



ADMINISTRATION AND
MANAGEMENT

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

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

NOV 09 2010

Dear Mr. Chairman:

In accordance with Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, ("the Act") and Section 1062 of the "National Security Intelligence Reform Act of 2004," Public Law 108-458, as amended, this letter serves as the Department of Defense's ("Department") Privacy and Civil Liberties Report for the fourth quarter, fiscal year 2010, July 1, 2010 through September 30, 2010. While the Department previously provided quarterly reports about the progress of its Privacy Program under the Act, this is the first quarter for which the Department also is providing information about its Civil Liberties Program.

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The point of contact for this report is Mr. Michael E. Reheuser, Director, DPCLO, who can be reached at (703) 607-2943 or michael.reheuser@osd.mil.

Sincerely,



Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable John McCain
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1980 DEFENSE PENTAGON
WASHINGTON, DC 20301-1980

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

NOV 09 2010

Dear Madam Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Christopher S. Bond
Vice Chairman



ADMINISTRATION AND
MANAGEMENT

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

NOV 09 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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Sincerely,



Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Darrell E. Issa
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

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

NOV 09 2010

Dear Mr. Chairman:

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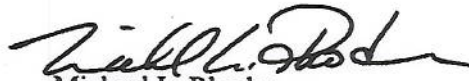


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Sincerely,



Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Lamar Smith
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1980 DEFENSE PENTAGON
WASHINGTON, DC 20301-1980

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

NOV 09 2010

Dear Mr. Chairman:

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Sincerely,



Michael L. Rhodes
Senior Agency Official for Privacy
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Enclosure:
As stated

cc:
The Honorable Susan M. Collins
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1980 DEFENSE PENTAGON
WASHINGTON, DC 20301-1980

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

NOV 09 2010

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cc:
The Honorable Jeff Sessions
Ranking Member



ADMINISTRATION AND
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1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 09 2010

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

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Enclosure:
As stated

cc:
The Honorable Peter Hoekstra
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

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

NOV 09 2010

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Enclosure:
As stated

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

**Department of Defense
Report on Privacy Activities
Section 803 of 9/11 Commission Act of 2007
4th Quarter FY10 – July 1, 2010 to September 30, 2010**

A. Types of Privacy Reviews

Privacy Act Statements (PAS)	628
Privacy Act Systems of Records (SORNs) with applicable associated exemptions	281
Computer Matching Program(s)	2

B. Topics of Advice and Responses Given

Collection, Use, Disclosure, Protection of PII	6159
Privacy Impact Assessments (PIA)	1500
Privacy Act Program Requirements /Principles	2030
Website Safeguards	782
Privacy Compliance/DITPR Reporting	630
Privacy Presentations	1357
Training Requirements	2221
Privacy Act Violations	280
Privacy Reports	168
Privacy Act Systems of Records Notices (SORNs)	1702
Privacy Compliance in Agency Publication	509
SSN and PII Reduction Actions	1810
PII Breach Notification/Identity Theft	1406
Other	133

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 (Compliance Matters)	4	3	1	0
Redress	1	1	0	0
Operational (Collection, Use, Disclosure Issues)	5	4	0	1
Referred to Other Agency(s)	0	0	0	0
Other	0	0	0	0
Total for 4th Qtr FY10	10	8	1	1

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 THE DEPARTMENT OF DEFENSE
PRIVACY COMPLAINTS AND DISPOSITIONS
4TH QFY10 – JUL 1 TO SEP 30, 2010**

Complaints: 10

Component: United States Transportation Command (USTRANSCOM)

Description of Complaint: Agency personnel from 3 different directorates complained that agency Directorate of Manpower and Personnel, Civilian Personnel Division (TCJ1-C) distributed a policy memo to all agency civilian personnel dated 1 Jul 10, with two attachments: (1) Compressed/Flexible Work Schedule & Physical Fitness Activities and (2) Credit Hour Agreement. Attachments had the appearance of forms that collected personal identifying information (PII) including Social Security Number (SSN).

Findings: Investigation by agency privacy act officer, with assistance of legal advocacy, revealed the following:

- (1) Forms were unauthorized and not controlled. Forms were simply made up by personnel using Microsoft Word product. There was no prescribed directive authorizing the forms or collection of PII and no documentation for SSN collection (Systems of Records Notice) and Office of Management & Budget (OMB) requirements.
- (2) No coordination was accomplished with the agency privacy act officer or legal counsel. In a nutshell, no coordination had been accomplished with any element.
- (3) No Privacy Act notice, authority for collection, etc., appeared on the documents.
- (4) TCJ1-C Chief, when interviewed, stated forms and collection of SSN were an USAF requirement. That information required on the forms was required by the host base civilian personnel flight (Air Force-375th Air Mobility Wing/DPC) who input the data into a data system and then shredded forms. E-mail correspondence to Air Force Chief PAO with inquiry and resolution of required data remains unanswered by USAF.

Disposition: USTRANSCOM PA oversight official immediately briefed of findings and directed memo w/attachments be withdrawn and rescinded until such time as all PA and OMB requirements are fulfilled by TCJ1 and/or USAF. TCJ1 sent out e-mail to all agency civilians withdrawing documentation. Note: this was a repeat violation requesting completion of forms with SSN and PII collections.

Component: National Guard Bureau

Description of Complaint: Complainant alleges performance appraisals and recommendations for employee awards/time off awards were left unattended by supervisor, records were accessed and removed from the workplace by another co-worker, and that copies of the documents were then offered to and viewed by co-workers. In addition, she alleges that documents containing PII were left unattended when custodial crews were unaccompanied in office spaces and that a locked file cabinet was found broken into, possibly allowing access to others PII (timecards). She also alleges that when she reported this break in of the file cabinet and concern on improper access of performance appraisals to her chain of command and asked how to report this as a PII

breach that she was told this was not the type of incident that should be reported unless a formal complaint was made by someone for having their information accessed.

Findings: Investigation complete finding that allegations are substantiated.

Disposition: Still ongoing. Final personnel action of proposed removal from employment is planned to be administered this month.

Component: Department of the Army

Description of Complaint: On 21 July 10, complainant notified the Army Privacy Office of a Privacy act complaint. Complainant stated, "My unit has released my home phone number and my private cell phone number in an alert roster to all branches of our company. I do not have a problem with my home phone number being used on the alert roster but have issues with the fact that my private cell phone number was also placed on this roster. My question to you is, "Is this in violation of the Privacy Act - once I had asked that my private cell phone number be removed (last year)? How did my private cell phone number get released?"

Findings: On 26 July 10, the USAG Wiesbaden Privacy Act Office received the complaint. HQs USAG and Director, Child Youth and School Services (CYSS) was notified in writing advising of the procedures to stop data loss and informed them of the privacy requirements. They were also advised to notify all supervisors of these requirements.

On 27 July 10, Complainant was interviewed, he had agreed to have his home phone number on the roster and wanted his cell phone removed. His cell phone was only for emergency data only. He provided a copy of the updated alert roster to me, which is only accessible by CAC card users. The roster listed both his home and private cell phone numbers. On 30 July 10, The Program Analyst sent out a policy letter stating CYSS Alert Roster procedures. She briefed all employees and staff on use of alert roster.

Disposition: On 5 Aug 10, after reviewing, it was determined this was not a compromise but rather employees had not been properly briefed on alert rosters procedures. Also they had not been advised not to mix roster information. Supervisors need to properly review updated rosters and they need to become familiar with the proper release and handling of private information. They were also provided a privacy act statement to add to the roster. Complainant will be informed in writing of these findings and recommendations. HQ's USAG will also be provided a copy of the findings in writing.

Description of Complaint: The Fort Monmouth Communication Electronics Command (CECOM) out-processing procedures required the last 4 of the SSN on a form the individual that was out processing had to submit through email using a master out processing distribution list within the .mil domain. Various individuals on the distribution list did not have a need to know.

Findings: The complaint was submitted to the CECOM Life Cycle Management Command (LCMC) Alternate Privacy Official. Upon review of the current Fort Monmouth process and the process used at Headquarters Army Materiel Command, it was determined the last 4 of the SSN was not required for the out-processing.

Disposition: The CECOM Fort Monmouth G-1 resolved the issue by updating the out processing forms. The SSN is no longer required on the form.

Component: OSD/JS - National Defense University

Description of Complaint: Complainant is a federal employee from the Human Resources Department (HRD). She complained that another HRD employee, who was transitioning from HRD to the Security Department, had photocopied her SF50s and SF52s from her personnel folder in a filing cabinet to use as evidence in his personal EO complaint against the HRD Director.

Findings: The HRD employee admitted that he photocopied Complainant's SF50s and SF52s from her personnel folder in a filing cabinet to use as evidence in his personal EO complaint against the HRD Director. He believed that, since he was still completing HRD duties, it was permissible to access and photocopy any personnel records – even for his own, personal use. He then explained that he had used a marker and blacked out all PII so no one else could view the PII. Breach was reported to USCERT, DoD/CIO, DoD Privacy Office, and OSD/JS Privacy Office.

Disposition: Pending administrative action.

Component: Defense Contract Management Agency (DCMA)

Description of Complaint: An anonymous complaint was filed with the DoD IG hotline asserting the DCMA office in Phoenix, Arizona created a risk management database that violated both the Privacy Act and the Computer Security Act.

Findings: The DCMA investigator found that the database is a product of the Carnegie Mellon Software Engineering Institute and according to the developer "is designed to help integrate traditionally separate organizational functions, set process improvement goals and priorities, provide guidance for quality processes, and provide a point of reference for appraising current processes." The Department of Defense has procured the rights to use CMMI and has made it available throughout the military branches and joint commands. DCMA Phoenix obtained the software and minor adjustments were made to the program, none of which involved collecting any kind of personal identifying information. The system only contains employees name, work e-mail address and work telephone number; therefore, the database does not fall under the category of a "system of records."

Federal Acquisition Regulations (FAR) and DCMA Instructions mandate that people working in quality assurance generate and maintain objective evidence of contractor performance. This system captures objective evidence so that it can be stored and recalled. Information in the database measures the contractor's processes, performance and compliance with industry standards and agency goals. Access to the system is limited to those individuals with the official need to know.

Disposition: None. (Unsubstantiated complaint.)

Description of Complaint: No written complaint filed; however, because of repeated offenses, we are providing this report.

Findings: DCMA utilizes software to detect unencrypted emails containing PII and FOUO data. An employee in the Human Capital division has repeatedly failed to follow Agency policy in this regard. During FY10, the employee sent 5 unencrypted emails to ".mil" accounts; since they

were contained within the DoD firewalls no reporting was made to USCERT. However, two instances were reported to USCERT involving unencrypted PII transmissions to "comcast.net" and "cox.net" accounts. Additionally, the Security office informed the DCMA Privacy Officer this same individual was detected sending two emails containing FOUO in the clear/outside the DoD firewall. These were also reported to USCERT.

Disposition: The Senior Privacy Official is sending a memorandum to the Director of the Military Personnel Division asking that she look into the matter to (1) Identify any deficiencies in training or process which may have caused or contributed to these incidents; (2) Identify what corrective action is necessary to remedy those deficiencies and to prevent the occurrence of such incidents in the future; and (3) Identify what disciplinary action, if any, will be taken with respect to the individual responsible for these violations of Agency policy.

Component: Department of the Air Force

45th Space Wing (SW), Patrick AFB FL

Description of Complaint: A complaint was filed by a 45 SW Staff employee. A spreadsheet was sent through email over the NIPRNet that listed the last four of the employee's SSN.

Findings: 45 SW/CCA inadvertently sent out an email with a spreadsheet containing all 45 SW Staff personnel's (192 individuals) last 4 of their SSN over NIPRNet. This is not their normal practice. Within 48 hours, the admin troop who caused the breach contacted all personnel who received the email and instructed them to delete the email and spreadsheet immediately.

Disposition: 45 SW/CCA (violator) was briefed on the importance of safeguarding PII data and was instructed to re-accomplish their Privacy Act (Force Protection) training. Training has been completed.

30th Space Wing (SW), Vandenberg AFB CA

Description of Complaint: Civilian alleges a government employee at the Youth Center provided the civilians Privacy Act protected Personally Identifiable Information to a third party without her consent. The documents came out of a file that was filed under the name of the civilian's minor child and the person who received the document was the civilian's x-spouse. The file contains both the child's information and the parents' financial information. Both parents had equal access to this file and both sign statements that provided for the information to be stored in the folder.

Findings: 30 SW/IG referred complaint to the Privacy Act Office as a possible violation. Contacted individual and assisted with the notification to the US-CERT. Affected unit CC was informed and an investigation was initiated. Investigator conducted the investigation and completed the Identity Theft Risk Analysis (ITRA). A legal review was provided. Conclusion was no breach as the individuals involved were married and had access to the provided documents on their minor child.

Disposition: Upon completion of this action, the affected commander was provided all documentation in order to direct any further action necessary, including recommendations suggested in the summary of the investigation. These recommendations include additional unit training in the unit to cover their responsibilities to safeguard the Privacy Act protected Personally Identifiable Information (PII) they work with on a daily basis to perform official duties.

359th Medical Group (MDG) at Randolph AFB

Description of Complaint: Complaint from the 359th Medical Group that a doctor inappropriately accessed a system of record to gain access to his co-workers records. Upon access of the records, he inappropriately sent PII about another doctor to his co-workers and the Commander of both doctors involved in the case.

Findings: No findings have been determined as of today. The 902 MSG/JA is awaiting the 359th MDG to complete the HIPAA investigation prior to proceeding with the Randolph Privacy Act Mgr's request for a Commander Directed Investigation (CDI).

Disposition: 902 MSG/JA and 359th members are working in concert with one another to resolve the PA complaint, CDI and HIPAA investigation; the best interests of all members are being carefully considered at this time.

DPCLO SUMMARY SHEET

	TO	ACTION	<i>Signature</i>	Date		TO	ACTION	<i>Signature</i>	Date
1	OGC	Review	<i>AM</i>	26 OCT 10	6	DIR WHS	Review		
2	Dir, DP	Review	<i>[Signature]</i>	10/26/10	7	DEP DA&M	Review		
3	Dir, DPCLO	Sign-out	<i>[Signature]</i>	10/27/10	8	DIR DA&M	Sign		
4	DoD, LA	Review							

ADM003136-10