





OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

The Honorable Silvestre Reyes  
Chairman  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Peter Hoekstra  
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

The Honorable Dianne Feinstein  
Chairman  
Select Committee on Intelligence  
United States Senate  
Washington, DC 20510

Dear Madam Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Christopher S. Bond  
Vice Chairman



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

The Honorable Edolphus Towns  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Darrell E. Issa  
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

The Honorable Joseph I. Lieberman  
Chairman  
Committee on Homeland Security  
and Governmental Affairs  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Susan Collins  
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

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

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Lamar Smith  
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

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

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Jeff Sessions  
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

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

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable Howard P. McKeon  
Ranking Member





OFFICE OF THE SECRETARY OF DEFENSE  
1950 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1950

ADMINISTRATION AND  
MANAGEMENT

MAR 05 2010

The Honorable Carl Levin  
Chairman  
Committee on Armed Services  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

Please find enclosed the Department of Defense quarterly report pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, August 3, 2007. The report compiled privacy activities of the Department and its Components for the period October 1 through December 31, 2009.

The point of contact for this report is Mr. Samuel P. Jenkins, Director, Defense Privacy Office, who can be reached at (703) 607-2943 or [Sam.Jenkins@osd.mil](mailto:Sam.Jenkins@osd.mil).

Sincerely,

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes  
Acting Senior Agency Official for Privacy

Enclosure:  
As stated

cc:  
The Honorable John McCain  
Ranking Member

**Department of Defense**  
**Report on Privacy Activities**  
**Section 803 of 9/11 Commission Act of 2007**  
**1st Quarter FY10 – October 1 to December 31, 2009**

Introduction

The policy of the Department of the Defense is to protect the privacy of individuals by ensuring that when executing its programs and policies, the Department gives due consideration and regard for information privacy. In recognition of global expansion of information technology posing new threats to individual privacy, the Department continues efforts to strengthen its privacy oversight responsibilities. In addition, actions continue to review a wide variety of activities and procedures within DoD to find opportunities to enhance protections of the privacy of individuals.

Department Actions

The Defense Privacy Office is responsible for all privacy functions delineated by authorities, including the Privacy Act of 1974, 5 USC 552a, as implemented by the Office of Management and Budget, OMB Circular A-130, Appendix 1; Federal Information Security Management Act of 2002 (FISMA); DoD regulatory authority DoD Directive 5400.11, Department of Defense Privacy Program and DoD 5400.11-R, DoD Privacy Program.

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, established additional privacy and civil liberties requirements for the Department of Defense.

Quarterly Report

The Department has developed a standard reporting framework and instructions to address Section 803 reporting requirements tailored to its mission and functions. The 1st quarter report for FY10 consolidates all privacy activities of the DoD and Component Privacy Offices responsible for privacy functions, including data on the related reviews conducted reference to the advisory guidance delivered, and information about written complaints received and processed. The report is as follows:

**Department of Defense  
 Report on Privacy Activities  
 Section 803 of 9/11 Commission Act of 2007  
 1st Quarter FY10 – October 1 to December 31, 2009**

**A. Types of Privacy Reviews**

|  |     |
|--|-----|
| Privacy Act Statements (PAS)   | 412 |
| Privacy Act Systems of Records (SORNs) with applicable associated exemptions | 109 |
| Computer Matching Program(s)   | 6   |

**B. Topics of Advice and Responses Given**

|  |       |
|--|-------|
| Collection, Use, Disclosure, Protection of PII | 23242 |
| Privacy Act Program Requirements /Principles   | 1301  |
| SSN and PII Reduction Actions                  | 1023  |
| Privacy Compliance/DITPR Reporting             | 16    |
| Website Safeguards                             | 152   |
| Privacy Compliance in Agency Publication       | 363   |
| Privacy Act Violations                         | 76    |
| Privacy Act Systems of Records Notices (SORNs) | 1344  |
| PII Breach Notification/Identity Theft         | 1984  |
| Privacy Presentations                          | 317   |
| Privacy Impact Assessments (PIA)               | 2037  |
| Training Requirements                          | 286   |

### C. Privacy Complaints and Dispositions

| Type/Nature of Complaint or Alleged Violation       | Number of Complaints | Disposition of Complaint             |                                 |                      |
|---|----------------------|--------------------------------------|---------------------------------|----------------------|
|   |                      | Responsive Action taken <sup>1</sup> | No Action Required <sup>2</sup> | Pending <sup>3</sup> |
| Process and Procedure<br>(Compliance Matters)       | 3                    | 2                                    | 0                               | 1                    |
| Redress   | 0                    | 0                                    | 0                               | 0                    |
| Operational<br>(Collection, Use, Disclosure Issues) | 4                    | 3                                    | 1                               | 0                    |
| Referred to Other Agency(s)                         | 0                    | 0                                    | 0                               | 0                    |
| Other   | 0                    | 0                                    | 0                               | 0                    |
| Total for Qty 1st FY10                              | 7                    | 5                                    | 1                               | 1                    |

Dispositions of complaints are reported in one of the following categories:

<sup>1</sup>*Responsive Action Taken.* The complaint was reviewed and a responsive action was taken.

<sup>2</sup>*No Action Required.* The complaint did not ask for or require a DoD action or response.

<sup>3</sup>*Pending.* The complaint is being reviewed to determine the appropriate response.

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007  
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS  
1<sup>ST</sup> QFY10 - OCTOBER 1 - DECEMBER 31, 2009**

**7 Complaints**

**Complaint #1**

**Agency' Name: Army National Guard**

**Description of Complaint:** Complaint from an individual notified by the Director, Army National Guard of the PII Breach from August, 2009 that affected approximately 130,000 individuals where an unencrypted laptop that was the personal property of a contract employee was stolen at a conference in Atlanta, GA.

Complaint was that the notification letter was very vague and ambiguous and unclear to him whether his own personal information was involved in the loss or whether we were uncertain whose information was in the loss as the letter was too generalized.

**Findings:** Review of letter issued was done by the NGB Privacy Officer and determined that the letter used derived from DoD 5400.11-R and is the same letter used for all PII Breaches. Will recommend that letter be revised to include a statement that "your information was included in the loss" when next regulation is issued and sent out for comments.

**Disposition:** Written response issued to complainant with an apology for the confusion that the letter left them uncertain on whether their information was involved in the breach. Explained to complainant that the standard letter used throughout DoD was used but that we would recommend a change in the future for more clarity and also advised complainant that his information was on the stolen laptop which is why he received the notification letter personally addressed to him.

**Complaint #2**

**Agency' Name: Dept of the Army**

**Description of Complaint:** The complaint, received from an NCO in a medical unit, alleged that the NCO's commander released her medical information to personnel without a need to know and additionally detained the release to her of her completed DA Form 7652, *Physical Disability Evaluation System (PDES) Commander's Performance and Functional Statement*, over a period of delay as to effectively constitute the denial of her right to access as granted by the Privacy Act. The NCO had refused to participate in the completion of the form, and this circumstance was earlier cited by the commander as her reason for refusing to release the record to the NCO as the record subject. Later the commander did agree to release the record but kept deferring actual release.

**Findings and Responsive Action Taken:** The complaint was received during the preceding work week, making it premature to have investigated the allegation and initiate remedial action if appropriate. We have advised the NCO that for the time being, since the commander had previously stated that she would release the form, she is being allowed an interval during which her commander should be taken at her word.

**Complaint #3**

**Agency' Name: Dept of the Army**

**Description of Complaint:** This complaint originated from an individual who discovered their personally identifiable information (PII) was involved in a potential breach. The affected individual's human resource information was found in an abandoned desk drawer of a former employee. The individual expressed to the

local Privacy Officer that they were concerned that certain individuals involved did not deem the incident critical enough to notify the affected individuals and wants to know what, if any, actions have been taken in the incident's aftermath.

**Findings and Responsive Action Taken:** On or about October 27, 2009, personal information may have been compromised. The information contained names, social security numbers, home addresses, dates and places of birth, personal e-mail addresses, home telephone numbers, and mobile phone numbers. The potential compromise occurred when paper files, 3.5 inch floppy disks, and CD-ROMs containing government employee and contractor personnel records were left in a desk drawer during a recent office move. The desk was subsequently moved to a different building for use by a different Army organization. The desk's new user, a government employee, discovered the files and disks and immediately returned them. The desk with the files and disks inside has remained on government property but may have been in the possession of contract movers at some point. The potential compromise was immediately reported to the Privacy Act Officer, the United States Computer Emergency Readiness Team (US-CERT); and Army Records Management and Declassification Agency who conducted a joint inquiry into the matter. It cannot be said with certainty, but based on these circumstances, it is believed the probability is low that the information was acquired and will be used for an unlawful purpose.

**Disposition.** A letter was written letting the affected individuals know of this incident, the actions taken and actions they can take to protect themselves.

#### **Complaint #4**

**Agency' Name: Dept of the Army**

**Description of Complaint:** This complaint originated from an individual who claimed that her Social Security Number (SSN) was illegally acquired by her husband's ex-spouse and utilized to obtain an identification card for her spouse's daughter. The complainant iterated that her husband's ex-spouse utilized her official position as a Department of the Army Civilian to acquire the SSN information from paperwork or a computer system within the Office of the Staff Judge Advocate, Fort Sam Houston, Texas (TX). The complainant contacted the Military Police Investigations Office (MPIO), Fort Sam Houston, TX, and filed a complaint that her SSN information was provided to the Defense Enrollment Eligibility Reporting System (DEERS) Office without her consent, in violation of Title 5 U.S.C. 552a, the Privacy Act.

**Findings and Responsive Action Taken:** The MPIO, Fort Sam Houston, TX, conducted an investigation under Military Police Report #03564-2009-MPC044, which revealed that the complainant's SSN information was obtained from the Identification Card (DEERS) Office and was utilized to issue a temporary identification card for her spouse's daughter due to the complainant's non-compliance in signing necessary paperwork to verify the dependent's eligibility, which was in accordance with the DEERS policy.

#### **Complaint #5**

**Agency' Name: USAF, AFMC, Edwards AFB CA**

**Description of Complaint:** Alleging an employee openly, on two separate occasions, discussed pending employee discipline actions with other employees.

**Findings:** Unsubstantiated; The preponderance of the evidence does not support a PA violation. There is no evidence anyone obtained any personal information from a system of records. There is no evidence the supervisor or any other individual in the chain of command willfully disclosed any information from a systems of record to anyone not entitled.

**Disposition:** Director notified complainant and informed “In an effort to improve the protection of personal information within management we will remind personnel of their responsibility to properly safeguard sensitive personal information and not discuss personnel actions in open areas or with individuals who don’t have an official need to know.”

**Complaint #6**

**Agency’ Name: Defense Finance and Accounting Service**

**Description of Complaint:** Complaint from the Military Reservist/Civilian Employee that DFAS civilian pay technician who was his ex-spouse was accessing his payroll records without his authorization.

**Findings:** Pending

**Disposition:** Complaint was turned over to the DFAS Internal Review for investigation and resolution. Investigation is on-going.

**Complaint #7**

**Agency’ Name: Defense Commissary Agency**

**Description of Complaint:** Complaint from a union president that agency computers disposed of as excess contained employee information.

**Findings:** Excess commissary computers were disposed of by a store director in accordance with agency disposal procedures at public sale. Investigation revealed that prior to the sale of the computers; the hard drives of those computers were removed and sent to HQ where they were “wiped” clean of all data stored thereon, and that other hard drives that had been previously cleaned and marked as cleaned were provided to the store for insertion in the computers sold.

**Disposition:** No further action taken or needed.