

U.S. Department of Justice

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THE OFFICE OF  
PRIVACY AND CIVIL LIBERTIES  
PRIVACY AND CIVIL LIBERTIES  
ACTIVITIES QUARTERLY REPORT



SECOND AND THIRD QUARTERS

FY 2008

## **I. INTRODUCTION**

The policy of the Department of Justice is to protect the privacy and civil liberties of individuals by ensuring that due consideration and regard for information privacy and civil liberties are addressed in the execution of Departmental programs and policies. Since the creation of the Office of Privacy and Civil Liberties (OPCL) in 2005 and as noted in its two annual reports, the Department has begun to consolidate various privacy oversight functions and continued to strengthen the Department's commitment to privacy and civil liberties.

## **II. DEPARTMENT ACTIONS**

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53, 121 Stat. 266, 360 (August 3, 2007) (hereinafter "Section 803") imposes enhanced and periodic, but not less than quarterly, reporting requirements for the Department's privacy and civil liberties officer on certain privacy and civil liberties activities. Furthermore, Section 803 enumerated various privacy and civil liberties requirements for the Department of Justice. Likewise, the Department continues to review a wide variety of activities and procedures within the Department to find opportunities to enhance protections of the privacy and civil liberties of individuals.

To emphasize the importance of protecting privacy and civil liberties at the highest levels of the Department, and to assign accountability, the Attorney General has designated a Chief Privacy and Civil Liberties Officer (CPCLO) for the Department that works on the Deputy Attorney General's staff. The CPCLO has the authority to direct all matters concerning privacy and civil liberties in the Department. In addition, the CPCLO has consolidated most privacy and civil liberties policies and department wide activities into one office, which reports directly to the CPCLO. The CPCLO is responsible for submitting the quarterly reports required by Section 803.

## **III. QUARTERLY REPORTS**

The Department has coordinated the development of this process with the Office of Management and Budget, as well as with other federal agencies identified in the statute.

This report will include data concerning privacy and civil liberties activities of the CPCLO, including data on the related reviews conducted, reference to the advisory

guidance delivered, and information about written complaints received and their processing.

## A. REVIEWS

A review encompasses activities that are part of a systematic and repeatable process looking at privacy or civil liberties matters enumerated in controlling authorities, such as the Privacy Act of 1974, 5 USC 552a; E-Government Act of 2002 (P.L. 107-347); Consolidated Appropriations Act of 2005 (P.L. 108-447); Office of Management and Budget (OMB) Circular A-130, Appendix 1; and OMB Memo M-07-16. Examples of reviews may include:

1. Privacy Impact Assessments/Civil Liberties Impact Assessments, including reviews required under Section 208 of the E-Government Act;
2. OMB Circular A-130 Privacy Act Reviews, including the statutory duties of the Privacy Act, which include new and updated system reviews and reviews regarding proposed rules for Privacy Act exemptions;
3. OMB Circular A-130 Computer Matching Reviews, which requires the Department to examine the privacy implications of sharing information to be used in matching arrangements;
4. OMB Memorandum M-07-16 Privacy & Security Review, including reviews of policies and procedures in order to safeguard against the breach of personally identifiable information (PII), such as Personally Identifiable Information holdings reviews, Social Security Number use reduction, or identity theft reviews;
5. Information Sharing Environment Privacy Guidelines Assessment, including policy reviews and system assessments to ensure consistency with the ISE Privacy Guidelines;
6. National Security Reviews;
7. Data Mining Reviews, including the review required by Section 804 of the 9/11 Commission Act;

8. OMB Circular A-11, Part 7, Exhibit 300 Process, including reviews of privacy and civil liberties documentation associated with developmental and operational budgetary assessments.

## **B. ADVICE**

### *1. Formal Advice*

The issuance of formal written policies, procedures, guidance, or interpretations of privacy requirements for circumstances or business processes, which have been drafted or authorized by the CPCLO and approved as official agency policy by Department leadership, to respond to issues or concerns regarding safeguards for privacy and civil liberties.

### *2. Response to Advice*

In addition, the report will indicate which of the following forms of final, formal advice CPCLO has selected, such as the issuance of a Privacy Impact Assessment Guidance. Examples of a response to advice may include:

1. Regulations;
2. Orders;
3. Guidance;
4. Agreements; or
5. Training.

## **C. COMPLAINTS**

### *1. Privacy Complaints*

A written allegation (other than in the context of litigation) concerning a problem with or violation of privacy protections in the administration of the programs and operations of the Department that is submitted to or through the CPCLO. This will not include complaints filed in litigation against the Department or Freedom of Information Act/Privacy Act requests made to the Department. The types of privacy complaints include:

1. Process and procedural issues (consent, collection, and appropriate notice);
2. Redress issues (non-Privacy Act inquiries seeking resolution of difficulties or concerns about privacy matters);
3. Operational issues (inquiries regarding Privacy Act matters not including Privacy Act requests for access and/or corrections)

## 2. *Civil Liberties Complaints*

A written allegation (other than in the context of litigation) concerning a problem with or violation of civil liberties safeguards concerning the handling of personal information by the Department in the administration of Department programs and operations that is submitted to or through the CPCLC. Civil liberties complaints do not include any claims made based on statutory rights. Types of civil liberties complaints include those complaints which pertain to the sharing of information to include:

1. Freedom of speech and association issues, such as those surrounding U.S. Const. amend. I, art. I;
2. Reasonable autonomy issues, such as those surrounding U.S. Const. amend. IV; or
3. Equal protection and due process issue, such as those surrounding U.S. Const. amend. V and XIV.

## 3. *Dispositions of Complaints*

For each type of privacy or civil liberties issue reported received by the Office of Privacy and Civil Liberties during the last fiscal quarter, the Office will report the number of complaints (1) that the agency was able to assist in resolving; (2) that the agency referred out; and, (3) that the agency was unable to assist in resolving.

**IV. REPORTING**

The United States Department of Justice  
 Quarterly Report on Privacy and Civil Liberties Activities  
 Under Section 803 of the 9/11 Commission Act of 2007  
 Quarter 2 12/1/07 to 2/29/08

Reviews		Advice			Complaints		
Type	Number	Type	Number	Response	Type	Number	Response
Privacy Threshold Analyses	6	Mobile Devices: Encryption	1	Guidance	PRIVACY	1	Agency able to assist
Privacy Impact Assessments	4						
National Security Reviews	2						
System of Records Notices and Rules	1				CIVIL LIBERTIES	6	Pending Response
Privacy Reviews on Legislation, Testimony, Reports	58					1	Agency able to assist
Program Policy Review	6						

2Q and 3Q FY2008 P&CL Quarterly Report  
 Office of Privacy and Civil Liberties  
 U.S. Department of Justice

The United States Department of Justice  
 Quarterly Report on Privacy and Civil Liberties Activities  
 Under Section 803 of the 9/11 Commission Act of 2007  
 Quarter 3 3/1/08 to 5/31/08

Reviews		Advice			Complaints		
Type	Number	Type	Number	Response	Type	Number	Response
Privacy Threshold Analyses	14	Privacy Act of 1974 Compliance	1	Training	PRIVACY	3	Pending Response
Privacy Impact Assessments	7	Privacy Impact Assessment Requirements	1	Training			
National Security Reviews	6	Contract Conforming Clauses: Privacy Incident Response	1	Guidance	CIVIL LIBERTIES	16	Pending Response
Privacy Reviews on Legislation, Testimony, Reports	60					1	Referred
Program Policy Review	10						
Computer Matching Review	2						
Document Disclosure Review	1						