

**U.S. Department of Justice**

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

**PRIVACY AND CIVIL LIBERTIES  
ACTIVITIES QUARTERLY REPORT**



**THIRD QUARTER 2011**

**APRIL 1, 2011 – JUNE 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. 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 third 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 OMB A-130 Circular.

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, testimony and reviews 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;
3. Privacy Impact Assessments (PIA) as required by Section 208 of the E-Government Act;
4. System of Records Notice reviews as required by the Privacy Act;
5. Associated Privacy Act Exemption Regulations reviews as required by the Privacy Act;

6. Information collection notices, including those required by the Privacy Act;
7. OMB Circular A-130 privacy reviews; and
8. Data breach and incident reviews -- reviews that are conducted by the Department's Core Management Team.

<b>2011 THIRD QUARTER PRIVACY REVIEWS</b>	
<b>REVIEW TYPE</b>	<b>NUMBER OF REVIEWS</b>
<b>Initial Privacy Assessments</b>	8
<b>Privacy Impact Assessments</b>	6
<b>Reviews of proposed legislation, testimony, and reports</b>	90
<b>Data breaches and incidents reviews by DOJ Core Management Team</b>	1

### **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 THIRD QUARTER ADVICE

#### TYPE OF ADVICE

##### Privacy Compliance Training:

- **Privacy Act Overview training for the Small Business Association**
- **Privacy Act training for the International Association for Privacy Professionals/Treasury**
- **Privacy Act Overview Training for the American Society of Access Professionals**

## 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).<sup>1</sup>

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<sup>1</sup> This report excludes information related to requests for access to and amendment of information made pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a.

*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 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.

<b>2011 THIRD QUARTER COMPLAINTS<sup>2</sup></b>		
<b>COMPLAINT TYPE</b>	<b>NUMBER</b>	<b>ACTION TAKEN</b>
<b>Privacy</b>	<b>1</b>	<b>Referred to the component</b>
<b>Civil Liberties</b>	<b>0</b>	<b>N/A</b>

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<sup>2</sup> For the third quarter, OPCL received 59 inquiries in the form of emails or letters from members of the public and non-federal entities. After a thorough review, OPCL determined that only one 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 6/27/11 will be reviewed and counted in the fourth quarter of fiscal year 2011.