

**Department of Defense
Report on Privacy Activities
Section 803 of 9/11 Commission Act of 2007
2nd Quarter FY11 – January 1, 2011 to March 31, 2011**

A. Types of Privacy Reviews

Privacy Act Statements (PAS)	1545
Privacy Act Systems of Records (SORNs) with applicable associated exemptions	137
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Section (m) Contractor Reviews	64

B. Topics of Advice and Responses Given

Collection, Use, Disclosure, Protection of PII	14473
Privacy Impact Assessments (PIA)	3260
Privacy Act Program Requirements /Principles	7241
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Privacy Act Violations	551
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PII Breach Notification/Identity Theft	1329
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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>)	12	4	2	6
Redress	1	1	0	0
Operational (<i>Collection, Use, Disclosure Issues</i>)	16	7	1	8
Referred to Other Agency(s)	0	0	0	0
Other	0	0	0	0
Total for 2nd Qtr FY11	29	12	3	14

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
2ND QTR FY11 – JAN TO MAR 2011**

29 Complaints

Agency Name: Army

Complaint #1

Description of Complaint: Protected health information (PHI) was disclosed without authorization.

Findings: Complainant's PHI was attached to another soldier's TDY orders, compromising PHI. Upon discovery, the error was corrected and the PHI was removed from the TDY orders.

Disposition: Substantiated. Employee was counseled and required to complete remedial HIPAA training.

Complaint #2

Description of Complaint: Complaint from a patient that a nurse from the Family Health Clinic accessed her PHI without authorization to do so.

Findings: The nurse accessed the patient's information to make sure that they were being seen by the correct provider and to make sure that the patient was not having to see several providers since this had happened on a previous visit. The nurse was not authorized to review the patient's information because he was not involved in the direct care of the patient and did not have a need to access the PHI.

Disposition: Substantiated. The nurse was counseled by his supervisor and the HIPAA Privacy Officer and required to complete mandatory remedial HIPAA training. A written copy of the counseling and the remedial HIPAA training was put into the nurse's personnel file.

Complaint #3

Description of Complaint: Tripler Army Medical Center (TAMC) contract personnel accessed information using the electronic medical record on a patient without authorization.

Findings: Two contract personnel used Composite Health Care System (CHCS) to obtain information on an active duty service member in order to seek child support payments from the Service Member.

Disposition: Substantiated. The Clinic investigated the incident, the contract company was called and the two individuals are no longer employed at TAMC.

Complaint #4

Description of Complaint: Employee was suspected of accessing medical records of various patients.

Findings: Confirmed.

Disposition: Substantiated. The violator was given 2 weeks of leave without pay and a letter of reprimand was put into her official personnel file.

Complaint #5

Description of Complaint: Staff member complained that a provider discussed PHI with patient in waiting area without using reasonable safeguards. Patients PHI was heard by staff and other patients in waiting area.

Findings: Discussed case with provider and explained appropriate safeguards. Provider acknowledged understanding.

Disposition: Substantiated.

Complaint #6

Description of Complaint: An allegation was made that an employee may have accessed the PHI of the spouse of the Officer in Charge of the Clinic. The employee stated that she was aware that the spouse was being seen at the clinic and being prescribed narcotics.

Findings: Pending investigation.

Disposition: Pending.

Complaint #7

Description of Complaint: Patient filed complaint that provider discussed her PHI with another member of her unit.

Findings: Pending investigation.

Disposition: Pending.

Complaint #8

Description of Complaint: An employee allegedly accessed the PHI of a patient (former wife of clinic employee) in the Armed Forces Health Longitudinal Technology Application (AHLTA) to determine if her own PHI had been incorrectly posted on the former wife's electronic record.

Findings: The employee stated that she did access the electronic health record of the former wife for the reason stated above.

Disposition: Pending.

Complaint #9

Description of Complaint: Patient alleged that a provider disclosed PHI related to her care to her spouse.

Findings: Provider admitted to discussing inability to prescribe specific medications due to spouse's history without the consent of the patient.

Disposition: Pending.

Complaint #10

Description of Complaint: An officer working in our Warrior Transition Unit (WTU), and later admitted as a patient within the WTU, complained that certain persons within the organization were accessing his medical information without approval.

Findings: Some access was deemed necessary as part of his care by providers involved in his care, others were deemed inappropriate.

Disposition: Pending.

Complaint #11

Description of Complaint: Patient complained that someone in the organization accessed her appointment information improperly.

Findings: An audit showed several people accessing her and her child's information, but no inappropriate access has been determined yet.

Disposition: Pending.

Complaint #12

Description of Complaint: An allegation was made by an employee that her supervisor accessed her child's medical information to substantiate the employee's leave requests.

Findings: Case is under investigation.

Disposition: Pending.

Complaint #13

Description of Complaint: Complainant stated a co-worker was accessing Armed Forces Health Longitudinal Technology Application/Composite Health Care System (AHLTA/CHCS) notes without proper authorization.

Findings: Requested AHLTA/CHCS database be audited by Administrator for unauthorized access.

Disposition: Pending.

Complaint #14

Description of Complaint: Complainant stated a co-worker was accessing AHLTA/CHCS notes without proper authorization.

Findings: Requested AHLTA/CHCS database be audited by Administrator for unauthorized access.

Disposition: Pending.

Complaint #15

Description of Complaint: Complainant stated an employee was accessing AHLTA/CHCS notes without proper authorization, for malicious reasons.

Findings: Requested AHLTA/CHCS database be audited by Administrator for unauthorized access.

Disposition: Pending.

Complaint #16

Description of Complaint: An allegation was made by a spouse that the husband's former spouse, who works at Carl R. Darnall Army Medical Center, accessed her Medical Information and at the very least discovered her Social Security Number. The spouse alleged that that information was then used to order a credit report.

Findings: Case is under investigation.

Disposition: Pending.

Agency Name: Defense Commissary Agency

Complaint #17

Description of Complaint: Employee complained that PII was compromised when Time and Attendance cards were found lying underneath a counter in the store administrative office.

Findings: Investigation revealed that while the time and attendance cards were found underneath a counter, the counter was located in a locked administrative office, accessible only to personnel with a key, and that the person who found the cards immediately secured the documents and notified a manager during the next work day and turned the cards over to that manager.

Disposition: Component Senior Official for Privacy determined that no reportable breach occurred and that no PII was in fact compromised. No further action taken.

Agency Name: Navy

Complaint #18

Description of Complaint: Complaint from a patient that her stepmother, a Naval Hospital Beaufort (NHB) employee, used her sponsor's full Social Security Number to look at and print out her complete medical record. This medical record was then given to the patient's father and mailed to the patient's mother.

Findings: The NHB employee did use the full Social Security Number of the sponsor to access the medical record of the patient. This record was then printed and given both to the sponsor and the patient's mother.

Disposition: An investigation was completed and all staff members involved in the incident have been disciplined.

Complaint #19

Description of Complaint: Complainant stated he was communicating with his physician and made a sarcastic remark which the physician placed in his AHLTA record. Request to get record expunged.

Findings: Substantiated.

Disposition: Waiting for record to be expunged.

Complaint #20

Description of Complaint: Complainant made allegations that an employee breached his confidentiality by inappropriately obtaining his contact information (e-mail address) on an ICE survey.

Findings: In review of the Naval Medical Center's policies and based on the findings, it was determined that the complainant's protected health information was handled in accordance with the Health Insurance Portability and Accountability Act, as implemented by the Department of Defense regulation. Additionally, it was determined that the employee's use of the complainant's personal e-mail was appropriate and necessary to help resolve the complaint.

Disposition: Closed.

Complaint #21

Description of Complaint: A naval message was generated from the command with complainant's Protected Health information contained in the message.

Findings: Substantiated.

Disposition: The employee generating the message was counseled and had to complete the HIPAA refresher course. Complaint has been closed.

Complaint #22

Description of Complaint: Complainant alleged that a provider violated her privacy rights by contacting her Chief and disclosed her protected health information.

Findings: In accordance with the DoD Health Information Privacy Regulation 6025.18-R, C7.10.1 addressing Permitted Disclosures, a covered entity may, consistent with applicable law and standards of ethical conduct, use or disclose protected health information, if the covered entity, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public to prevent or lessen the threat, including the target of the threat. In this case, it appears all parties involved acted in good faith in an attempt to address the patient's concerns.

Disposition: Closed.

Complaint #23

Description of Complaint: Complainant alleged someone accessed his AHLTA record without justification/authority.

Findings: AHLTA audit in progress.

Disposition: Pending.

Complaint #24

Description of Complaint: Complainant alleged someone accessed her AHLTA record without justification/authority.

Findings: In progress.

Disposition: Awaiting formal complaint form to be completed by complainant.

Complaint #25

Description of Complaint: Complainant says that his PII and PHI are in an unrestricted access area of AHLTA.

Findings: In progress.

Disposition: Pending.

Complaint #26

Description of Complaint: Complainant alleges that a Naval Medical Center Portsmouth (NMCP) staff member accessed his PHI and discussed his medical information with his wife.

Findings: Unable to confirm allegations because of no response by complainant.

Disposition: Complaint was cancelled because complainant would not provide requested information after numerous attempts.

Complaint #27

Description of Complaint: Complainant alleged that a member of NMCP provided her PHI to a third party that did not have authorization or a need to know.

Findings: Unable to confirm allegation.

Disposition: Complaint has been resolved and complainant was notified that her complaint could not be confirmed.

Agency Name: National Guard Bureau

Complaint #28 – Redress (Carryover from 3rd Quarter, 2010)

Description of Complaint:

Complainant alleges volumes of books entitled “Army National Guard Personnel Registers” from 1971-1976 were found in public library containing full names, dates of birth, and SSNs of 50,000+ individuals. The books were published by the Government Printing Office and the complainant would like the books pulled from library shelves.

Findings: The complaint was closed this quarter with a final response issued to the individual indicating that we have removed the books from the NTIC and DTIC for sale but that we are unable to take further action in removal of books from the public domain. Research indicated 1974 and 1975 versions of these books were available for sale through National Technical Information Service (NTIS). Their 2 year sales history indicated only 1 book has been sold (1975 version) which was sometime early this year. As of 7 Jul 10, at our request, they are no longer available for sale through NTIS. As of 3 Dec 10 this has also been removed from DTIC website for purchase.

Agency Name: National Security Agency/Central Security Service (NSA/CSS)

Complaint #29

Description of Complaint: Complaint from an employee was received by the NSA IG regarding an Agency training database that he felt inappropriately contained non-affiliated persons PII and that SSN’s were made available to numerous individuals who maintain access to this database.

Findings: Visit Request data is fed into the training database so that non Agency individuals may take training offered at NSA/CSS. Upon investigation by the Privacy Advocate and the training organization, it was determined that access to the training database should have been more limited.

Disposition: The training organization worked with NSA IT and blocked all but the last 4 of the SSN’s. The access list was scrubbed to reduce the number of individuals who have access to the training database. The issue was resolved to the satisfaction of the IG and the complainant.



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

MAY 23 2011

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

Dear Mr. Chairman:

Pursuant to Section 803, Public Law 110-53 "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act") and Section 1062, Public Law 108-458 "National Security Intelligence Reform Act of 2004," as amended, this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the second quarter of fiscal year (FY) 2011, January 1, 2011 through March 31, 2011.

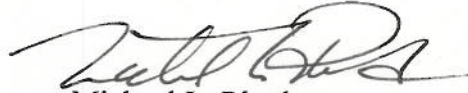
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Consistent with the Act's requirements to assist the Secretary and other DoD officials in "appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism," the Defense Privacy and Civil Liberties Office (DPCLO), which has cognizance over the Department's Privacy and Civil Liberties Programs, continues to review all new and reissued DoD policy issuances, draft legislative proposals, and agency responses to Congressional inquiries. During the second quarter of FY 2011, the DPCLO conducted policy reviews of 83 issuances.

The Act requires that DoD "has adequate procedures to receive, investigate, respond to, and redress complaints" from individuals who allege that DoD violated their privacy or civil liberties. The DPCLO received 29 privacy complaints and 1 civil liberties complaint; 16 complaints were resolved and 14 are pending. The DPCLO established a formatting guide to assist individuals submitting civil liberties complaints. The guide is currently available on the DPCLO website at <http://dpclo.defense.gov>.



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.



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

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

MAY 23 2011

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

Dear Madam Chairman:

Pursuant to Section 803, Public Law 110-53 "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act") and Section 1062, Public Law 108-458 "National Security Intelligence Reform Act of 2004," as amended, this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the second quarter of fiscal year (FY) 2011, January 1, 2011 through March 31, 2011.

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

Enclosure:
As stated

cc:
The Honorable Saxby Chambliss
Vice Chairman



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

MAY 23 2011

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Pursuant to Section 803, Public Law 110-53 "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act") and Section 1062, Public Law 108-458 "National Security Intelligence Reform Act of 2004," as amended, this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the second quarter of fiscal year (FY) 2011, January 1, 2011 through March 31, 2011.

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

Enclosure:
As stated

cc:
The Honorable Elijah E. Cummings
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

MAY 23 2011

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

Dear Mr. Chairman:

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

Enclosure:
As stated

cc:
The Honorable John Conyers, Jr.
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

MAY 23 2011

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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Michael L. Rhodes
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and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Susan M. Collins
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

MAY 23 2011

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

Dear Mr. Chairman:

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

Enclosure:
As stated

cc:
The Honorable Chuck Grassley
Ranking Member



ADMINISTRATION AND
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OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

MAY 23 2011

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

Dear Mr. Chairman:

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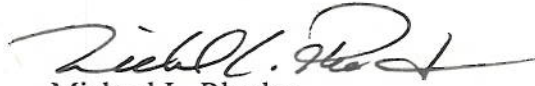
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cc:
The Honorable C. A. "Dutch" Ruppertsberger
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE

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WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

MAY 23 2011

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

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Pursuant to Section 803, Public Law 110-53 "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act") and Section 1062, Public Law 108-458 "National Security Intelligence Reform Act of 2004," as amended, this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the second quarter of fiscal year (FY) 2011, January 1, 2011 through March 31, 2011.

The enclosure provides data about the Department's Privacy Program for the second quarter of FY 2011. The report 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. We anticipate providing reports on the Civil Liberties Program that follow a similar format beginning in the third quarter of FY 2011.

Consistent with the Act's requirements to assist the Secretary and other DoD officials in "appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism," the Defense Privacy and Civil Liberties Office (DPCLO), which has cognizance over the Department's Privacy and Civil Liberties Programs, continues to review all new and reissued DoD policy issuances, draft legislative proposals, and agency responses to Congressional inquiries. During the second quarter of FY 2011, the DPCLO conducted policy reviews of 83 issuances.

The Act requires that DoD "has adequate procedures to receive, investigate, respond to, and redress complaints" from individuals who allege that DoD violated their privacy or civil liberties. The DPCLO received 29 privacy complaints and 1 civil liberties complaint; 16 complaints were resolved and 14 are pending. The DPCLO established a formatting guide to assist individuals submitting civil liberties complaints. The guide is currently available on the DPCLO website at <http://dpclo.defense.gov>.



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

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member