistical-transparency-report/2021_odni_annual_statistical_transparency_report_for_cy2020.pdf.

Foreign Intelligence Surveillance Act

During the reporting periods, CLPT, in partnership with other ODNI offices, continued to conduct joint oversight with the Department of Justice 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 documentation and guidance, and worked with the Department of Justice to identify, resolve, and report to the Foreign Intelligence Surveillance Court and Congress incidents of noncompliance. 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 was particularly focused during these reporting periods on the querying of United States person information in repositories containing unevaluated Section 702-acquired data. Collectively, these oversight activities are extensively documented in joint assessments by the Department of Justice and ODNI, which CLPT has released to the public in redacted form.¹⁴

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 documents relating to the 2018, 2019, and 2020 Section 702 certifications. In addition to documents related to Section 702, CLPT facilitated IC review of other classified FISA documents to provide to the Privacy and Civil Liberties Oversight Board, such as documents pertaining to NSA's since terminated collection of call detail records under the USA FREEDOM Act of 2015.

In addition, CLPT led the effort to publicly release significant decisions by the Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review, as well as key government documents governing the collection and use of information pursuant to FISA. These public releases included Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review opinions regarding the Section 702 program,¹⁵ but also extended to other opinions regarding other use of FISA, including an opinion on a new surveillance technique¹⁶ and an opinion regarding whether and how unlawful FISA collection may be

¹⁴ See, e.g., the ODNI and Department of Justice's 18th (available at https://www.dni.gov/files/icotr/18th_Joint_Assessment.pdf), 19th (available at <https://www.intelligence.gov/index.php/ic-on-the-record-database/results/1014-release-of-the-19th-joint-assessment-of-section-702-compliance>), 20th (available at <https://www.intelligence.gov/index.php/ic-on-the-record-database/results/1054-release-of-the-20th-joint-assessment-of-section-702-compliance>), and 21st (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>) Joint Assessments of the Section 702 program.

¹⁵ Specifically, during the reporting periods CLPT coordinated the redaction of and facilitated the release of Foreign Intelligence Surveillance Court and Foreign Intelligence Surveillance Court of Review opinions regarding the 2018 Certifications (available at <https://www.intelligence.gov/index.php/ic-on-the-record-database/results/951-release-of-documents-related-to-the-2018-fisa-section-702-certifications>), 2019 Certifications (available at <https://www.intelligence.gov/index.php/ic-on-the-record-database/results/995-release-of-documents-related-to-the-2019-fisa-section-702-certifications>), and 2020 Certifications (<https://www.intelligence.gov/index.php/ic-on-the-record-database/results/1057-release-of-documents-related-to-the-2020-fisa-section-702-certifications>).

¹⁶ This opinion is available at https://www.intelligence.gov/assets/documents/702%20Documents/declassified/FISC%20Opin%20re%20Technical%20Facilities%20Use%209.23.20%20release_OCR.pdf.

retained, used, or disclosed to investigate and remedy the circumstances that led to its unlawful collection.¹⁷ CLPT also coordinated and released to the public appropriately redacted versions of the targeting, minimization, and query procedures governing the FISA Section 702 program.¹⁸

As a key oversight and transparency initiative, CLPT also led the IC in the production of three *Annual Statistical Transparency Reports Regarding the Use of National Security Surveillance Authorities*.¹⁹ These public reports provide key metrics regarding the use of FISA, national security letter authorities, and unmaskings of United States person information pursuant to Executive Order 12333. In addition, and consistent with the *Principles of Intelligence Transparency*, the reports describe to the public in detail the applicable law, the IC's use of these authorities, as well as the compliance and oversight framework that ensures intelligence activities are conducted in accordance with applicable rules.

Privacy and Civil Liberties Oversight Board

During the reporting periods, 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 provided Privacy and Civil Liberties Oversight Board with information to facilitate the completion of the Board's reports on the use of Executive Order 12333 and the NSA's USA FREEDOM Act call detail records program, and coordinated the IC's classification review that resulted in the public release of two of these reports.²⁰ CLPT also worked with experts at the National Counterterrorism Center to provide periodic briefings to Board members regarding terrorism threats.

Screening and Vetting

During the reporting periods, 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 (NSPM)-7 "*Integration, Sharing, and Use of National Security Threat Actor Information to Protect Americans*" and NSPM-9 "*Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise.*" To

¹⁷ This opinion is available at https://www.intelligence.gov/assets/documents/702%20Documents/declassified/June_2020_FISC_Opinion.pdf.

¹⁸ Available at the links provided in footnote 15.

¹⁹ The calendar year 2018 report is available at https://www.dni.gov/files/CLPT/documents/2019_ASTR_for_CY2018.pdf. The calendar year 2019 report is available at https://www.intelligence.gov/assets/documents/702%20Documents/statistical-transparency-report/2020_ASTR_for_CY2019_FINALOCR.pdf. The calendar year 2020 report is available at https://www.intel.gov/assets/documents/702%20Documents/statistical-transparency-report/2021_odni_annual_statistical_transparency_report_for_cy2020.pdf.

²⁰ The Privacy and Civil Liberty Oversight Board's unclassified Executive Order 12333 may be found at <https://documents.pclob.gov/prod/Documents/OversightReport/b11b78e0-019f-44b9-ae4f-60e7eebe8173/12333%20Public%20Capstone.pdf>. The Board's report on the since terminated NSA's call detail records program is available at [https://documents.pclob.gov/prod/Documents/OversightReport/87c7e900-6162-4274-8f3a-d15e3ab9c2e4/PCLOB%20USA%20Freedom%20Act%20Report%20\(Unclassified\).pdf](https://documents.pclob.gov/prod/Documents/OversightReport/87c7e900-6162-4274-8f3a-d15e3ab9c2e4/PCLOB%20USA%20Freedom%20Act%20Report%20(Unclassified).pdf).

ensure that civil liberties and privacy are appropriately protected, CLPT provided input on an NSPM-7 charter and implementation plan, including how to appropriately leverage identity intelligence capabilities. As it pertained to NSPM-9, 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.

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 instituted in the service of our common values. For example, the Civil Liberties Protection Officer delivered a keynote address on transparency at the third annual Five Eyes Intelligence Oversight and Review Conference. The Civil Liberties Protection Officer also presented at the International Intelligence Oversight Forum sponsored by the United Nations' Special Rapporteur on the Right of Privacy.

Prior to the European Court of Justice's July 2020 invalidation of the European Commission's adequacy agreement involving the European Union (EU)/U.S. Privacy Shield Agreement, CLPT presented at an annual review and answered questions regarding U.S. protections, including those provided pursuant to Presidential Policy Directive 28 (PPD-28), for the protection of the privacy and civil liberties of all individuals regardless of their citizenship status. Despite the invalidation, CLPT continues to work with other ODNI components and IC elements to implement PPD-28 and other relevant protections for non-U.S. citizens. CLPT has also provided information to the U.S. negotiating team regarding the publicly announced efforts by the U.S. and the EU to devise a new agreement related to U.S./EU commercial data transfers.

Separately, in 2019, the Civil Liberties Protection Officer participated in the European Commission's fifth review of the Terrorist Finance Tracking Program (TFTP). TFTP involves the provision of certain bank transactional information to the Department of the Treasury pursuant to the EU/U.S. TFTP Agreement. The agreement establishes a rigorous framework for protecting privacy and conducting oversight, and requires regular EU/U.S. reviews. Both the U.S. and the EU can call on "security and data protection experts" to participate in the reviews, and the Department of the Treasury has traditionally invited the ODNI's Civil Liberties Protection Officer along with officials from the State Department and the Department of Justice to fulfill that role. As with the prior reviews, the European Commission completed its report and has made it publicly available.²¹

²¹ The European Commission's report is available at https://ec.europa.eu/home-affairs/sites/default/files/what-we-do/policies/european-agenda-security/20190722_com-2019-342-commission-report_en.pdf.

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, a comprehensive resource for information concerning the IC.

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 public panel discussions regarding surveillance issues sponsored by NGOs and industry groups; facilitating academic and NGO engagements between the IC and NGOs and academics on topics ranging from protecting civil liberties and privacy while countering foreign malign influence, the intersection between screening and vetting and intelligence activities, and the use of FISA authorities. In order to bring the best ideas from outside government into 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.

Intelligence Community 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 periods, 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 during these reporting periods to fully utilize both councils as a policy generation engine to integrate civil liberties, privacy, and transparency in a strong and consistent manner. To this end, and during this reporting period, CLPT led a combined effort involving both Councils to produce an IC Enterprise 2019 – 2024 Strategy for Civil Liberties, Privacy, and Transparency. CLPT has released the top-level strategic document to the public²² and is leading multiple policy, training, and other activities to execute this strategy.

²² The strategy is available at https://www.dni.gov/files/CLPT/documents/CLPT_Enterprise_Strategy_OCR.pdf.

OTHER ACTIVITIES OF CLPT

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 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 the National Counterterrorism Center and the National Counterintelligence and Security Center 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.

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 proposals for 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.

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

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 periods, CLPT received 22 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, many of the complaints did not involve potentially credible allegations of actions by the ODNI or an element of the IC. In some instances, CLPT referred complaints to other competent offices, including privacy and civil liberties offices. For example, two complaints, each of which involved concerns by IC personnel with the personnel security processes of IC elements other than the ODNI, were investigated and resolved in conjunction with relevant privacy and civil liberties officials at the relevant IC element.

To report a potential civil liberties and privacy violation or file a complaint, please provide a written, detailed description of the incident and surrounding circumstances, and 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

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 the relevant reporting periods. In calculating these metrics, and consistent with the methodology used in prior Section 803 reports, CLPT utilized the following definitions:

- **Review:** An examination of activities or processes as required by controlling privacy and civil liberties authorities.
- **Information Sharing (ISE) Complaint:** A written allegation made to CLPT of harm arising from ODNI sharing of terrorism data in the context of the Information Sharing Environment.
- **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 United States persons, or violation of First Amendment rights of free speech and association, or Fifth Amendment guarantees of due process and equal protection).

<u>Category</u>	<u>01/01/19</u> to <u>06/30/19</u>	<u>07/01/19</u> to <u>12/31/19</u>	<u>01/01/20</u> to <u>06/30/20</u>	<u>07/01/20</u> to <u>12/31/20</u>	<u>01/01/21</u> to <u>06/30/21</u>
Reviews	27	37	28	48	66
ISE Complaints	0	0	0	0	0
Privacy Act Complaints	0	0	0	0	0
Privacy and Civil Liberties Complaints	2	7	6	2	5

CONCLUSION

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 January 2019 through 30 June 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.