



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

ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

Dear Mr. Chairman:

Pursuant to section 803, Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act"), this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees.

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

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

Enclosure:
As stated

cc:
The Honorable James Inhofe
Ranking Member

**Department of Defense
Privacy and Civil Liberties Activities
Section 803 of the “Implementing Recommendations of the 9/11 Commission Act of 2007”
1st Quarter Fiscal Year 2013 – October 1, 2012 to December 31, 2012**

A. Number and Types of Reviews¹ Undertaken

Computer Matching Programs	1
Privacy Act Statements	725
Privacy Act Systems of Records Notices (SORNs) with applicable exemptions	203
Section (m) Contract Reviews	16

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. § 552a; OMB Circular A-130, Appendix 1; and OMB Memo M-07-16. Examples of reviews may include a Privacy Impact Assessment, OMB Circular A-130 Privacy Act reviews (new and updated system of records reviews and reviews of proposed rules for Privacy Act exemptions), or OMB Circular A-130 Computer Matching reviews.

B. Type of Advice Provided¹ and the Response to Advice²

Advice Provided	Response to Advice
0	0

Note: In the report for this quarter, the definitions for the terms “advice provided” and “response to advice” were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions identify instances of formal, written guidance from DoD Component leaders in the areas of privacy and civil liberties. The revised definitions are more consistent with the definitions used for the same terms by other agencies required to submit “Section 803” reports. The revised definitions will be used in reports for subsequent quarters.

¹ Advice provided is the written issuance of policies, procedures, or guidance pertaining to privacy and civil liberties issued by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy or Component Chief Civil Liberties Officers.

² Response to advice is specific action taken by a DoD Component implementing the advice provided by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy or Component Chief Civil Liberties Officers. Examples of a response to advice may include: guidance, new procedure, or training.

C. Nature, Number, and Disposition of Complaints¹ Received

Nature of Privacy Complaints	Number Received	Disposition of Complaint	
		Responsive Action Taken ²	Pending ³
Process and Procedure	25	11	14
Redress	0	0	0
Operational	5	5	0
<i>Sub Total for Privacy Complaints:</i>	<i>30</i>	<i>16</i>	<i>14</i>
Nature of Civil Liberties Complaints			
First Amendment	8	5	3
Second Amendment	1	1	0
Fourth Amendment	3	2	1
Fifth Amendment	2	0	2
Sixth Amendment	1	0	1
Fourteenth Amendment	2	1	1
Second and Fourth Amendments	1	0	1
<i>Sub Total for Civil Liberties Complaints:</i>	<i>18</i>	<i>9</i>	<i>9</i>
TOTAL for 1st Qtr FY13	48	25	23

¹ A complaint is an assertion alleging a violation of privacy and/or civil liberties. Privacy complaints typically allege violations of: (1) process and procedural issues (consent, collection, disclosure, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (Privacy Act matters not including requests for access, disclosure, and/or amendment). Civil liberties complaints typically allege a violation of the Bill of Rights or other Amendments to the Constitution of the United States.

² Responsive action taken means the complaint was reviewed and a responsive action was taken and/or the complaint was resolved.

³ Pending means that the complaint is being reviewed to determine the responsive action and/or resolution.



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

FEB 19 2013

Dear Mr. Chairman:

Pursuant to section 803, Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act"), this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

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The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees.

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

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member



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ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

Dear Madam Chairman:

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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



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ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

Dear Mr. Chairman:

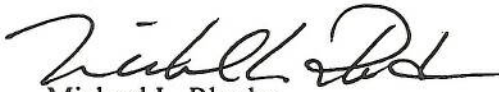
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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

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



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
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The Honorable Patrick J. Leahy
Chairman
Committee on Judiciary
United States Senate
Washington, DC 20510

FEB 19 2013

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



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ADMINISTRATION AND
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The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

FEB 19 2013

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Michael L. Rhodes
Senior Agency Official for Privacy
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Enclosure:
As stated

cc:
The Honorable John Conyers, Jr.
Ranking Member



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ADMINISTRATION AND
MANAGEMENT

The Honorable Thomas Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

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Enclosure:
As stated

cc:
The Honorable Tom Coburn
Ranking Member



ADMINISTRATION AND
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OFFICE OF THE SECRETARY OF DEFENSE

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

FEB 19 2013

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Enclosure:
As stated

cc:
The Honorable Elijah E. Cummings
Ranking Member