



## **Office of the Director of National Intelligence**

### **Civil Liberties and Privacy Office**

#### **Section 803 Quarterly Report**

**Reporting Period: 01 December 2011 through 29 February 2012**

Pursuant to Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Public Law No. 110-53, the Civil Liberties and Privacy Office within the Office of the Director of National Intelligence (ODNI) provides this accounting of reviews conducted of specified agency activities to ensure that civil liberties and privacy requirements are being adequately considered. This report summarizes: the category of reviews conducted; the type of advice, guidance or response furnished; and the type of complaints received and processed by the ODNI Civil Liberties and Privacy Office. The report's format reflects the common methodology, scope and metrics for Section 803 reporting developed by the departmental and agency civil liberties and privacy offices enumerated in that section of the Act.

As directed by Section 803, the ODNI Civil Liberties and Privacy Office provides quarterly reports. The next report will cover the period of 01 March 2012 through 31 May 2012.

### **ODNI Civil Liberties Protection Officer**

The position of the ODNI Civil Liberties Protection Officer (CLPO) was established by Section 103D of the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), which amended the National Security Act of 1947. As set forth in Section 1016 of the IRTPA, the duties of the CLPO are to:

- Ensure that the protection of civil liberties and privacy is appropriately incorporated in the policies and procedures of the ODNI and the elements of the Intelligence Community within the National Intelligence Program;
- Oversee compliance by the ODNI with legal and policy requirements relating to civil liberties and privacy;
- Review and, as appropriate, investigate complaints concerning possible abuses of civil liberties and privacy in ODNI programs and operations;
- Ensure the use of technologies sustain, and do not erode, privacy protections;
- Ensure that personal information contained in a system of records is handled in compliance with the Privacy Act;
- Conduct privacy impact assessments when appropriate or as required by law; and
- Perform such other duties as may be prescribed by the DNI or specified by law.

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The CLPO's statutory duties correspond to the functions for which Section 803(a) mandates activity reports; generally, review of civil liberties and privacy considerations in agency implementation of, or proposals to develop, laws, regulations, policies, procedures or guidelines; review of civil liberties or privacy complaints and associated redress; and review of civil liberties and privacy safeguards appropriate to existing or proposal governmental action.

### **Reporting Table**

The table below sets forth metrics regarding activities of the ODNI Civil Liberties and Privacy Office, during the period covered by this report, in each of the areas enumerated in Section 803 of the 9/11 Commission Act. The report categories are defined as follows:

Reviews. Examinations of activities or processes as required by controlling civil liberties and privacy authorities.

Advice. The identification of specific requirements or other safeguards identified in specific circumstances to protect civil liberties and privacy, and includes the formal issuance of responsive policies, procedures, guidance, interpretations and instructions.

Response to Advice. Specific action taken as a result of "advice" provided, again, including policies, procedures, training, etc.

Privacy Act Complaint. A written allegation regarding agency non-compliance with the requirements of the Privacy Act.

ISE Complaint. A written allegation of harm arising from the ODNI sharing of terrorism data in the context of the Information Sharing Environment.

Civil Liberties and Privacy Complaint. A written allegation charging violation of information civil liberties and/or privacy rights, e.g., relating to improper collection, use, retention, and dissemination of information about U.S. persons, or in violation of First Amendment rights of free speech and association or Fifth Amendment guarantees of due process and equal protection.

Disposition of Complaints. Refers to administration of the complaint (vice specific resolution of the complaint), i.e., responsive action, determination of "no merit" or referral of complaint to more appropriate venue.

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**Reviews**

Type	Number
Compliance by ODNI with requirements under the Constitution and laws, regulations, Executive Orders, and implementing guidelines relating to civil liberties and privacy	8
Reviews to ensure that the use of technology sustains privacy protections	5
Reviews of the administration of programs and operations of the ODNI to ensure implementation and operation of appropriate safeguards related to civil liberties and privacy	34
Privacy Act/OMB Circular A-130	3
E-Gov Act-Privacy Impact Assessments (PIAs) of ODNI systems	
Privacy Guidelines of the IRTPA Information Sharing Environment	
FISA Compliance Reviews	15
OMB M-10-22 Reviews (web tracking technology)	1
OMB M-10-23 Reviews (use of 3 <sup>rd</sup> party websites/applications)	
Privacy reviews of ODNI business cases supporting information technology budget requests	
OMB M-07-16 Reviews (breach of PII)	
Review of data mining activities under Section 804 of the 9/11 Act	1
Other reviews directed by DNI or required by law	8

**Advice and Response**

Type	Number
Regulations	
Directives	
Instructions	
Guidance	1
Agreements	3
Written Interpretations, Opinions, Memoranda	2
Training (Internal (within ODNI – 3; External (within IC) – 2; External (outside IC) – 0)	8
Procedures	
Other	68



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**Complaints**

Type	No. DISPOSITION
Privacy Act	
ODNI sharing under the Information Sharing Environment (including terrorist watch list)	
Alleged violation of information privacy rights and/or civil liberties, such as those relating to alleged improper collection, use, retention, or dissemination of information about U.S. persons, or such as those relating to the alleged violation of First Amendment guarantees of freedom of speech and association or Fifth Amendment guarantees of due process and equal protection.	<p>1 – Informed complainant did not merit responsive action</p> <p>1 - Referred complainant to order appropriate office after assessment</p> <p>1 – Continuing to assess</p>