

Department of Defense
Report on Privacy Activities
Section 803 of 9/11 Commission Act of 2007
3rd Quarter FY10 – April 1, 2010 to June 30, 2010

Introduction

The policy of the Department of the Defense is to protect the privacy of individuals by ensuring that when executing its programs and policies, the Department gives due consideration and regard for information privacy. In recognition of global expansion of information technology posing new threats to individual privacy, the Department continues efforts to strengthen its privacy oversight responsibilities. In addition, actions continue to review a wide variety of activities and procedures within DoD to find opportunities to enhance protections of the privacy of individuals.

Department Actions

The Defense Privacy and Civil Liberties Office is responsible for all privacy functions delineated by authorities, including the Privacy Act of 1974, 5 USC 552a, as implemented by the Office of Management and Budget, OMB Circular A-130, Appendix 1; Federal Information Security Management Act of 2002 (FISMA); DoD regulatory authority DoD Directive 5400.11, Department of Defense Privacy Program and DoD 5400.11-R, DoD Privacy Program.

Section 803 of the Implementing Recommendations of the 9/11 Commission Act of 2007, P.L. 110-53, established additional privacy requirements for the Department of Defense.

Quarterly Report

The Department has developed a standard reporting framework and instructions to address Section 803 reporting requirements tailored to its mission and functions. The 3rd quarter report for FY10 consolidates all privacy activities of the DoD and Component Privacy Offices responsible for privacy functions, including data on the related reviews conducted reference to the advisory guidance delivered, and information about written complaints received and processed. The report is as follows:

**Department of Defense
Report on Privacy Activities
Section 803 of 9/11 Commission Act of 2007
3rd Quarter FY10 – April 1, 2010 to June 30, 2010**

A. Types of Privacy Reviews

Privacy Act Statements (PAS)	1095
Privacy Act Systems of Records (SORNs) with applicable associated exemptions	363
Computer Matching Program(s)	2

B. Topics of Advice and Responses Given

Collection, Use, Disclosure, Protection of PII	11253
Privacy Act Program Requirements /Principles	9281
SSN and PII Reduction Actions	2344
Privacy Compliance/DITPR Reporting	858
Website Safeguards	5456
Privacy Compliance in Agency Publication	398
Privacy Act Violations	1625
Privacy Act Systems of Records Notices (SORNs)	1738
PII Breach Notification/Identity Theft	4290
Privacy Presentations	6447
Privacy Impact Assessments (PIA)	1100
Training Requirements	10335
Privacy Reports	141

C. Privacy Complaints and Dispositions

Type/Nature of Complaint or Alleged Violation	Number of Complaints	Disposition of Complaint		
		Responsive Action taken ¹	No Action Required ²	Pending ³
Process and Procedure (Compliance Matters)	7	7	0	0
Redress	0	0	0	0
Operational (Collection, Use, Disclosure Issues)	3	3	0	0
Referred to Other Agency(s)	0	0	0	0
Other	0	0	0	0
Total for 3rd Qtr FY10	10	10	0	0

Dispositions of complaints are reported in one of the following categories:

¹*Responsive Action Taken.* The complaint was reviewed and a responsive action was taken.

²*No Action Required.* The complaint did not ask for or require a DoD action or response.

³*Pending.* The complaint is being reviewed to determine the appropriate response.



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

AUG 16 2010

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period April 1, 2010 to June 30, 2010, Quarter 3.

The point of contact for this report is Mr. Samuel P. Jenkins, Director for Privacy, Defense Privacy and Civil Liberties Office, who can be reached at (703) 607-2943 or Sam.Jenkins@osd.mil.

Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable John McCain
Ranking Member





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

ADMINISTRATION AND
MANAGEMENT

The Honorable Ike Skelton
Chairman
Committee on Armed Services
U. S. House of Representatives
Washington, DC 20515

AUG 16 2010

Dear Mr. Chairman:

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Howard P. "Buck" McKeon
Ranking Member





ADMINISTRATION AND
MANAGEMENT

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

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

AUG 16 2010

Dear Mr. Chairman:

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Jeff Sessions
Ranking Member





ADMINISTRATION AND
MANAGEMENT

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

The Honorable John Conyers
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

AUG 16 2010

Dear Mr. Chairman:

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Sincerely,

Michael L. Rhodes

Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Lamar Smith
Ranking Member





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

ADMINISTRATION AND
MANAGEMENT

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

AUG 16 2010

Dear Mr. Chairman:

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Susan M. Collins
Ranking Member





ADMINISTRATION AND
MANAGEMENT

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

The Honorable Edolphus Towns
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

AUG 16 2010

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period April 1, 2010 to June 30, 2010, Quarter 3.

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Darrell E. Issa
Ranking Member





ADMINISTRATION AND
MANAGEMENT

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

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

AUG 16 2011

Dear Madam Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period April 1, 2010 to June 30, 2010, Quarter 3.

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Christopher S. Bond
Vice Chairman





ADMINISTRATION AND
MANAGEMENT

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

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

AUG 16 1999

Dear Mr. Chairman:

Pursuant to Section 803 of the "Implementing Recommendations of the 9/11 Commission Act of 2007," Public Law 110-53, please find enclosed the Department of Defense quarterly report. The report compiled privacy activities of the Department and its Components for the period April 1, 2010 to June 30, 2010, Quarter 3.

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Sincerely,

Michael L. Rhodes
Senior Agency Official for Privacy

Enclosure:
As stated

cc:
The Honorable Peter Hoekstra
Ranking Member



SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
3RD QFY10 - APRIL 1 TO JUNE 30, 2010

10 COMPLAINTS

Agency Name: Defense Commissary Agency

1. Description of Complaint: Complaint from DeCA East Director of Operations regarding a security requirement for the posting of security container notices containing PII in commissary safes.

Findings: Security requires the posting of a list of individuals having authorization to access commissary safes. The form designated also contains an individual's home phone number. Also, the form in use is available through the agency forms program and failed to include the page on which the e(3) statement was located.

Disposition: Advised DeCA East to place the form in an envelope within the safe, but not to display it on the door in a transparent sleeve as is common. Further asked the Publication Manager to ensure that the form available contains the requisite e(3) statement.

Agency Name: Department of the Navy

2. Description of Complaint: Complaint from Southeast Regional Maintenance Center (SERMC) Mayport employee that a timekeeping form was requiring the full SSN. The employee questioned its necessity.

Findings: Some divisions within SERMC were using the old timekeeping form that still required the full SSN. The SERMC Privacy Officer alerted the Division responsible at SERMC to make sure they updated their timekeeping form.

Disposition: SERMC Privacy Officer worked with the SERMC Division responsible to ensure all forms were updated and required only the last four of the SSN.

3. Description of Complaint: Complaint from SERMC employee that another Command at NAVSTA Mayport had posted PII data, name and last four, on a shared drive that was not protected from view by all.

Findings: A spreadsheet with PII data, name and last four of the SSN was posted on the shared drive without ensuring it was encrypted, password protected or locked down to viewing only by personnel with a need to know. NAVSTA Mayport Privacy Officer

was notified, who in-turn, contacted the Division within NAVSTA that was responsible and resolved the issue.

Disposition: SERMC IT worked with NAVSTA Mayport to resolve the issue. The file was removed from the shared drive and personnel counseled on the responsibility of proper protection of PII files on shared drives.

4. Description of Complaint: Commander, Navy Region Southwest (CNRSW) received informal complaint from a DON retiree/civil service employee with respect to the unnecessary collection of the SSN by the CNRSW N3 program for the purpose of renewing POV access to installation properties. An informal investigation was convened.

Findings: A form was being used to collect information for this purpose; the form called for the collection of the SSN.

Opinion: the law does not require collection of the SSN for this purpose. **Policy:** Do not collect the SSN unless it is required by statute for the intended purpose.

Disposition: CNRSW N3 has ceased the collection of the SSN for this purpose.

5. Description of Complaint: Complaint from an employee that her SF 50 containing PII was laying in her mailbox without being in a sealed envelope for all to see.

Findings: Department Head admitted to placing the SF-50 in the employee's mailbox without thinking and stated she normally places the SF 50s in a sealed envelope.

Disposition: Department Head has requested HR not to provide hard copies of SF 50s since they can be accessed by the employee via a secure site website.

6. Description of Complaint: Complaint from an employee that a ward clerk (contractor) was using PII to log into training sites and change employees passwords in order to complete their HIPAA training.

Findings: Employee admitted using PII to change passwords on training sites to aid the employees in completing their training. Employee stated this was done with no malicious intent. He was trying to ensure the unit had no delinquencies.

Disposition: Employee was verbally counseled and is no longer a contractor at NNMC.

7. Description of Complaint: Complaint from a Navy military member that his most recent promotion recommendation was revealed by another Navy military member to a Department of the Navy (DON) civilian employee who did not have a need for the information in the performance of assigned duties.

Findings: A JAGMAN investigation determined that the applicable promotion recommendation was provided to the DON civilian employee without a justified "need to know" by the civilian employee. The subject of the investigation had completed new employee Privacy Act training and annual Personally Identifiable Information (PII) training.

Disposition: The subject of the investigation fully cooperated, was honest with the investigator, and was conciliatory regarding an isolated misstep. The subject of the investigation received a non-punitive letter of caution as a result of the inappropriate communication.

Agency Name: Department of the Army

8. Description of Complaint: This complaint originated from a DoD Civilian who was also a military retiree attempting to obtain a post pass for his visiting niece who was a Korean Citizen. The form he was being asked to complete was asking for PII on him and his niece so he inquired about the privacy statement for the form. The staff stated they did not need a privacy statement for a foreign national and he replied he was a US citizen and that they needed one to collect his information. He refused to complete the form and left. On 12 May 2010, he filed a privacy complaint.

Findings: The information was requested in conjunction with DoD Installation security requirements; however, at the completion of the investigation it was found that the installation is responsible for creating a regulation to clarify its individual procedures and requirements.

Disposition: The installation is in the process of writing the required regulation. In the mean time the form has been suspended and only information from the foreign national is being requested. All PMO personnel are receiving refresher training on the Privacy Act which is expected to be completed by 30 June 2010.

Agency Name: Defense Contract Management Agency

9. Description of Complaint: An employee complained that another DCMA employee forwarded his personal information to a group of five employees and that only two had the need to know.

Findings: The complainant provided a copy of his educational transcript to verify he met requirements for certification. Since there had been previous questions/issues pertaining to this individual's certification (involving the chain of command and the workforce development manager), the approving official copied the training coordinator as well as those in the

employee's supervisory chain to indicate that the employee met the requirements and that the issue had been resolved.

Disposition: The Privacy Officer notified the employee that the Privacy Statement on the form indicates that "The primary use is by management to review, approve, and record your request for DAWIA Certification" and that it appears that the information was collected and shared for the purposes stated on the form. The applicable System of Records Notice (SORN) was cited, with specific information pointed out as to the routine uses. Additionally, the employee was advised that the information was sent and contained within the firewalls and that the email was digitally signed and encrypted. Finally the employee was advised that, from all indications, it appeared that the information was not used for any purpose other than for the purpose collected.

10. Description of Complaint: An employee contacted the Privacy Officer complaining that her Privacy Act rights had been violated by her supervisor. The employee stated that she provided her application package for Level I certification to her supervisor for signature and that her supervisor then scanned and forwarded the information without her permission to individuals who may not have a legitimate need to know.

Findings: In the Privacy Officer's absence, the employee was contacted by the Senior Privacy Official who explained that it appeared that the supervisor had provided the information to those with a need to know in order to determine eligibility for the certification; likely a legitimate release of the information. The Senior Privacy Official stated that if there were additional circumstances to be taken into consideration, to provide additional substantiating information.

Disposition: The Privacy Officer followed up, stating additional information would be needed to indicate that a violation of the Privacy Act had taken place. No further information was provided and the issue was closed out.