

**Department of Defense
Report on Privacy Activities
Section 803 of 9/11 Commission Act of 2007
2nd Quarter FY10 – January 1, 2010 to March 31, 2010**

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 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 2nd 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
2nd Quarter FY10 – January 1, 2010 to March 31, 2010**

A. Types of Privacy Reviews

Privacy Act Statements (PAS)	393
Privacy Act Systems of Records (SORNs) with applicable associated exemptions	280
Computer Matching Program(s)	12

B. Topics of Advice and Responses Given

Collection, Use, Disclosure, Protection of PII	23242
Privacy Act Program Requirements /Principles	2595
SSN and PII Reduction Actions	570
Privacy Compliance/DITPR Reporting	200
Website Safeguards	218
Privacy Compliance in Agency Publication	193
Privacy Act Violations	77
Privacy Act Systems of Records Notices (SORNs)	775
PII Breach Notification/Identity Theft	1629
Privacy Presentations	519
Privacy Impact Assessments (PIA)	684
Training Requirements	1497
Privacy Reports	233

C. Privacy Complaints and Dispositions

Type/Nature of Complaint or Alleged Violation	Number of Complaints	Disposition of Complaint		
		Responsive Action taken ¹	No Action Required ²	Pending ³
Process and Procedure (<i>Compliance Matters</i>)	3	2		1
Redress				
Operational (<i>Collection, Use, Disclosure Issues</i>)	6	5		1
Referred to Other Agency(s)				
Other				
Total for Qty 1st FY10	9	7		2

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

¹*Responsive Action Taken.* The complaint was reviewed and a responsive action was taken.

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

³*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
2QFY10 - JANUARY 1 TO MARCH 31, 2010**

Agency Name: U.S. Army

Complaint #1

Description of Complaint: A DA Form 67-9, dated March 2006, Officer Evaluation Report, which requires the rating officials to place their Social Security Number (SSN) on the form was emailed to an employee to complete. The form does not have a Privacy Act statement, but instead refers to a separate Army publication, AR 623-3, Evaluation Reporting System, which on page 5 contains the Privacy Act Statement.

Finding: The current form requests all the rating officials SSNs to be placed on the Evaluation Report. The matter was referred to Human Resources Command for a review of the current practice.

Responsive Action: AR 623-3 and DA PAM 623-3 are currently being updated to remove the SSN completely for the rater, the intermediate rater, and the reviewer on the OER (DA Form 67-9) and the NCOER (DA Form 2166-8). However, the full SSN is required for the rated Soldier and the senior rater in order for the processing of evaluation reports to the Official Military Personnel File (OMPF) using our Single Evaluation Processing System. In DA Pam 623-3, it states that the use of the SSN is optional on the OER Support Form (DA Form 67-9-1) and the NCO Counseling and Support Form (DA Form 2166-8-1) because these documents are only used at the local level. (Use of full SSNs on support forms assists in creating evaluation reports directly from a support form.) Anticipated publication of the revised regulation is late spring 2010.

Complaint #2

Description of Complaint: Complaint received regarding the continued use of truncated SSNs in promotion lists that eventually get in Congressional reports. Truncated SSNs are still potential high risk and placing them on a public internet site could possibly run the same risks as the full SSN. Again, please address these issues and what you are doing to prevent public disclosure.

Responsive Action: Promotion orders currently show the full SSN for the Soldier involved in order to allow it to process correctly to the OMPF. The other SSNs on the orders are truncated, showing just the last five digits. Once the command is functional at Fort Knox, Kentucky, we will initiate a request through the Personnel Information Systems Directorate to change the format of orders for multiple Soldiers. Outcome is pending.

Complaint #3

Description of Complaint: Aviation and Missile Command (AMCOM) staff members are asking about the need to provide an SSN for initial sign on to Automated Time Attendance Production System (ATAAPS).

Findings: Initial log in to ATAAPS asks user to provide SSN in order to authenticate, thereafter, an employee may use their CAC. Upon researching ATAAPS, it was discovered that another command issues a temporary password for the initial sign on into the system. It is believed that the SSN is provided by the manager in order to have a temporary password sent to the user. This is being looked into. Other applications, such as ADPAAS, which also uses the SSN for the initial sign on has a banner explaining the use the SSN and how it is protected. The ATAAPS request is done through a secured connection and the SSN is masked on the screen.

Disposition: Army Materiel Command (AMC) and AMCOM have talked to legal counsel and together are preparing a response regarding the requirement to input SSN for access to ATAAPS.

Complaint #4

Description of Complaint: A complaint was received by Communication Electronics Command (CECOM) from Software Engineering Center at Aberdeen Proving Ground (APG) regarding APG's Post Locator Application, which requires complete SSN, should not be a requirement for employee's mail delivery. They feel that the Outlook Global Access Locator could be used to identify personnel for mail delivery.

Findings: APG DOIM claims they are unable to obtain current names from the Outlook Global Access Locator to deliver mail. Therefore, they require that all APG employees fill out the Post Locator Cards, with complete SSN, which is used to update the Post Locator System for emergency purposes. Since the Post Locator System is the most up-to-date system, it is also used to

identify personnel for official mail delivery. APG claims that the Post Locator Cards are destroyed once entered into the system; the system is secure and has a completed Privacy Impact Assessment and System of Records Notice.

Disposition: Continuing to be reviewed. Complaint was forwarded to AMC Privacy Office.

Agency Name: Defense Commissary Agency

Complaint #5

Description of Complaint: Complaint from store employees that a recently discharged manager made harassing phone calls to them at their homes informing them that he was "fired" and he wanted them to answer questions about making statements and talking to the store administrator.

Findings: No additional confirmation or verification of the employee's complaint was possible.

Disposition: Because the circumstances of the manager's termination were suspect, the store was ordered to cancel the termination letter and direct the manager to report to work. At that time, the manager was admonished that his conduct in calling employees could be considered criminal harassment and chargeable under local criminal laws, and that his conduct in misusing work related information in this matter was not consistent with the protections mandated for that information.

Complaint #6

Description of Complaint: A Your Action Line correspondent complained that his Privacy Act rights were violated when replies to his messages were distributed to Agency employees other than those he addressed.

Findings: Replies to the correspondent were distributed in accordance with agency policy to inform interested internal stakeholders of the correspondence and replies thereto.

Disposition: The correspondent was notified that all correspondence with him was in accordance with agency policy and did not violate the Privacy Act.

Complaint #7

Description of Complaint: A store expressed concern that witness statements obtained in the course of a Fraud, Waste, and Abuse investigation and then forming the basis for disciplinary action against an employee were improperly released to that employee without first redacting the witness's name, thereby raising the possibility of retaliation by the disciplined employee against the witness.

Findings: Unredacted witness statements were released to the affected employee in accordance with Agency policy and procedures and requirements of 5 U.S.C. 75.

Disposition: No further action taken. No Privacy Act violation.

Agency Name: U.S. Transportation Command (TRANSCOM)

Complaint #8

Description of Complaint: Directorate of Command, Control, Communications & Computer Systems (TCJ6) developed an in-house "new personnel" checklist which required home telephone number, address, and personal cell telephone number. A new TCJ6 civilian employee brought the checklist to the Privacy Officer with a complaint that there were no privacy act markings on the checklist.

Findings: Employee complaint was indeed valid. Checklist had no TCJ6 form control number, Privacy Act Statement (PAS) or authority to collect personal identifying information. Additionally, there was no TCJ6 policy memorandum or directive issued to authorize the checklist and collection. USTRANSCOM privacy officer and records manager met with TCJ6 point of contact to discuss complaint along with privacy act and records retention policies.

Disposition: Immediate discontinuance of TCJ6-developed checklist. Records manager observed as point of contact shredded all checklists retained in file. Command-developed in-processing checklist, controlled, will be utilized. All-USTC e-mail released by Chief of Staff as a "Reminder" on unauthorized collection of PII. Complainant satisfied with remedy.

Agency' Name: Department of the Navy

Complaint #9

Description of Complaint: Complaint from the National Association of Government Employees, Local R1-100, U.S. Naval Submarine Base, P.O. Box 5396, Groton, CT. Complaint filed stating that Local R1-100 has been informed about a prospective breach in 'personal data' which is privacy sensitive. A Human Resource representative was soliciting 'associates' to release documents that establish both identity and employment eligibility, supposedly for completing a Form I-9 (employment eligibility verification).

Findings: No findings as of yet. This is in the queue for action.

Disposition: Pending



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

ADMINISTRATION AND
MANAGEMENT

MAY 25 2010

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

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period January 1, 2010 to March 31, 2010.

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.

Sincerely,

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

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable John McCain
Ranking Member



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

ADMINISTRATION AND
MANAGEMENT

MAY 25 2010

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

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Howard P. "Buck" McKeon
Ranking Member



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

ADMINISTRATION AND
MANAGEMENT

MAY 25 2010

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

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period January 1, 2010 to March 31, 2010.

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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

MAY 25 2010

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

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period January 1, 2010 to March 31, 2010.

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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

MAY 25 2010

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

Dear Mr. Chairman:

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Enclosure:
As stated

cc:
The Honorable Susan M. Collins
Ranking Member



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

ADMINISTRATION AND
MANAGEMENT

MAY 25 2010

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

Dear Mr. Chairman:

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Michael L. Rhodes
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

MAY 25 2010

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

Dear Madam Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period January 1, 2010 to March 31, 2010.

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As stated

cc:
The Honorable Christopher S. Bond
Vice Chairman



OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
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ADMINISTRATION AND
MANAGEMENT

MAY 25 2010

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

Dear Mr. Chairman:

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Enclosure:
As stated

cc:
The Honorable Peter Hoekstra
Ranking Member