

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



**Annual Report for Fiscal Year 2024**  
**October 1, 2023 – September 30, 2024**

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## **I. INTRODUCTION**

The Department of Defense (“DoD” or “Department”) submits this Privacy and Civil Liberties Officer Report (hereinafter referred to as “the Report”) covering the activities of the DoD Privacy and Civil Liberties Officer (DoD PCLO) for fiscal year 2024: October 1, 2023, through September 30, 2024.

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, requires the Secretary of Defense to designate a senior officer to serve as the Department’s principal advisor on privacy and civil liberties matters and to report on a semiannual basis the activities of this officer. The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency (ATSD(PCLT)) serves as the DoD PCLO and reports to and advises the Secretary of Defense and the Deputy Secretary of Defense on these matters.

The Report describes the privacy and civil liberties activities of the DoD PCLO, including:

- The organizational structure of the DoD Privacy and Civil Liberties Programs;
- Information on the number and types of reviews undertaken;
- The type of advice provided and the response to such advice;
- The number and nature of the complaints received by the Department for alleged privacy and civil liberties violations; and
- A summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of the DoD PCLO.

The DoD is committed to protecting and promoting privacy and civil liberties in its operations and programs, consistent with the Department’s mission to defend the Nation. In keeping with the Department’s leadership and collaboration in this area, this Report includes the activities of the DoD PCLO in establishing policy and guidelines, as well as the efforts of the Privacy and Civil Liberties Officials within the DoD and Office of the Secretary of Defense (OSD) Components who implement these policies.

## **II. THE DOD PRIVACY AND CIVIL LIBERTIES PROGRAMS**

The DoD Privacy and Civil Liberties Programs were established to ensure compliance with the laws, policies, and regulations governing privacy and civil liberties. The DoD PCLO issues and

implements DoD privacy and civil liberties policies and directs and oversees the compliance efforts of the DoD Component Privacy and Civil Liberties Programs. The DoD privacy and civil liberties policies and related procedural requirements are established in 32 C.F.R. Part 310, “Protection of Privacy and Access to and Amendment of Individual Records Under the Privacy Act of 1974,” April 11, 2019 (84 FR 14730);<sup>1</sup> DoD Instruction (DoDI) 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019, as amended;<sup>2</sup> DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007;<sup>3</sup> DoD Manual 5400.11, Volume 2 “DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan,” May 6, 2021;<sup>4</sup> and DoDI 1000.30, “Reduction of Social Security Number (SSN) Use Within DoD,” August 1, 2012, as amended.<sup>5</sup>

The implementation of the DoD Privacy and Civil Liberties Programs began with the establishment of the Defense Privacy Office in 1975, after the passage of Section 552a of Title 5, U.S.C., also known as the Privacy Act of 1974.<sup>6</sup> Following the enactment of the Implementing Recommendations of the 9/11 Commission Act of 2007, including Section 803, the Department expanded the mission of the office to fulfill those statutory requirements. As capabilities in information technology and information management continue to become increasingly sophisticated and diverse, the DoD Privacy and Civil Liberties Programs continue to evolve to ensure privacy and civil liberties protections, consistent with the missions of the Department. Figure 1 reflects the structure established as of October 1, 2023, for the DoD Privacy and Civil Liberties programs, including responsible officials and offices within DoD.

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<sup>1</sup> <https://www.govinfo.gov/content/pkg/FR-2019-04-11/pdf/2019-03971.pdf>

<sup>2</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/540011p.pdf>

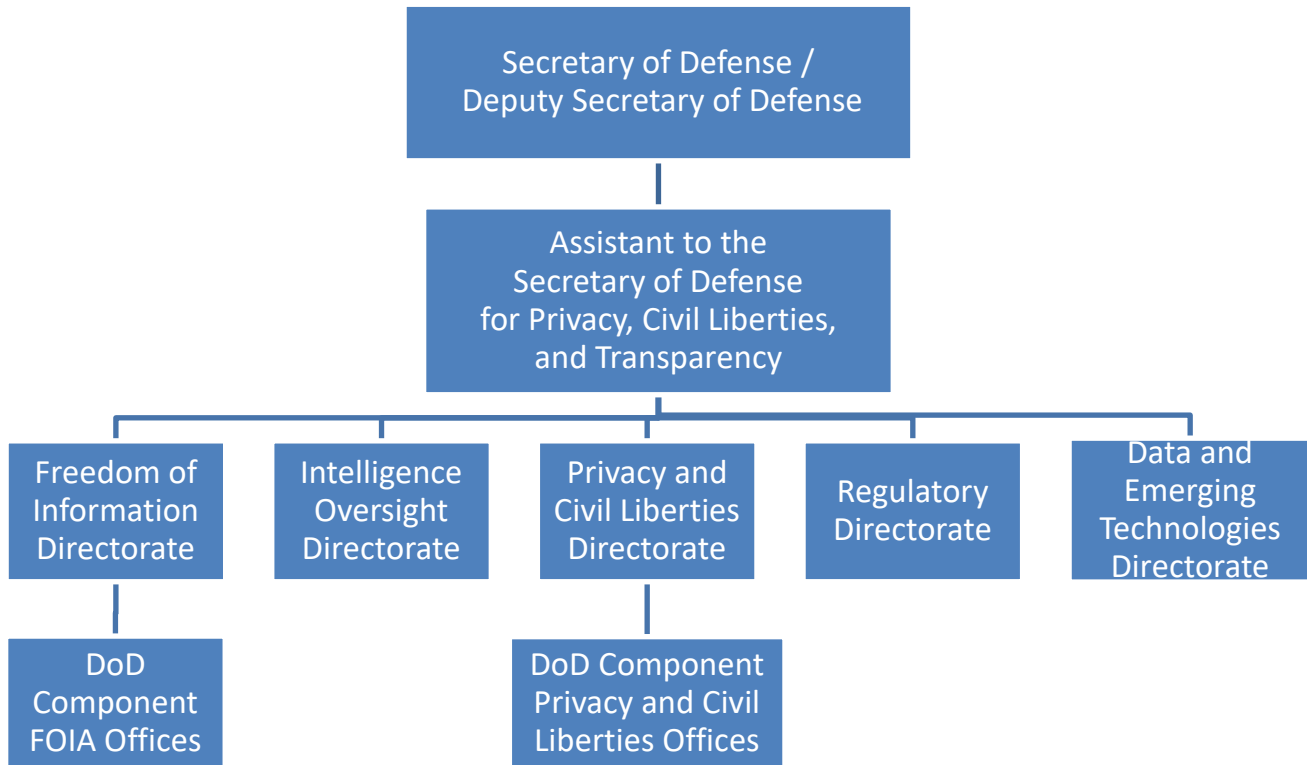
<sup>3</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/540011r.pdf>

<sup>4</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/540011v2.pdf>

<sup>5</sup> <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/100030p.pdf>

<sup>6</sup> The Privacy Act of 1974, 5 U.S.C. § 552a, took effect on September 27, 1975, and can generally be characterized as an omnibus “code of fair information practices” that regulates the collection, maintenance, use, and dissemination of certain records about individuals by Federal executive branch agencies.

**Figure 1: Current DoD Privacy and Civil Liberties Programs Structure**



**A. The Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency**

Consistent with Section 901(b) of the William M. “Mac” Thornberry National Defense Authorization Act (NDAA) for Fiscal Year 2022 (Public Law 116-283), on September 1, 2021, the Deputy Secretary of Defense directed the realignment of the privacy, civil liberties, transparency, regulatory, and intelligence oversight responsibilities under the ATSD(PCLT). The ATSD(PCLT) was also designated as the Principal Staff Assistant responsible for PCLT, regulatory, and intelligence oversight matters.

The ATSD(PCLT) serves as the DoD PCLO in accordance with Section 2000ee-1 of Title 42, U.S.C., and reports to and advises the Secretary of Defense and the Deputy Secretary of Defense on privacy and civil liberties issues within the Department's programs and operations. As the DoD PCLO, the ATSD(PCLT) is responsible for ensuring DoD operations, policies, procedures, guidelines, and issuances and their implementation are periodically assessed and updated to provide for appropriate protection of individuals' privacy and civil liberties. The ATSD(PCLT) is also charged with overseeing the implementation of the Department's Privacy and Civil Liberties Programs, ensuring compliance with the Privacy Act of 1974, as amended, and ensuring appropriate processes are in place to protect individuals' privacy and civil liberties in accordance with the law and policy. The ATSD(PCLT) also engages with entities charged with the oversight of privacy and civil liberties matters, such as the Privacy and Civil Liberties Oversight Board (PCLOB) and the Office of Management and Budget (OMB).

The ATSD(PCLT) is also designated as the DoD Senior Agency Official for Privacy (SAOP) in accordance with Executive Order 13719, OMB Memorandum M-16-24, OMB Circulars No. A-130 and No. A-108, and DoDI 5400.11. The SAOP has Department-wide responsibility for privacy matters, including the protection of personally identifiable information (PII); compliance with federal privacy-related laws, regulations, and policies; reviewing and providing comments on legislative, regulatory, and other policy initiatives implicating Privacy Act compliance and privacy-related matters; and information privacy risk management. The SAOP sets the parameters and priorities for the DoD Privacy Program. In addition, as DoD's SAOP, the ATSD(PCLT) is actively involved in the Federal Privacy Council, which was established by Executive Order 13719, and serves as the Vice Chair to support the protection of privacy across the federal executive branch. The ATSD(PCLT) also participates in key governance structures through which it has the opportunity to assess and advise on privacy and civil liberties concerns. Examples of this is the ATSD(PCLT)'s participation in the DoD Responsible Artificial Intelligence (AI) Council, which is charged with ensuring the ethical use of data, including PII, in DoD AI programs, and participation in the DoD Chief Digital and Artificial Intelligence Officer's (CDAO) Council.

## **B. The Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency**

The Office of the ATSD(PCLT) comprises five directorates: the Privacy and Civil Liberties

Directorate (PCLD), the Freedom of Information Directorate, the Intelligence Oversight Directorate (IOD), the Regulatory Directorate (RD), and the Data and Emerging Technologies (DET) Directorate.

### 1. The Privacy and Civil Liberties Directorate

The Privacy and Civil Liberties Directorate (PCLD) supports the ATSD(PCLT) in carrying out responsibilities as the DoD PCLO and SAOP to oversee the implementation of the DoD Privacy and Civil Liberties Programs. This includes supporting the ATSD(PCLT) in the following roles: serving as the Chair of the Defense Data Integrity Board and the Privacy Act access and Amendment appellate authority for the Office of the Secretary of Defense (OSD), the Joint Staff, the Combatant Commands, and other designated components. The PCLD routinely communicates and coordinates on a wide range of activities with DoD and OSD Component privacy and civil liberties officials, the OMB, the PCLOB, and other federal departments and agencies, to facilitate department-wide execution of federal privacy and civil liberties program requirements and to exchange best practices and promote effective and efficient solutions. Also, the PCLD establishes reporting processes for the Privacy and Civil Liberties Programs, including the SAOP submission for the annual Federal Information Security Modernization Act (FISMA) Report; all DoD PII breach reports, including breach reports pursuant to Section 1639(a) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) (10 U.S.C. § 2224 note); major incidents involving PII; and this annual PCLO report.

### 2. The Freedom of Information Directorate

The Freedom of Information Directorate assists the ATSD(PCLT) in carrying out responsibilities as the DoD Chief FOIA Officer pursuant to title 5, U.S.C., section 552(j)(1), and the DoD representative to the Chief FOIA Officers Council pursuant to title 5, U.S.C., section 552(k)(1). The ATSD(PCLT) also serves as the FOIA appellate authority for the OSD, the Joint Staff, the Combatant Commands, and designated Defense Agencies and DoD Field Activities for information denied under title 5, U.S.C., section 552, and with respect to other adverse determinations.

### 3. The Intelligence Oversight Directorate

The Intelligence Oversight Directorate (IOD), under the direction of the DoD Senior Intelligence Oversight Official who serves as the Principal Deputy to the ATSD(PCLT), is



responsible for the independent oversight of the Department’s intelligence and intelligence-related activities. The IOD inspects all DoD Component intelligence activities to ensure these activities comply with federal law, Executive Orders, Presidential Directives, Intelligence Community directives, and DoD issuances. The IOD maintains routine contact with the intelligence oversight offices throughout DoD, fielding questions and providing guidance on the implementation of Executive Order 12333. Additionally, IOD oversees and manages the reporting and remediation of questionable intelligence activities (QIAs) in accordance with DoDD 5148.13. These reports are compiled quarterly and provided to Senior Leaders at DoD, the Office of the Director of National Intelligence (ODNI), and the President’s Intelligence Oversight Board (IOB). Additionally, in the event an intelligence component engages in activities that meet the definition of a significant/highly sensitive matter (S/HSMs), the IOD is responsible for the immediate reporting, oversight, and remediation through DoD Senior Leaders, ODNI, and the IOB. Due to the importance of protecting privacy and civil liberties when conducting intelligence activities, the IOD is an integral partner in implementing the DoD Privacy and Civil Liberties Programs.

#### 4. The Regulatory Directorate

Under the direction of the ATSD(PCLT), who serves as the designated DoD Regulatory Policy Officer in accordance with E.O. 12866, the Regulatory Directorate (RD) serves as the DoD e-Rulemaking Lead for matters concerning the Federal Docket Management System and Regulations.gov, which includes managing DoD regulatory dockets pursuant to Section 206 of Public Law 107-347 (also known as the “e-Government Act of 2002”). The RD approves each phase of Departmental federal regulations, except Defense procurement regulations, and DoD guidance documents with impact on the public for submission to the OMB, including matters to be published in the Federal Register, in accordance with E.O. 12866. The RD establishes policies and procedures for the DoD Regulatory Program, including the review, coordination, approval, and publication of federal rules and notices in the Federal Register and approves the DoD’s Regulatory Plan and Regulatory Agenda for inclusion in the Unified Agenda of Regulatory and Deregulatory Actions for submission to OMB.

#### 5. The Data and Emerging Technologies Directorate

The Data and Emerging Technologies (DET) Directorate supports the Department’s mission,

enterprise-wide, by assessing and mitigating privacy and civil liberties risks in the use, governance, and oversight of data and emerging technologies; developing and coordinating policy; and enhancing the broader Office of the ATSD(PCLT) mission through innovative technology applications. DET proactively engages Department, interagency, and international partners and actively collaborates with other key stakeholders to build public trust, mitigate risk for the U.S. government, and set conditions to enhance and support the goals of Department's leadership and the National Defense Strategy. DET accomplishes these tasks by improving organizational performance through aligning key capabilities to high priority concerns, partnering with critical stakeholders to build capabilities, implementation and measuring progress through review of milestones, and applying adjustments as necessary.

### **C. DoD Office of the General Counsel**

The DoD Office of the General Counsel (OGC) provides legal advice to senior DoD officials, the Office of the ATSD(PCLT), and assists DoD and OSD Component legal advisors supporting DoD Privacy and Civil Liberties Programs. In addition, OGC legal advisors work directly with the Office of the ATSD(PCLT) to provide legal reviews of matters implicating privacy and civil liberties issues and to ensure privacy and civil liberties policies are in accordance with the law.

### **D. DoD and OSD Component Privacy and Civil Liberties Officials**

The DoD and OSD Components are responsible for administering their respective Privacy and Civil Liberties Programs, including the establishment and implementation of Component-level privacy and civil liberties policies, procedures, and training consistent with DoD issuances and guidelines. The DoD requires the designation of Senior Component Officials for Privacy (SCOPs) and Component Privacy and Civil Liberties Officers (Component PCLOs) to lead and implement the various elements of the DoD Privacy and Civil Liberties Programs. The Office of the ATSD(PCLT) communicates regularly with these officials on the operation of the Component programs.

#### **1. Senior Component Officials for Privacy**

Each SCOP is typically a general/flag officer, Senior Executive Service, or Senior Level employee. SCOPs oversee the resolution of existing or potential privacy and civil liberties issues requiring executive-level intervention. They also identify issues and recommend actions for matters requiring the attention of the Component's leadership. In addition, the SCOPs provide information

and policy advice to the ATSD(PCLT) to assist in Departmental-level decision-making. The SCOPs also direct Component compliance with Section 803 and the DoD Privacy and Civil Liberties Programs.

## 2. Component Privacy and Civil Liberties Officers

DoD and OSD Components are responsible for designating a Military Service member or civilian employee to serve as the Component PCLO. These officials are responsible for managing the functions of the DoD Privacy and Civil Liberties Programs for the Component organizations. They also collaborate with and assist the SCOPs on all privacy and civil liberties matters as necessary.

### III. REVIEWS

The DoD considers privacy and civil liberties concerns when proposing, developing, and implementing laws, regulations, policies, procedures, and guidelines.<sup>7</sup> Under the direction and guidance of the ATSD(PCLT), the PCLD performs privacy and civil liberties reviews for all Department-level issuances, as well as proposed federal legislation, testimony, and reports. In doing so, the PCLD analyzes policy, procedures, and activities for their impact on privacy and civil liberties and provides comments and may recommend changes to such documents in order to protect privacy and civil liberties. Upon request, the PCLD reviews and provides privacy and civil liberties guidance on proposed plans, activities, regulations, policies, and procedures promulgated by other DoD and OSD Components.

Privacy and civil liberties reviews are conducted in accordance with federal laws, such as the Privacy Act of 1974, as amended, certain rights guaranteed in the U.S. Constitution, and OMB and PCLOB executive guidance. The Department also ensures compliance and alignment with FISMA and the E-Government Act of 2002 (44 U.S.C. § 3501 *et seq.*) with respect to information management requirements. For the purposes of this report, privacy compliance reviews are enumerated as follows and are summarized in Table 1.

#### A. System of Records Notice Reviews

The Privacy Act of 1974 requires that agencies publish a system of records notice (SORN) in

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<sup>7</sup> See 42 U.S.C. § 2000ee-1.

the *Federal Register* describing the existence and character of any agency system of records.<sup>8</sup> DoD and OSD Components must submit new, modified, and rescinded SORNs for their respective systems of records to the PCLD for review and SAOP approval before they are published. Through the publication of Privacy Act SORNs, the PCLD invites public comments on the activities described in the notice, the proposed sharing of information via routine uses, and any exemptions proposed for the system of records. While public comments to DoD SORNs and associated exemption rules are relatively infrequent, this is an important feedback mechanism available to the public to express concerns on the collection, use, and sharing of individuals' personal information in an agency system of records, and to have those concerns considered and addressed by the DoD PCLO. Table 1 lists the number of SORNs reviewed, approved, forwarded to OMB and Congress, and sent to the Office of the Federal Register for publication during the reporting period.

## **B. Exemption Rule Reviews**

A Privacy Act exemption rule is promulgated when an agency exempts a particular system of records from certain provisions of the Act.<sup>9</sup> The PCLD and the OGC review Privacy Act exemption rules prior to publication in the *Federal Register*. Table 1 lists the number of new and modified exemption rules published as a final rule during the reporting period.

## **C. Matching Agreement Reviews**

A matching agreement is a written agreement between a source agency and a recipient Federal agency or non-Federal agency that specifies the terms by which data from two or more automated systems of records is compared between the agencies, typically to establish or verify the eligibility of individuals for a specific Federal benefit.<sup>10</sup> The PCLD and the OGC review matching agreements before they are presented for approval to the Defense Data Integrity Board, which is chaired by the ATSD(PCLT). The Director, PCLD, also serves as the Executive Secretary for the Defense Data Integrity Board, facilitating the review process for all DoD matching agreements. Table 1 lists the number of matching agreements reviewed and completed during the reporting period, in which DoD is either the source agency or the recipient agency.

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<sup>8</sup> See 5 U.S.C. § 552a(e)(4).

<sup>9</sup> See 5 U.S.C. § 552a(j), (k).

<sup>10</sup> See 5 U.S.C. § 552a(a)(8) and (o).

## **D. Privacy Breach Reviews**

A breach is defined as “[t]he loss of control, unauthorized disclosure, unauthorized acquisition or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses PII or (2) an unauthorized user accesses PII for other than an authorized purpose.”<sup>11</sup> DoD and OSD Components report privacy breaches impacting DoD personnel to the PCLD, which provides breach response assistance, as appropriate, and compiles the breach reports to identify and analyze trends. Table 1 lists the number of privacy breaches reported by all DoD and OSD Components during the reporting period.

## **E. Social Security Number Justification Reviews**

DoD and OSD Components must submit a Social Security Number (SSN) Justification Memorandum to the PCLD requesting authorization to collect and use SSNs within information systems, forms, and mailings. The justification must comply with Departmental direction establishing limitations on the collection and use of SSNs.<sup>12</sup> The PCLD reviews the justification and decides whether to grant or deny the Component’s request. This effort aims to reduce the use of SSNs, thereby minimizing the risk of SSN misuse or compromise throughout the Department. Table 1 lists the number of SSN Justification Memoranda reviewed and decided on during the reporting period.

Pursuant to the Social Security Number Fraud Prevention Act of 2017 (Public Law 115-59), the PCLD also reviewed and made decisions concerning requests from OSD and DoD Components seeking authorization to continue mailing forms containing full SSNs. For the first five years following enactment of the law, the outcomes of these reviews were reported to Congress in an annual report. The historical reporting data collected pursuant to the Act indicated the number of mailed DoD Component-specific documents containing SSNs decreased each year during the five years for which annual reports were required. The Department continues its efforts to replace the SSN of DoD-affiliated persons with the DoD Identification Number in its internal systems and processes, where possible.

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<sup>11</sup> OMB M-17-12, “Preparing for and Responding to a Breach of Personally Identifiable Information,” January 3, 2017.

<sup>12</sup> DoD Instruction 1000.30, “Reduction of Social Security Number (SSN) Use Within DoD,” August 1, 2012, as amended.

## F. DoD Issuances, Federal Legislation, Testimony, and Reports

The Office of the ATSD(PCLT) reviews DoD-wide issuances for privacy and civil liberties issues and provides feedback as appropriate.<sup>13</sup> In addition, the Office reviews proposed legislation, testimony, and reports for privacy and civil liberties concerns on behalf of the ATSD(PCLT) and reviews other federal agency documents upon request. Table 1 lists the number of reviews of issuances, legislation, testimony, and reports conducted during the reporting period.

**Table 1: Privacy and Civil Liberties Reviews from October 1, 2023 to September 30, 2024**

<b>PRIVACY AND CIVIL LIBERTIES REVIEWS</b>	
<b>Type of Review</b>	<b>Number of Reviews</b>
System of Records Notices (SORNs)	
➤ New	4
➤ Modified	8
➤ Rescinded	23
Exemption Rules	4
Matching Agreements <sup>14</sup>	3
Privacy Breach Reviews	2,195
SSN Justification Memoranda	80
DoD Issuances, Federal Legislation, Testimony, and Reports	366

## IV. MATTERS OF ADVICE AND RESPONSE

The Office of the ATSD(PCLT) provides advice on DoD Component privacy and civil liberties matters. This advice serves as important guidance for DoD Component Privacy and Civil Liberties Program implementation.

<sup>13</sup> A DoD issuance establishes or implements DoD policy, designates authority, assigns responsibilities, or provides procedures. Issuances apply to more than one DoD Component. *See* DoDI 5025.01, “DoD Issuances Program.”

<sup>14</sup> Includes re-establishments of matching agreements; does not include matching agreement renewals of up to one additional year in accordance with 5 U.S.C § 552a(o)(2)(D).

## A. Advice

For the purpose of this report, advice encompasses the issuance of DoD-wide policies, procedures, or guidance pertaining to privacy and civil liberties. The DoD is actively updating its foundational documents to reflect advances in knowledge, technology, legal developments, and regulatory guidance. Issuances under review and revision during the reporting period include DoD Instruction (DoDI) 5400.11, DoD Privacy and Civil Liberties Programs,” DoD Regulation 5400.11-R (DoD 5400.11-R), “Department of Defense Privacy Program,” and DoD Manual (DoDM) 5400.11, Volume 2, “DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan.” Additionally, the Office of the ATSD(PCLT) superseded a portion of the DoD 5400.11-R in the form of a Directive Type Memorandum (DTM) interim policy to emphasize that DoD Components must apply the principles of the Freedom of Information Act when making determinations about disclosures of certain personal information of current and former Service members that was previously characterized as normally releasable. This DTM was published on December 2, 2024.

## B. Programmatic Achievements

The following activities highlight key DoD privacy and civil liberties offices’ programmatic efforts during the reporting period.

- The Office of the ATSD(PCLT) continued a process of establishing and transitioning to DoD-wide SORNs, to help DoD standardize its practices and notices concerning the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. In furtherance of that effort, DoD rescinded 23 SORNs and published one new DoD-wide SORN during this reporting period. DoD-wide SORNs reduce duplicative and overlapping SORNs published by separate DoD components. The creation of DoD-wide SORNs is expected to make locating relevant SORNs easier for DoD personnel and the public and create efficiencies in the operation of the DoD privacy program.
- The Office of the ATSD(PCLT) established a strong collaboration with the DoD Chief Digital and Artificial Intelligence Office (CDAO) and integrated privacy considerations into the Responsible Artificial Intelligence (RAI) and CDAO policies, resulting in modifications to departmental initiatives. Additionally, the Deputy Secretary of Defense (DSD) assigned the ATSD(PCLT) as the interim lead for

commercially available information (CAI) policy, governance, and oversight and directed the delivery of a draft CAI policy issuance. On May 7, 2024, the Office of the ATSD(PCLT) began formal coordination on a DTM which establishes interim policy for acquiring, collecting, maintaining, and using CAI that applies to all DoD missions and Components. The purpose of this issuance is to provide DoD-wide CAI policy and to support effective governance and oversight.

- The Office of the ATSD(PCLT) stood up the DET Directorate to provide expert guidance on the application of law and policy on emerging technology, develop implementable policies and processes, assist in the oversight of existing processes, leverage technology for enterprise use, analyze data to identify risk and mitigation, and enhance effective compliance and data governance.
- The Office of the ATSD(PCLT) expanded its privacy team with the addition of a Privacy Risk Management Framework (RMF) specialist. This individual actively participates in the RMF Technical Advisory Group (TAG) to provide support on various matters such as determining the criticality levels for privacy-related controls and updating guidance related to privacy activities in the information system RMF cycle on the Department's RMF Knowledge Service website. Additionally, the Office of the ATSD(PCLT) developed a new Privacy RMF training course aimed to equip Department privacy officials and system managers with a comprehensive understanding of privacy risk management in the context of the RMF and Federal Information Security Management Act (FISMA) requirements. It focuses on the purpose and application of the Privacy RMF as a systematic method for identifying, assessing, and managing privacy risks associated with federal information systems and operations.
- The Office of the ATSD(PCLT) procured a Blanket Purchase Agreement (BPA) for Data Breach Response and Identity Protection Services. This BPA provides the Department with a streamlined and efficient mechanism to access critical contracted breach response and identity protection services designed to mitigate the impact of privacy breaches, ensuring consistent and timely response actions across the DoD.
- In support of its core mission to provide financial excellence and quality pay services to its customers, the Defense Finance and Accounting Service (DFAS) privacy team



significantly improved the component website's navigability and usability, including the DFAS FOIA/Privacy public webpage. The team also conducted a review/redesign effort of the Privacy request database, resulting in increased efficiencies for DFAS submissions, improved monthly metric reporting, and simplified case research and lifecycle functions. To ensure ongoing compliance with privacy regulations, the team conducted self-assessments of the privacy program using the Risk Management Internal Control (RMIC) policy and guidance, created process maps, and developed process narratives. Additionally, the team created a Career Development Roadmap for the Government Series 306, Government Information Specialist, to support current and future employee career growth and development.

- The Defense Logistics Agency (DLA) privacy program hired a Senior Privacy Engineer. The DLA also developed a Privacy Compliance application tool to help manage and streamline the process of conducting Privacy Impact Assessments (PIAs) and other privacy-related activities reviews. In August 2024, the final stage of the application workflow approval for PIAs was implemented, allowing the Chief Information Officer (CIO) and Senior Compliance Official for Privacy (SCOP) to electronically sign off on PIAs.
- The Defense Counterintelligence and Security Agency's (DCSA) Privacy, Civil Liberties and Freedom of Information (PCLF) office underwent a reorganization to better align with its overall priorities resulting in the establishment of an additional PCLF team to further enhance collaboration and increase support to critical PCLF functions.

## V. COMPLAINTS

Consistent with 42 U.S.C. § 2000ee-1, DoD policy requires DoD Components to have procedures for processing complaints from individuals alleging the DoD violated their privacy or civil liberties.<sup>15</sup> Generally, the receiving Component Privacy and Civil Liberties Program Office reviews the complaints and reports them to the Component command or other appropriate official. The command will initiate an inquiry and, as necessary, direct corrective action. The complaints counted in this Report, listed in Table 2, were received in accordance with these procedures. For the

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<sup>15</sup> See DoD Instruction 5400.11, "DoD Privacy and Civil Liberties Programs," January 29, 2019.

purpose of this Report, a complaint is an allegation of a violation of an individual’s privacy rights, civil liberties, or an alleged violation of conscience, moral principles or religious beliefs in accordance with Section 533 of Public Law 112-239, as described below. Complaints received through Privacy and Civil Liberties Program Offices for which established formal procedural avenues of redress exist, such as complaints alleging a violation of the HIPAA Rules and complaints addressed by the Equal Employment Opportunity or Military Equal Opportunity program offices, are outside the scope of this report. Similarly, complaints alleging sexual assault or sexual harassment addressed by Department or component sexual assault or harassment prevention and response offices, and certain complaints addressed through the military justice system, such as complaints against alleged perpetrators that result in military courts-martial, are generally reported pursuant to different legal authorities and procedures; therefore, they are also outside the scope of this report.

In 2022, the Office of the ATSD(PCLT) began using an updated form for the collection and reporting of privacy and civil liberties complaint data from DoD and OSD Components for inclusion in this Report. This Report includes a separate tally of civil liberties-related complaints filed by Military Service members or chaplains alleging violations of Section 533 of Public Law 112-239, as amended (Section 533), and DoD Instruction 1300.17, “Religious Liberty in the Military Services,” concerning accommodations for individual expressions of conscience, moral principles, or religious beliefs.<sup>16</sup> These Section 533 complaints are reported separately by DoD and OSD Components from other privacy and civil liberties complaints. Service members and chaplains are not required to file Section 533 complaints with the Component privacy and civil liberties program office, but may file them through other offices, such as the Component’s Office of Inspector General. This Report; however, only provides information on the number of Section 533 Complaints received by a Component’s privacy and civil liberties program office.

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<sup>16</sup> Section 533 of Public Law 112-239, as amended, and DoD Instruction 1300.17, “Religious Liberty in the Military Services,” require accommodations of individual expressions of beliefs of members of the armed forces that reflect their sincerely held conscience, moral principles, or religious beliefs unless such accommodations would have an adverse impact on military readiness, unit cohesion, and good order and discipline; such expression of accommodations may not, in so far as practicable, be the basis of an adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment. These authorities also prohibit requiring chaplains to perform rites, rituals, or ceremonies contrary to their conscience, moral principles, or religious beliefs and prohibit discrimination or adverse actions against chaplains on such a basis.

## **A. Complaint Dispositions**

Table 2 lists the number of privacy and civil liberties complaints received by DoD Components during the reporting period, and the disposition of the complaint. A disposition of “Responsive action taken” means the complaint was reviewed and is resolved. It also includes any action taken to remediate the violation and prevent recurrence. “Pending” indicates the complaint is under review to determine the necessary actions to resolve the complaint.

## **B. Privacy Complaints**

A privacy complaint is an allegation of a violation of privacy protections in the administration of the programs and operations of the Department. Privacy complaints are separated into three categories in Table 2:

- Process and Procedure Issues (such as appropriate consent, collection, disclosure, and/or notice);
- Redress Issues (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); and
- Referred to Other Agency.

For examples of DoD privacy complaints, please refer to the Appendix of this Report.

## **C. Civil Liberties Complaints**

A civil liberties complaint is an allegation of a violation of civil liberties in the administration of the Department’s programs and operations. For the purpose of this report, civil liberties complaints involve the assertion of a violation of the rights and freedoms guaranteed by the first 10 amendments to the U.S. Constitution (i.e., the Bill of Rights). The types of civil liberties complaints reported may include, but are not limited to:

- First Amendment (e.g. freedom of speech, religion, press, right to assemble peaceably, and right to petition for redress of grievances);
- Second Amendment (right to keep and bear arms);
- Fourth Amendment (protection against unreasonable search and seizure);
- Fifth Amendment (protection against double jeopardy and self-incrimination, right to due process (including equal protection));
- Sixth Amendment (right to speedy and public trial/counsel/calling of

witnesses/confronting of accusers);

- Eighth Amendment (protection against cruel/unusual punishments/excessive fines/bail); and
- Ninth Amendment (unremunerated rights).

Examples of DoD civil liberties complaints are included in the Appendix of this report.

#### **D. Complaints Alleging Violations of Conscience, Moral Principles or Religious Beliefs Under Section 533 of Pub. Law 112-239, as amended**

This subsection will only apply to complaints by Military Service members, including chaplains, premised on Section 533 of Pub. Law 112-239, as amended. Section 533, as amended by Section 532 of Public Law 113-66, provides certain protections for the rights of conscience, moral principles, and religious beliefs of members of the Armed Forces and Chaplains as follows:

- Unless it could have an adverse impact on military readiness, unit cohesion, and good order and discipline, the Armed Forces shall accommodate individual expressions of belief of a member of the armed forces reflecting the sincerely held conscience, moral principles, or religious beliefs of the member and, in so far as practicable, may not use such expression of belief as the basis of any adverse personnel action, discrimination, or denial of promotion, schooling, training, or assignment.
- No member of the Armed Forces may require a chaplain to perform any rite, ritual, or ceremony that is contrary to the conscience, moral principles, or religious beliefs of the chaplain; or discriminate or take any adverse personnel action against a chaplain, including denial of promotion, schooling, training, or assignment, on the basis of the refusal by the chaplain to comply with such a requirement.

**Table 2: Privacy and Civil Liberties Complaints (received via Privacy and Civil Liberties Program Offices)**

Nature of Privacy Complaints	Number Received	Disposition of Complaint	
		Responsive Action Taken	Pending
Process and Procedure	20	18	2
Redress Issues	0	0	0
Referred to Other Agency	10	0	10
<b><i>Sub Total for Privacy Complaints:</i></b>	<b>30</b>	<b>18</b>	<b>12</b>
Nature of Civil Liberties Complaints	Number Received	Responsive Action Taken	Pending
First Amendment	4	4	0
Fourth Amendment	5	5	0
Fifth Amendment	7	7	0
Sixth Amendment	0	0	0
Other – General Civil Liberties Complaints	2	0	2
<b><i>Sub Total for Civil Liberties Complaints:</i></b>	<b>18</b>	<b>16</b>	<b>2</b>
Complaints Alleging Violations of Conscience, Moral Principles or Religious Beliefs Under Section 533 of Pub. Law 112-239, as amended	Number Received	Responsive Action Taken	Pending
Complaints by Military Service Members	2	1	1
Complaints by Chaplains	0	0	0
<b><i>Sub Total for Section 533 Complaints</i></b>	<b>2</b>	<b>1</b>	<b>1</b>
<b>TOTAL COMPLAINTS FY23 - FY24</b>	<b>50</b>	<b>35</b>	<b>15</b>

## CONCLUSION

In accordance with Section 803, this Report summarizes the activities of the DoD PCLO from October 1, 2023, through September 30, 2024. The DoD will continue to work with Congress, the OMB, the PCLOB, and other federal agencies to ensure it appropriately protects privacy and civil liberties. Program activities and accomplishments serve to assure the continuing protection of privacy and civil liberties in each of the functions and missions of the Department.

## APPENDIX: Samples of Privacy and Civil Liberties Complaints

### Sample DoD Privacy Complaints<sup>17</sup>

#### *Sample Complaint #1:*

**Description of Complaint:** Complainant alleged their provider directed staff to use personal emails and cell phones to conduct official duties.

**Findings:** Substantiated. The investigation determined privacy allegations were founded. Appropriate remedial actions were taken with provider and staff regarding the appropriate handling of PII.

**Disposition:** Responsive Action Taken.

#### *Sample Complaint #2:*

**Description of Complaint:** Complainant alleged someone changed their biological gender from female to male in Military Health System's electronic records. Complainant requested a change to revert it back to female but said the change never occurred.

**Findings:** Unsubstantiated. The gender information had been updated; complainant was referring to an old document.

**Disposition:** Responsive Action Taken.

### Sample DoD Civil Liberties Complaints

#### *Sample Complaint #1:*

**Nature of Complaint(s):** Fifth Amendment: Right to Due Process (including Equal Protection).

**Details:** The Complainant alleged that a superior officer abused their military authority by wrongfully influencing an approved emergency leave request, specifically by causing the leave request to be rescinded.

**Reviews/Findings/Action Taken:** Unsubstantiated. The chain of command directed an investigation which determined the superior officer took appropriate action in forwarding the leave request along with the superior officer's recommendation.

**Disposition:** Responsive Action Taken.

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<sup>17</sup> These samples reflect submissions during the reporting period and have been edited to ensure the privacy of the complainant.

*Sample Complaint #2:*

**Nature of Complaint(s): Fourth Amendment:** Protection Against Unreasonable Search or Seizure

**Details:** The Complainant (Soldier) alleged that the military police unlawfully entered his house.

**Reviews/Findings/Action Taken:** Unsubstantiated. The investigation determined the complainant did not report to morning formation and was not responsive to phone calls. The chain of command alerted the Military Police (MP) who responded to the residence to conduct a wellness check pursuant to policy regarding missing Soldiers.

**Disposition:** Responsive Action Taken.