

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**



SECOND QUARTER 2012

JANUARY 1, 2012 – MARCH 31, 2012

I. INTRODUCTION

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, 121 Stat. 266, 360-62 (codified at 42 U.S.C. § 2000ee-1) (hereinafter “Section 803”), requires a senior official to serve as the Attorney General’s 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 second quarter report for fiscal year 2012 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, testimony, and reports for privacy and civil liberties issues;
2. Initial Privacy Assessments (IPA) reviews – 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 only 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 PIAs that have been reviewed and approved by OPCL and the CPCLO;
4. System of Records Notice (SORN) reviews – For purposes of this report, the number represents only those SORNs reviewed and approved by OPCL and the CPCLO that result in a published SORN for which the comment period has exhausted;
5. Associated Privacy Act exemption regulation reviews – For purposes of this report, the number represents only those exemption regulations that have been reviewed and approved by OPCL and the CPCLO that result in a published regulation for which the comment period has exhausted;
6. Information collection notices reviews – For purposes of this report, this number represents only those reviews of Privacy Act information collection notices conducted by OPCL 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 and for which the reviews have been submitted to OPCL. These reviews are conducted on an annual basis in coordination with the Federal Information Security Management Act reviews;
8. Data breach and incident reviews – For purposes of this report, this number includes only those breaches and incidents that are formally reviewed by the Department’s Core Management Team; and
9. Privacy Act amendment appeal reviews – For purposes of this report, this number represents the number of appeals adjudicated and closed by OPCL.

2012 SECOND QUARTER PRIVACY REVIEWS

REVIEW TYPE	NUMBER OF REVIEWS
Legislation, testimony, and reports reviews	52

Initial Privacy Assessments reviews	15
Privacy Impact Assessments reviews ¹	1
<ul style="list-style-type: none"> • Department of Justice Employee Assistance Program (EAP) Records 	
System of Records Notices reviews ²	4
<ul style="list-style-type: none"> • Terrorist Screening Records System, DOJ/FBI-019 • Telephone Activity Records System, JUSTICE/BOP-011 • Inmate Electronic Message Record System, JUSTICE/BOP-013 • Department of Justice Employee Assistance Program (EAP) Records, DOJ-015 	
Privacy Act exemption regulations reviews	0
Information collection notices reviews	1
Data breach and incident reviews	0
Privacy Act amendment appeal reviews	8

III. ADVICE

Formal Advice encompasses the issuance of formal 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. Examples of advice and responses to advice provided may include issuance of regulations, orders, guidance, agreements, or training.

¹ The Department of Justice posts its non-national security system Privacy Impact Assessments at www.justice.gov/opcl/pia.htm.

² The Department of Justice posts its system of records notices, including any modifications, at www.justice.gov/opcl/privacyact.html.

2012 SECOND QUARTER ADVICE PROVIDED

1. OPCL's video-taped Privacy Act training through Office of Legal Education
2. OPCL's Privacy Act/Freedom of Information Act Interface Training 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 and/or OPCL. 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 and/or OPCL.

Dispositions of Complaints

For each type of privacy or civil liberties complaint received by the CPCLO and/or OPCL during the quarter, the report will include 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.

2012 SECOND QUARTER COMPLAINTS³		
COMPLAINT TYPE	NUMBER	ACTION TAKEN
Privacy	0	None required
Civil Liberties	0	None required

³ For the second quarter, OPCL received 74 inquiries in the form of phone calls, 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 privacy or civil liberties complaints against the Department.