

U.S. Department of Justice

**THE CHIEF PRIVACY AND CIVIL LIBERTIES OFFICER AND
THE OFFICE OF PRIVACY AND CIVIL LIBERTIES**

**PRIVACY AND CIVIL LIBERTIES
ACTIVITIES QUARTERLY REPORT**



FOURTH QUARTER 2011

JULY 1, 2011 – SEPTEMBER 30, 2011

I. INTRODUCTION

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, 121 Stat. 266, 361-62 (codified at 42 U.S.C. § 2000ee-1(f)) (hereinafter “Section 803”), requires the Attorney General to designate a senior official to serve as his principal advisor on privacy and civil liberties matters and imposes quarterly reporting requirements on certain activities of such official. *Id.* The Department of Justice’s Chief Privacy and Civil Liberties Officer (CPCLO) in the Office of the Deputy Attorney General serves as this principal advisor to the Attorney General and is supported by the Department’s Office of Privacy and Civil Liberties (OPCL). Specifically, Section 803 requires quarterly reports related to the discharge of certain privacy and civil liberties functions of the Department’s CPCLO, including information on: the number and types of privacy reviews undertaken by the CPCLO; the type of advice provided and the response given to such advice; the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer. *Id.* Many of these functions are discharged, on behalf of the CPCLO, by the Department’s OPCL. To provide a standard reportable framework, the Department has coordinated with the Office of Management and Budget (OMB) in order to tailor the report to the missions and functions of the Department’s CPCLO. Accordingly, pursuant to Section 803, the Department submits the fourth quarter report for fiscal year 2011 on such activities of the Department’s CPCLO and OPCL.

II. PRIVACY REVIEWS

The Department conducts privacy reviews of information systems and programs to ensure that privacy issues are identified and analyzed in accordance with federal privacy laws enumerated in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. 552a, the E-Government Act of 2002, 44 U.S.C. 3501, as well as federal privacy policies articulated in Office of Management and Budget (OMB) guidance, including Circular OMB A-130.

A privacy review for purposes of this report encompasses activities that are part of a systematic and repeatable process such as those listed below:

1. Reviews of proposed legislation and testimony for privacy and civil liberties issues;
2. Initial Privacy Assessments (IPA) – The IPA is a privacy compliance tool developed by the Department of Justice as a first step to facilitate the identification of potential privacy issues; assess whether privacy documentation is required; and ultimately to ensure the Department’s compliance with applicable privacy laws and policies. The IPA is conducted by Department components with coordination and review by OPCL. For purposes of this report, the IPA reviews include those IPAs for which OPCL has issued a determination memorandum;

3. Privacy Impact Assessment (PIA) reviews – For purposes of this report, the number represents only those reviews that result in a PIA that has been approved by the CPCLO;
4. System of Records Notice (SORN) publication reviews – For purposes of this report, the number represents only those reviews that result in the publication of a SORN and the comment period has exhausted;
5. Associated Privacy Act Exemption Regulation publication reviews – For purposes of this report, the number represents only those reviews that result in the publication of a Privacy Act Exemption Regulation and the comment period has exhausted;
6. Information collection notices – For purposes of this report, this number represents the Department components that have conducted reviews of Privacy Act information collection notices to ensure that they fully meet the requirements of subsection (e)(3) of the Privacy Act;
7. OMB Circular A-130 privacy reviews – For purposes of this report, this number represents the systems of records that have been reviewed by the Department components for each of the items listed below. The Department conducts these annual reviews which are also incorporated into the 2011 Annual Federal Information Security Management Act report; and
8. Data breach and incident reviews include only those that are conducted by the Department’s Core Management Team.

2011 FOURTH QUARTER PRIVACY REVIEWS	
REVIEW TYPE	NUMBER OF REVIEWS
Reviews of proposed legislation, testimony, and reports	67
Initial Privacy Assessments	11
Privacy Impact Assessments	14
<ol style="list-style-type: none"> 1. <i>Executive Office of United States Trustees</i> Automated Case Management System 2. <i>Executive Office of United States Trustees</i> Credit Counseling/Debt Education System 3. <i>Executive Office of United States Trustees</i> Criminal Enforcement Tracking System 	

4. *Executive Office of United States Trustees*
Means Test Review Management System
5. *Federal Bureau of Prisons*
Psychology Data System
6. *Federal Bureau of Prisons*
Volunteer Contractor Information System
7. *Federal Bureau of Prisons*
Access Control and Visiting System
8. *Federal Bureau of Prisons*
Millennium SAP System
9. *Federal Bureau of Prisons*
Bureau Electronic Medical Records System
10. *Federal Bureau of Investigation*
Enterprise Process Automation System
11. *Federal Bureau of Investigations*
FBI Intelligence Information Report Dissemination System
12. *Justice Management Division*
Personal Identity Verification Card System Revision
13. *National Security Division (classified System)*
14. *Office of the Pardon Attorney*
Executive Clemency Records Database

System of Records Notice Publications	0
Privacy Act Exemption Regulation Publications	0
Information collection notices	28
OMB Circular A-130 reviews	225

<p>SORN review to ensure accuracy</p> <p>Routine Use review to ensure still required and compatible</p> <p>Record practices and retention schedule to ensure still appropriate</p> <p>Privacy Act regulation exemption review to ensure still required</p> <p>Contract reviews to ensure that appropriate Federal Acquisition Regulation language used to bind contractor to provisions of Privacy Act</p> <p>Computer Matching program review to ensure compliance</p> <p>Review of any civil or criminal violations of the Privacy Act</p> <p>Review of program for any privacy vulnerabilities</p>	
Data breaches and incidents reviews by DOJ Core Management Team	0

III. ADVICE

Formal Advice

Formal Advice encompasses 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.

Response to Advice

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

1. Regulations;
2. Orders;

3. Guidance;
4. Agreements; or
5. Training.

2011 FOURTH QUARTER ADVICE PROVIDED	
ADVICE TYPE	RESPONSE
Personally Identifiable Information Holdings	Review of Personally Identifiable Information Holdings Progress Update
Social Security Number Use	Privacy Protection for Social Security Numbers Implementation Plan for the Department of Justice Progress Report
General Privacy Act training	Privacy Act Overview Training filmed for broadcast through Office of Legal Education

IV. COMPLAINTS

Privacy Complaints

A privacy complaint encompasses a written allegation 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. 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 general privacy matters not including Privacy Act requests for access and/or amendment).

Civil Liberties Complaints

A civil liberties complaint encompasses 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 CPCLO.

Dispositions of Complaints

For each type of privacy or civil liberties complaint received by the CPCLO during the quarter, the CPCLO will report the number of complaints in which (1) responsive action was taken or (2) no action was required. In the event a complaint is received within five business days of the last day of the close of the quarter, the complaint may be counted and addressed in the subsequent quarter if time constraints hinder a thorough examination of the complaint in the quarter in which received.

2011 FOURTH QUARTER COMPLAINTS ¹		
COMPLAINT TYPE	NUMBER	ACTION TAKEN
Privacy	0	N/A
Civil Liberties	0	N/A

¹ For the fourth quarter, OPCL received 34 inquiries in the form of emails or letters from members of the public and non-federal entities. After a thorough review, OPCL determined that none of the inquiries received qualified as a privacy or civil liberties complaint against the Department. In order to ensure that all inquiries receive a thorough review, inquiries received after 9/26/11 will be reviewed and counted in the first quarter of fiscal year 2012.