



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

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

19 NOV 2020

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 second half of Fiscal Year 2020, April 1, 2020 through September 30, 2020.

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.

In accordance with 42 U.S.C. § 2000ee-1, I am sending identical letters to the appropriate congressional committees.

A handwritten signature in blue ink, reading "Lisa W. Hershman", is positioned above the printed name.

Lisa W. Hershman

Enclosure:
As stated



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

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

19 NOV 2020

Dear Mr. Chairman:

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Sincerely,

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Lisa W. Hershman

Enclosure:
As stated

cc:
The Honorable William M. "Mac" Thornberry
Ranking Member



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

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

19 NOV 2020

Dear Madam Chairwoman:

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cc:
The Honorable James Comer
Ranking Member



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

19 NOV 2020

The Honorable Ron Johnson
Chairman
Committee on Homeland Security &
Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Enclosure:
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cc:
The Honorable Gary C. Peters
Ranking Member



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

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

19 NOV 2020

Dear Mr. Chairman:

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Enclosure:
As stated

cc:
The Honorable Devin Nunes
Ranking Member



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

The Honorable Marco Rubio
Acting Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

19 NOV 2020

Dear Mr. Chairman:

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Enclosure:
As stated

cc:
The Honorable Mark Warner
Vice Chairman



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

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

19 NOV 2020

Dear Mr. Chairman:

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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.

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cc:
The Honorable Mary Gay Scanlon
Vice Chairwoman



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

19 NOV 2020

The Honorable Lindsey Graham
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

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As stated

cc:
The Honorable Dianne Feinstein
Ranking Member



CHIEF MANAGEMENT OFFICER
9010 DEFENSE PENTAGON
WASHINGTON, DC 20301-9010

The Honorable James M. Inhofe
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

19 NOV 2020

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Enclosure:
As stated

cc:
The Honorable Jack Reed
Ranking Member

Department of Defense
Privacy and Civil Liberties Officer Report



Semiannual Report for Fiscal Year 2020

April 1, 2020 – September 30, 2020

The estimated cost of this report or study for the Department of Defense is approximately \$7,280 for the 2020 Fiscal Year. This includes \$0 in expenses and \$7,280 in DoD labor.
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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 (PCLO) for the second semiannual reporting period of fiscal year 2020: April 1, 2020 through September 30, 2020.

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 Chief Management Officer (CMO)¹ of the DoD 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

¹ See <http://cmo.defense.gov/Home.aspx> for further information regarding the Office of the Chief Management Officer.

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 1974.² Following 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);³ DoD Instruction (DoDI) 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019;⁴ and DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007.⁵

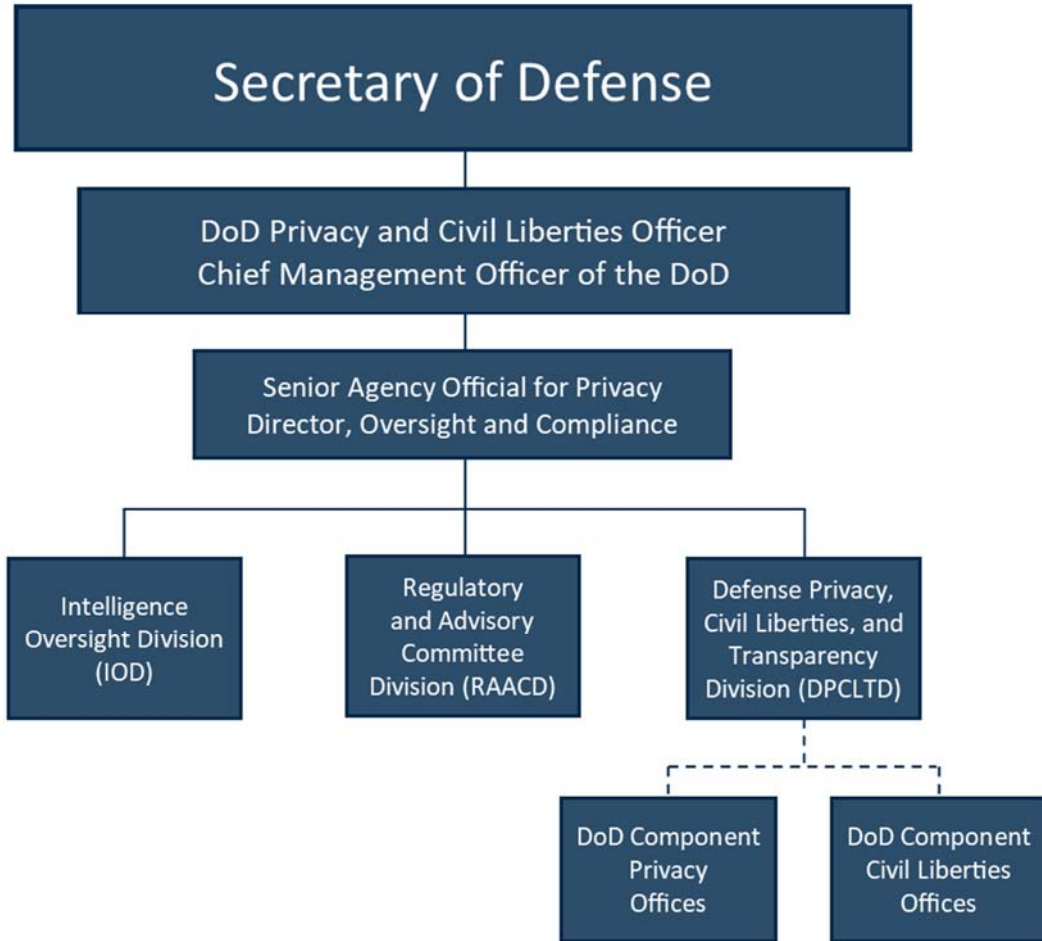
² The Privacy Act of 1974, 5 U.S.C. § 552a, took effect on September 27, 1975, and can generally be characterized as an omnibus “code of fair information practices” that attempts to regulate the collection, maintenance, use, and dissemination of certain records about individuals by Federal executive branch agencies.

³ <https://www.govinfo.gov/content/pkg/FR-2019-04-11/pdf/2019-03971.pdf>

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

⁵ <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/540011r.pdf>

Figure 1: DoD Privacy and Civil Liberties Programs Structure



A. The Chief Management Officer of the DoD

The CMO 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 CMO is responsible for advising the Secretary and Deputy Secretary on business transformation and leads the Department’s efforts to streamline business processes and improve efficiencies in headquarters structure. The CMO coordinates the business operations of the Department and, in a broad capacity, exercises oversight authority throughout the Department. As the PCLO, the CMO is responsible for ensuring the appropriate consideration and protection of individuals’ privacy and civil liberties.

B. The Directorate for Oversight and Compliance

The DO&C within the Office of the CMO (OCMO) comprises three divisions: the Intelligence Oversight Division, the Defense Privacy, Civil Liberties, and Transparency Division (DPCLTD), and the Regulatory and Advisory Committee Division. The Director of DO&C reports to the CMO, and keeps the CMO 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. The SAOP also routinely provides information and recommendations directly to the PCLO. Finally, the DoD SAOP relies on the Intelligence Oversight Division and interfaces with DoD intelligence components to ensure the appropriate scrutiny of privacy matters related to intelligence activities and national security.

C. The Intelligence Oversight Division

On behalf of the Secretary of Defense, the Intelligence Oversight Division is responsible for the independent oversight of all the Department's intelligence and counterintelligence activities. It inspects all DoD Component intelligence activities to ensure these activities comply with Federal law, Executive Orders, Presidential Directives, intelligence community directives, and DoD issuances. Due to the importance of protecting privacy and civil liberties when conducting intelligence activities, the Intelligence Oversight Division is an integral part of the DoD Privacy and Civil Liberties Programs. The chief of the division also serves as the DoD Senior Intelligence

Oversight Official and the Deputy Director of DO&C.

D. 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 assessments of the Defense Industrial Base Cybersecurity/Information Assurance, as well as this semiannual PCLO report.

E. DoD Office of the General Counsel

The DoD Office of the General Counsel 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, Office of the General Counsel 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.

F. 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 and Component Privacy and Civil Liberties Officers 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 Senior Component Official for Privacy 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 Senior Component Officials for Privacy provide information and policy advice to the SAOP / Director of DO&C, to assist in Departmental level decision-making. The Senior Component Officials for Privacy also direct Component compliance with Section 803 and the DoD Privacy and Civil Liberties Programs, and are responsible for fulfilling the day-to-day and reporting requirements of these 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 Privacy and Civil Liberties Officer. 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 Senior Component Officials for Privacy 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 CMO 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

⁶ See 42 U.S.C. § 2000ee-1.

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.

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 Office of the General Counsel 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 Office of the General Counsel 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.

⁷ See 5 U.S.C. § 552a(a)(5).

⁸ See 5 U.S.C. § 552a(j), (k).

⁹ See 5 U.S.C. § 552a(a)(8) and (o).

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 and to inform the Department's senior leadership. 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 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.

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.

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	12
➤ Rescinded	9
Exemption Rules	1
Matching Agreements ¹²	1
Privacy Breach Reviews	721
SSN Justification Memoranda	9
DoD Issuances, Federal Legislation, Testimony, and Reports	52

IV. MATTERS OF ADVICE AND RESPONSE

The Office of the CMO 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.

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 include DoD Instruction 5400.11 (DoDI 5400.11), “DoD Privacy and Civil Liberties Programs”; DoD Manual 5400.11, Volume 2, “DoD Privacy and Civil Liberties Programs: Breach Preparedness and Response Plan”; 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.”

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).

B. Programmatic Achievements

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

Subject-matter experts from two DO&C divisions, DPCLTD and the Intelligence Oversight Division, worked side-by-side to support efforts by the DoD and the States to respond to the COVID-19 pandemic. The partnership between DPCLTD and the Intelligence Oversight Division enabled the DoD to provide rapid and critical support to efforts to collect, understand, and leverage information and resources to build and maintain increasing levels of situational awareness during the national response to the pandemic. Through their combined understanding of privacy and intelligence authorities and requirements, the two divisions proactively provided advice and guidance to shape the Department's collection, use, and sharing of COVID-19-related information while ensuring DoD activities appropriately protected the privacy and civil liberties of DoD and non-DoD personnel.

- For example, in response to the COVID-19 pandemic, the DPCLTD quickly modified and published multiple SORNs to ensure proper public notice and opportunity to comment on the collection of privacy information. The SORNs included the DoD Personnel Accountability and Assessment System, DPR 39 DoD; Enterprise Mass Warning and Notification System, DCIO 02 DoD; and Air Force, Bring Your Own Approved Device, F017 SAF CN A.
- DO&C also spearheaded the emergency publication of a Department of Defense (DD) form to standardize collection of health-related information.
- In addition, DO&C also provided Department guidance on the use of intelligence and non-intelligence capabilities by the United States Northern Command and all elements of the National Guard to support continental United States-based COVID-19 related activities.

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 investigation 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 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:

- Procedural 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); and
- Redress Issues (not implicating the Privacy Act but that seek resolution of other privacy-related complaints).

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

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

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 and 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, assembly, and association);
- Second Amendment (right to keep and bear arms);
- Fourth Amendment (protection against unreasonable search and seizure);
- Fifth Amendment (due process);
- Sixth Amendment (speedy and fair trial);
- Eighth Amendment (no cruel/unusual punishment);
- Ninth Amendment ("unenumerated" 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
Procedural	11	10	1
Operational	1	0	1
Redress	0	0	0
<i>Sub Total for Privacy Complaints:</i>	12	10	2
Nature of Civil Liberties Complaints			
First Amendment	13	11	2
Second Amendment	1	1	0
Fifth Amendment	14	9	5
Ninth Amendment	6	2	4
<i>Sub Total for Civil Liberties Complaints:</i>	34	23	11
TOTAL 3rd & 4th Qtrs FY20	46	33	13

CONCLUSION

In accordance with Section 803, this report summarizes the semiannual activities of the DoD PCLO from April 1, 2020 through September 30, 2020. 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: Complainant claimed an individual placed an SF 3107 (Application for Immediate Retirement) belonging to one civil service employee in another civil service employee's Official Personnel File (OPF).

Findings: Substantiated. The inquiry conducted confirmed the allegation. There was additional training provided to personnel and department staff. The document was refiled and the complainant was notified. The issue was referred to the command for disciplinary action.

Disposition: Responsive Action Taken.

Sample Complaint #2:

Description of Complaint: Complainant claimed an individual accessed an employee's Official Personnel File (OPF) without authorization after finding the OPF on a printer.

Findings: Substantiated. The inquiry conducted confirmed the allegation. Additional training was provided to personnel and department staff. The complainant was notified. The issue was referred to the command for disciplinary action.

Disposition: Responsive Action Taken.

Sample DoD Civil Liberties Complaints

Sample Complaint #1:

Description of Complaint: Alleged First Amendment violation. An individual alleged a First Amendment violation concerning a "Thin Blue Line" flag being flown in base housing. The individual flying the flag stated they were expressing their First Amendment rights by flying a flag in support of the police.

Findings: Issue was superseded by DoD guidance regarding public display of flags.

Disposition: Responsive action taken.

¹⁴ The samples provided were reported in this reporting period and have been edited to ensure the privacy of the complainant.