



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

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

Dear Members of the Board:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending an identical letter to the appropriate congressional committees.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Adam Smith
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley". The signature is written in a cursive style with a long vertical stroke at the end.

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Mike D. Rogers
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Madam Chairwoman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable James R. Comer
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley". The signature is written in a cursive style.

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Jim Jordan
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Adam B. Schiff
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Devin Nunes
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Mark Warner
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Marco Rubio
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Jack Reed
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable James M. Inhofe
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security &
Governmental Affairs
United States Senate
Washington, DC 20510

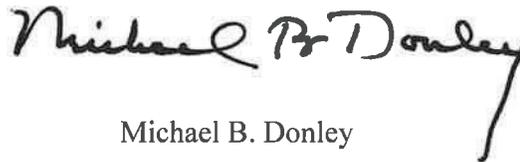
Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley". The signature is written in a cursive style with a long, sweeping tail on the letter "y".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Rob Portman
Ranking Member



DIRECTOR OF ADMINISTRATION AND MANAGEMENT
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

JUN 07 2021

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense (DoD) Privacy and Civil Liberties Officer Report, pursuant to section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), as amended, 42 U.S.C. § 2000ee-1. This report reflects activities covering the reporting period for the first half of fiscal year 2021, October 1, 2020 through March 31, 2021.

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

I am sending identical letters to the other appropriate congressional committees and the Privacy and Civil Liberties Oversight Board.

Sincerely,

A handwritten signature in black ink that reads "Michael B. Donley".

Michael B. Donley

Enclosure:
As stated

cc:
The Honorable Chuck Grassley
Ranking Member

Department of Defense
Privacy and Civil Liberties Officer Report



Semiannual Report for Fiscal Year 2021

October 1, 2020 – March 31, 2021

The estimated cost of this report or study for the Department of Defense is approximately \$7,280 for the 2021 Fiscal Year. This includes \$0 in expenses and \$7,280 in DoD labor
Generated on 2021Apr22 RefID: 2-C4A5C89

TABLE OF CONTENTS

I.	INTRODUCTION	3
II.	THE DOD PRIVACY AND CIVIL LIBERTIES PROGRAMS	3
A.	The Director for Administration and Management.....	5
B.	The Directorate for Oversight and Compliance	6
C.	The Defense Privacy, Civil Liberties, and Transparency Division.....	6
D.	DoD Office of the General Counsel.....	7
E.	DoD Component Privacy and Civil Liberties Officials	7
1.	Senior Component Officials for Privacy	7
2.	Component Privacy and Civil Liberties Officers	7
III.	REVIEWS	8
A.	System of Records Notice Reviews	8
B.	Exemption Rule Reviews.....	9
C.	Matching Agreement Reviews.....	9
D.	Privacy Breach Reviews	9
E.	Social Security Number Justification Reviews	9
F.	DoD Issuances, Federal Legislation, Testimony, and Reports	10
Table 1: Privacy and Civil Liberties Reviews	10	
IV.	MATTERS OF ADVICE AND RESPONSE.....	10
A.	Advice	11
B.	Programmatic Achievements	11
V.	COMPLAINTS.....	13
A.	Complaint Dispositions.....	14
B.	Privacy Complaints	14
C.	Civil Liberties Complaints	15
	CONCLUSION.....	17
	APPENDIX: Samples of Privacy and Civil Liberties Complaints	i
	Sample DoD Privacy Complaints.....	i
	Sample DoD Civil Liberties Complaints.....	i

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 (PCLO) for the first semiannual reporting period of fiscal year 2021: October 1, 2020 through March 31, 2021.

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 Director of Administration and Management (DA&M) serves as the PCLO and reports to and advises the Deputy Secretary of Defense and the Secretary of Defense on these matters.

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

- 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
- A summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of the 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 PCLO and the Senior Agency Official for Privacy (SAOP) in establishing policy and guidelines, as well as the efforts of the DoD Component Privacy and Civil Liberties Officials implementing those policies.

II. THE DOD PRIVACY AND CIVIL LIBERTIES PROGRAMS

The DoD Privacy and Civil Liberties Programs were established to ensure compliance with Federal statutes and Office of Management and Budget (OMB) guidance governing privacy and civil liberties. On behalf of the PCLO, the Directorate for Oversight and Compliance (DO&C) 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 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 1974.¹ 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 and renamed it the Defense Privacy, Civil Liberties, and Transparency Division. As capabilities in information technology and information management have become increasingly sophisticated and diverse, the DoD Privacy and Civil Liberties Programs have evolved to strengthen the ongoing protection of individual rights, consistent with the missions of the Department. 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 14728);² DoD Instruction (DoDI) 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019;³ DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007;⁴ and DoDI 1000.30, “Reduction of Social Security Number (SSN) Use Within DoD,” August 1, 2012, as amended.⁵

¹ 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 attempts to regulate the collection, maintenance, use, and dissemination of certain records about individuals by Federal executive branch agencies.

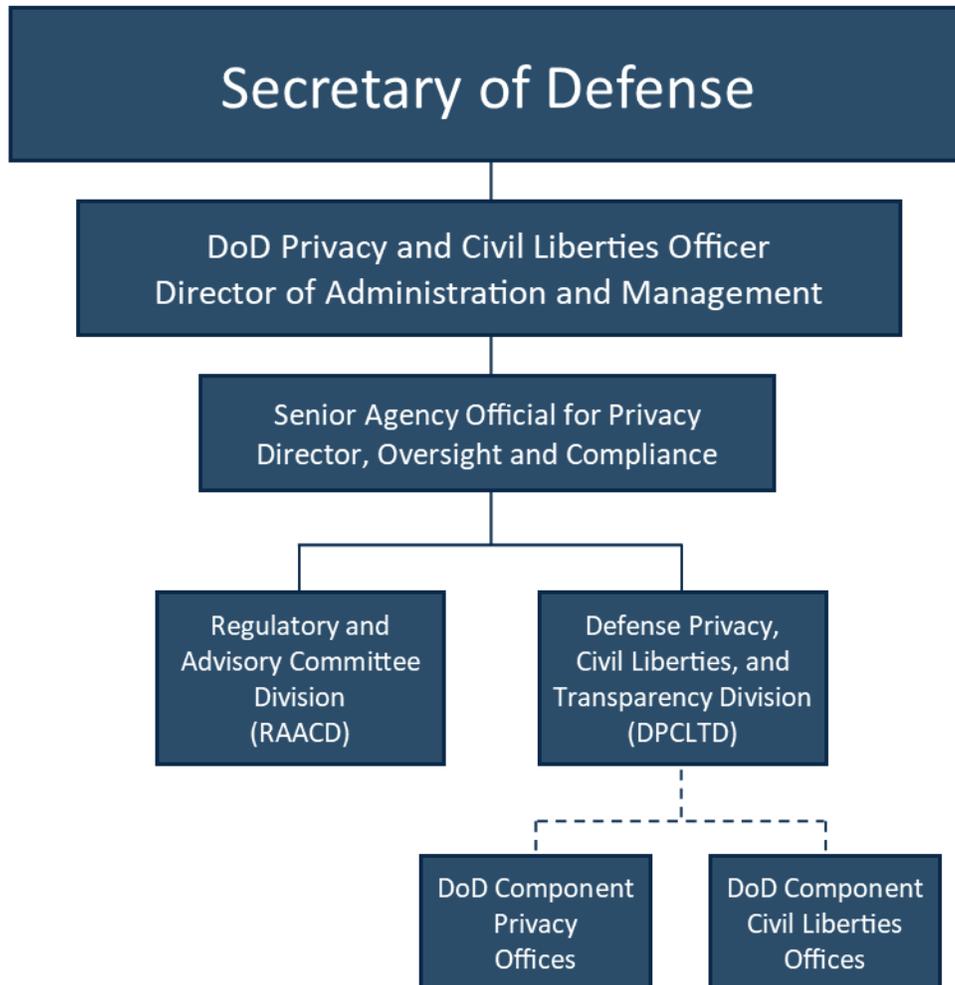
² <https://www.govinfo.gov/content/pkg/FR-2019-04-11/pdf/2019-03971.pdf>

³ <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/540011p.pdf>

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

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

Figure 1: DoD Privacy and Civil Liberties Programs Structure



A. The Director for Administration and Management

The DA&M serves as the DoD PCLO in accordance with Section 2000ee-1 of Title 42, U.S.C., and reports to and advises the Deputy Secretary of Defense and the Secretary of Defense. The DA&M is responsible for advising the Secretary and Deputy Secretary on the DoD Privacy and Civil Liberties Programs. As the PCLO, the DA&M is responsible for ensuring that DoD operations, policies, procedures, guidelines, and issuances and their implementation are periodically investigated, reviewed, and amended to provide for adequate protection of individuals' privacy and civil liberties.

B. The Directorate for Oversight and Compliance

The DO&C comprises two divisions: the Defense Privacy, Civil Liberties, and Transparency Division (DPCLTD) and the Regulatory and Advisory Committee Division. The Director of DO&C reports to the DA&M, and keeps the DA&M apprised of privacy and civil liberties issues within the Department's programs and operations. The Director is also charged with implementing 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 Director also engages with entities charged with oversight of privacy and civil liberties matters, such as the Privacy and Civil Liberties Oversight Board (PCLOB).

The Director of DO&C is also designated as the DoD SAOP in accordance with Executive Order 13719, OMB Memorandum M-16-24, and OMB Circulars No. A-130 and No. A-108. The SAOP has Department-wide responsibility for privacy and civil liberties, 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 risk management. The SAOP sets the parameters and priorities for the DoD Privacy Program and routinely provides information and recommendations directly to the PCLO. Finally, the SAOP coordinates with the DoD Senior Intelligence Oversight Official (SIOO) and intelligence components to ensure appropriate consideration of privacy and civil liberties matters related to intelligence activities and national security.

C. The Defense Privacy, Civil Liberties, and Transparency Division

As a division of the DO&C, the DPCLTD assists the PCLO and SAOP in implementing the DoD Privacy and Civil Liberties Programs by providing guidance to DoD Component officials, reviewing publications and legislative activities, facilitating official reporting, and providing training in privacy and civil liberties content and program administration.

The DPCLTD routinely communicates and coordinates on a wide range of activities with privacy and civil liberties officials at each DoD Component, the OMB, the PCLOB, and other Federal departments and agencies, to facilitate the Department-wide execution of Federal privacy and civil liberties program requirements, and to exchange ideas on the development and

implementation of best practices in the privacy and civil liberties area. Also, the DPCLTD 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 PII breach reports, and this semiannual PCLO report.

D. DoD Office of the General Counsel

The DoD Office of the General Counsel (OGC) provides legal advice to senior DoD officials, the DO&C, the DPCLTD, and assists DoD Component legal advisors supporting DoD Privacy and Civil Liberties Programs. In addition, OGC legal advisors work directly with the DO&C and the DPCLTD to provide legal reviews of privacy and civil liberties issues and to ensure that the development of privacy and civil liberties policies are consistent with the law.

E. DoD Component Privacy and Civil Liberties Officials

The DoD Components are responsible for administering Privacy and Civil Liberties Programs, including the establishment and implementation of Component-level privacy and civil liberties policies, procedures, and training consistent with DoD issuances and guidelines. The DoD requires the designation of Senior Component Officials for Privacy (SCOPs) and Component PCLOs to lead and implement the various elements of the DoD Privacy and Civil Liberties Programs. The Director of DO&C and the Chief, DPCLTD, communicate regularly with these officials on the operation of the Component programs.

1. Senior Component Officials for Privacy

Each SCOP must be a general/flag officer, Senior Executive Service, or Senior Level employee and oversee existing or potential compliance issues requiring executive-level intervention to 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 SAOP / Director of DO&C, 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 Components are responsible for designating a service member or civilian employee to serve as the Component PCLO. These officials are responsible for managing and supervising 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.⁶ Under the direction and guidance of the DA&M and the Director of DO&C, the DPCLTD performs privacy and civil liberties reviews for all Department-level issuances, as well as proposed Federal legislation, testimony, and reports. In doing so, the DPCLTD analyzes policy, procedures, and activities for their impact on privacy and civil liberties. The division provides comments and may recommend changes to such documents in order to protect privacy and civil liberties. Upon request, the DPCLTD reviews and provides privacy and civil liberties guidance on proposed plans, activities, regulations, policies, and procedures promulgated by other DoD Components. The total number of documents reviewed by the DPCLTD during this review period is identified in Table 1.

Privacy and civil liberties reviews are conducted in accordance with the Privacy Act of 1974, as amended, certain rights guaranteed in the U.S. Constitution, as amended, 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) 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 the *Federal Register* describing the existence and character of any agency system of records.⁷ DoD Components must submit new, modified, and rescinded SORNs for their respective systems of records to the DPCLTD for review and agency approval before they are published. Table 1 lists the number of SORNs the DPCLTD has reviewed, approved, forwarded to OMB and Congress, and sent to the Office of the Federal Register for publication during the reporting period.

⁶ See 42 U.S.C. § 2000ee-1.

⁷ See 5 U.S.C. § 552a(a)(4).

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.⁸ The DPCLTD and the OGC review Privacy Act exemption rules before they are published 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 when data from two or more automated systems of records is matched between the agencies, typically to establish or verify the eligibility of individuals for a specific federal benefit.⁹ The DPCLTD and the OGC review matching agreements before they are presented to the Defense Data Integrity Board, which is chaired by the Director for DO&C, for approval. 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.

D. Privacy Breach Reviews

A breach is defined as the loss of control, unauthorized disclosure, unauthorized acquisition or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses PII or (2) an unauthorized user accesses PII for other than an authorized purpose.¹⁰ DoD Components report privacy breaches to the DPCLTD, which compiles the breach reports to identify and analyze trends. Table 1 lists the number of privacy breaches reported to the DPCLTD by all DoD Components during the reporting period.

E. Social Security Number Justification Reviews

DoD Components must submit a Social Security Number (SSN) Justification Memorandum to the DPCLTD requesting authorization to collect and use SSNs within information systems and on forms. The justification must comply with departmental direction establishing limitations on the collection and use of SSNs.¹¹ The DPCLTD reviews the justification and decides whether to grant or

⁸ See 5 U.S.C. § 552a(j), (k).

⁹ See 5 U.S.C. § 552a(a)(8) and (o).

¹⁰ OMB M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information," January 3, 2017.

¹¹ DoD Instruction 1000.30, "Reduction of Social Security Number (SSN) Use Within DoD," August 1, 2012, as amended.

deny the Component’s request. This effort aims to reduce the use of SSNs in DoD systems and information collections, thereby minimizing the risk of SSN misuse or compromise throughout the Department. Table 1 lists the number of SSN Justification Memoranda reviewed and decided by the DPCLTD during the reporting period.

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

The DPCLTD reviews DoD-wide issuances for privacy and civil liberties issues and provides feedback as appropriate. In addition, the DPCLTD reviews proposed legislation, testimony, and reports for privacy and civil liberties concerns on behalf of the DO&C and reviews other Federal agency documents upon request. Table 1 lists the number of reviews of issuances, legislation, testimony, and reports that the DPCLTD conducted during the reporting period.

Table 1: Privacy and Civil Liberties Reviews

PRIVACY AND CIVIL LIBERTIES REVIEWS	
Type of Review	Number of Reviews
System of Records Notices (SORNs)	
➤ New	2
➤ Modified	3
➤ Rescinded	0
Exemption Rules	3
Matching Agreements ¹²	3
Privacy Breach Reviews	936
SSN Justification Memoranda	18
DoD Issuances, Federal Legislation, Testimony, and Reports	135

IV. MATTERS OF ADVICE AND RESPONSE

The DA&M, supported by the Director for DO&C, and the DPCLTD, provides advice on all DoD Component privacy and civil liberties matters. This advice serves as important guidance for DoD Component Privacy and Civil Liberties Program implementation.

¹² Does not include reviews of 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 written 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, and regulatory guidance. Issuances under review and revision during the reporting period included DoD Manual 5400.11, Volume 2, “DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan” (published as of May 6, 2021); DoD Instruction 1000.30, “Social Security Number (SSN) Use Within DoD,” DoD Directive 5200.27, “Acquisition of Information Concerning Persons and Organizations Not Affiliated with the DoD,” and DoD Regulation 5400.11 (DoD 5400.11-R), “Department of Defense Privacy Program.”

B. Programmatic Achievements

The following activities highlight key DO&C and DPCLTD programmatic efforts during the reporting period:

- Starting in November 2020, the DPCLTD began conducting virtual training courses on privacy and civil liberties functions, responsibilities, and other topics important to the protection of privacy and enhancement of civil liberties in the Department. During the reporting period, ten courses have been offered. The courses take place on a DoD conferencing service to accommodate all components CONUS and OCONUS and in accordance with COVID-19 social distancing guidelines. The courses are designed to enrich DoD privacy and civil liberties knowledge and subject matter expertise among DoD privacy and civil liberties professionals and attorneys, including those new to the area. The focus of recent courses has been on the basics of the Fair Information Practice Principles, the Privacy Act of 1974, SORNs, and PII protection and breach management. During each session, participants have the opportunity to ask questions and receive answers from the DPCLTD Team including the DPCLTD Division Chief in real time. Each session is recorded and available via the DPCLTD training website for those DoD privacy and civil liberties personnel unable to attend. The DPCLTD will continue these courses into the second half of the current fiscal year.
- The DPCLTD is prioritizing the creation of DoD-wide SORNs. A DoD-wide

SORN supports multiple DoD paper or electronic recordkeeping systems operated by more than one DoD component that maintain the same kind of information about individuals for the same purpose. Establishment of DoD-wide SORNs helps the DoD standardize the rules governing the collection, maintenance, use, and sharing of personal information in key areas across the enterprise. DoD-wide SORNs also 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. Over time, the DPCLTD expects this initiative to reduce the overall number of DoD SORNs to a more appropriate and transparent number.

- The Defense Health Agency (DHA) is actively engaged with the government-wide response to the ongoing COVID-19 pandemic, including gathering information and sharing of resources while remaining committed to the protection of privacy. The DHA Privacy Office prepared a quick reference guide on the types of personal and/or medical information DHA supervisors may collect when determining whether DHA personnel can safely return to the workplace.
- The DHA published the Privacy Act Statement for DHA Form 207. This form is used throughout the Military Health System to screen individuals' eligibility for COVID-19 vaccinations. The Privacy Act Statement is critical to notifying individuals of the purpose for the collection of their data and how it will be used. This is an important element to satisfy the numerous questions and meet the multiple challenges associated with personal privacy and data collection as a result of the pandemic.
- The DHA Privacy Office prepared privacy guidance and recommendations on the COVID-19 Vaccine Marketplace initiative for the White House's COVID-19 task force.
- The DHA executed ten (10) COVID-19-related data sharing agreements, thus facilitating the exchange of vital and medical research information with governmental, academic, and nonprofit research partners.
- As the highest degree-bearing educational institution within the DoD, the National

Defense University (NDU) assumes a leadership role in the Defense Academic Information Technology Consortium. This consortium includes all DoD Educational institutions which creates a rich environment to share education-specific Privacy challenges. In order to harness this collective knowledge, the NDU created the DoD Education Privacy Community of Practice (DEPCOP), which provides a centralized location where all DoD educational organizations can share privacy-related materials, documents, regulations, policies, practices, training, etc. The DEPCOP is located on the NDU public-facing website.

- The NDU developed the Privacy Ambassador program to ensure those personnel handling PII in the course of their daily responsibilities receive specific training to ensure they safely, efficiently and correctly manage the information. In addition to DoD-mandated Privacy Act Annual Training, the NDU PCLO requires all NDU Privacy Ambassadors to annually complete the DoD PII Training as well as an annual iteration of Spring Training, which is customized privacy training aimed specifically at the NDU Privacy Ambassador's daily work environment. This year's training included a review of last year's training topics plus detailed training on the addition of PII/Controlled Unclassified Information (CUI) labels in Office 365, PII/CUI labeling workflows, and correct storage/transmittal of PII/CUI data.
- In January 2021, National Geospatial-Intelligence Agency's (NGA's) Mission Oversight and Compliance, Privacy and Civil Liberties Division (MOCP) virtually hosted NGA's second annual Privacy Day event. Highlights of the event included a panel discussion by privacy and technical experts including NGA's SCOP and Information Technology specialists on data privacy and protection; the NGA Deputy Director also served as the keynote speaker to kick off the event. The event generated opportunities for privacy discussions and engagement with the NGA workforce. Through events like this, the MOCP aims to establish meaningful partnerships with the NGA workforce and create privacy champions throughout the agency.

V. COMPLAINTS

DoD policy requires DoD Components to have procedures for processing complaints from

individuals alleging the DoD's violation of their privacy or civil liberties.¹³ Generally, the receiving Component Privacy and Civil Liberties Program Office reviews 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 purpose of this report, a complaint is an allegation of a violation of an individual's privacy rights or civil liberties. Complaints received through this process for which established formal procedural avenues exist, such as those resulting in non-judicial punishments, military courts-martial, administrative separations, and Equal Employment Opportunity actions, are outside the scope of this report. Further, sexual harassment, sexual assault, and complaints arising under the Health Insurance Portability and Accountability Act are generally reported pursuant to different legal authorities and procedures; therefore, they are also outside the scope of this report.

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 five categories in Table 2:

- Process and Procedure Issues (such as appropriate consent, collection, and/or notice);
- Operational Issues (alleging violations of the Privacy Act, not including requests for access, disclosure, or amendment);
- Redress Issues (not implicating the Privacy Act but that seek resolution of other privacy-related complaints);
- Referred to Other Agency;

¹³ See DoD Instruction 5400.11, "DoD Privacy and Civil Liberties Programs", January 29, 2019; DoD 5400.11-R, "Department of Defense Privacy Program," May 14, 2007

- Other

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, 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);
- Ninth Amendment (unremunerated rights)

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

Table 2: Privacy and Civil Liberties Complaints

Nature of Privacy Complaints	Number Received	Disposition of Complaint	
		Responsive Action Taken	Pending
Process and Procedure	17	10	7
Operational	3	2	1
Redress	0	0	0
Referred to other agency	6	4	2
Other	0	0	0
<i>Sub Total for Privacy Complaints:</i>	26	16	10
Nature of Civil Liberties Complaints			
First Amendment	10	9	1
Fourth Amendment	2	1	1
Fifth Amendment	22	16	6
Eighth Amendment	1	1	0
<i>Sub Total for Civil Liberties Complaints:</i>	35	27	8
TOTAL 1st & 2nd Qtrs FY21	61	43	18

CONCLUSION

In accordance with Section 803, this report summarizes the semiannual activities of the DoD PCLO from October 1, 2020 through March 31, 2021. 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 Complaints¹⁴

Sample Complaint #1:

Description of Complaint: Anonymous complainant reported to unit Inspector General that an employee in the Pass and Identification Office improperly disclosed the personally identifiable information, including a medical diagnosis and Common Access Card information, of an individual who applied for a handicap sticker.

Findings: Substantiated. The issue was referred by the Inspector General to the command for investigation. An investigation was conducted and confirmed the allegation. The investigation was referred to the employee's supervisor for disciplinary action.

Disposition: Responsive Action Taken.

Sample Complaint #2:

Description of Complaint: Complaint regarding the requirement to provide SSN to verify individual security clearance to gain access to another government facility.

Findings: Unsubstantiated. The PII transmission was emailed directly to the individual and contained appropriate markings and privacy caveats on the email and attached document. However, the privacy team will engage with headquarters to discuss transmitting only the amount of PII necessary to meet the objective.

Disposition: Responsive Action Taken.

Sample DoD Civil Liberties Complaints

Sample Complaint #1:

Description of Complaint: Alleged Fifth Amendment violation. Service member submitted a complaint to Congress alleging that the command failed to timely process their conditional release from Reserve to Active Duty.

Findings: The command worked with the Service member and processed the release.

Disposition: Responsive action taken.

¹⁴ These samples reflect the most recent submissions and have been edited to ensure the privacy of the complainant. The content is still relevant for reference purposes.

Sample Complaint #2:

Description of Complaint: Alleged Fifth Amendment violation: right to due process. A congressional complaint was lodged alleging that 71 mobilized soldiers from a battalion had not received pay in a timely manner.

Findings: The unit conducted an inquiry and found a communication error between the unit and the Reserve Personnel Action Centers (RPAC) responsible for processing the pay. The pay issue was corrected and all soldiers have since received pay.

Disposition: Responsive Action Taken.