



**Central Intelligence Agency**  
**Office of Privacy and Civil Liberties**  
803 Semiannual Report to Congress

July 31, 2019 – December 31, 2022  
803 Reports cover the prior Fiscal Year



February 8, 2023

I am pleased to present the Section 803 Report of the Central Intelligence Agency's (CIA) Office of Privacy and Civil Liberties (OPCL), covering the period of July 1, 2019 to December 31, 2022. As noted on the cover page, CIA's 803 Reports review the activities of the prior Fiscal Year.

As detailed in this report, OPCL advises components and senior agency officials regarding the protection of privacy and civil liberties in the conduct of the Agency's authorized intelligence mission and to conduct reviews to ensure CIA fulfills its obligation to appropriately protect the privacy rights and civil liberties of every American.

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## I. Purpose and Scope

The Central Intelligence Agency (“CIA” or “Agency”) submits this Semiannual Report of the CIA’s Office of Privacy and Civil Liberties (OPCL) summarizing the activities of the CIA Privacy and Civil Liberties Officer (“PCLO”) for the reporting period of July 1, 2019 to December 31, 2022, in accordance with Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended.<sup>1</sup> This report provides an overview of the activities of the Privacy and Civil Liberties Officer and a summary of notable initiatives undertaken during the reporting period.

The report also provides representative examples of the type of advice provided; the number and type of privacy and civil liberties reviews undertaken; and the number, nature, and disposition of complaints received. As required by statute, this report has been prepared to the greatest extent possible in unclassified form.<sup>2</sup> As such, there is no classified annex to this report.

## II. Overview of the Office of Privacy and Civil Liberties

CIA’s OPCL is led by the PCLO, a senior Agency official charged pursuant to the *Implementing Recommendations of the 9/11 Commission Act*<sup>3</sup> with the following responsibilities:

- Assist the CIA Director and other Agency officials in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;
- Periodically investigate and review CIA actions, policies, procedures, guidelines, and related laws and their implementation to ensure the CIA is adequately considering privacy and civil liberties in its actions;
- Ensure the CIA has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege that CIA has violated their privacy or civil liberties; and

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<sup>1</sup> 42 U.S.C. § 2000ee-1(f)(2018).

<sup>2</sup> 42 U.S.C. § 2000ee-1(g)(2018).

<sup>3</sup> 42 U.S.C. § 2000ee-1(a)(2018).

- In providing advice on proposals to retain or enhance a particular governmental power available to CIA, include consideration of whether the Agency has established that the need for the power is balanced with the need to protect privacy and civil liberties; that there is adequate supervision of the use by CIA of the power to ensure protection of privacy and civil liberties; and that there are adequate guidelines and oversight to properly confine its use.

The PCLO also serves as the CIA's designated Senior Agency Official for Privacy (SAOP) and the CIA Information Sharing Environment (ISE) Privacy Official. As the SAOP, the PCLO represents CIA on the [Federal Privacy Council](#) (FPC), the principal interagency forum established by Executive Order 13179 to improve privacy practices at agencies across the Federal Government. The PCLO also serves as the CIA's liaison to the Privacy and Civil Liberties Oversight Board (PCLOB).

The PCLO has the additional duty and responsibility as CIA's Transparency Officer, in support of the Intelligence Community's [Principles of Intelligence Transparency](#). In this role, the PCLO proactively engages in various initiatives to enhance public understanding of intelligence activities needed to accomplish the national security mission.

A team of dedicated privacy and civil liberties officers supports the PCLO, who works closely with the Office of the Director, other Agency Directorates, Mission Centers, and components to ensure privacy and civil liberties safeguards are fully considered in the day-to-day conduct of the Agency's complex and varied intelligence mission. OPCL officers have diverse experience from across the CIA, executive branch agencies, and other Intelligence Community (IC) elements. OPCL receives legal advice from a dedicated counsel within the Office of the General Counsel. OPCL officers receive specialized training in privacy and civil liberties and have backgrounds in law, information management, intelligence collection and analysis, security, and federal litigation. In addition, the PCLO receives the benefit of a specialized data privacy attorney from CIA's Office of General Counsel.

### III. Notable Initiatives

The following sections provide a brief summary of several notable initiatives undertaken during the reporting period.

## CIA's Executive Order 12333 Attorney General Guidelines

Executive Order 12333 (EO 12333) requires that the CIA collect, retain, and disseminate intelligence information concerning U.S. persons in accordance with procedures established by the Director of the CIA and approved by the Attorney General, after consultation with the Director of National Intelligence.

In 2017, the CIA worked with the Department of Justice and the Office of the Director of National Intelligence to update CIA procedures for implementing EO 12333. CIA's revised EO 12333 implementing procedures are referred to as the "Attorney General Guidelines" and were revised, in part, to respond to new law that requires every IC element to purge unevaluated, nonpublic communication within five years.<sup>4</sup>

In recognition of the heightened privacy concerns surrounding electronic communications, the revised Attorney General Guidelines impose exceptional handling requirements on unevaluated electronic communications. The guidelines limit access to such communications, require training in the handling of such communications, and with limited exceptions, require the destruction of communications subject to these more stringent handling requirements no later than five years after the communications have been made available to CIA intelligence professionals. The revised Attorney General Guidelines are one of several authorizations and restrictions in place to ensure the CIA engages in its foreign intelligence, counterintelligence, and covert action missions in support of national security objectives in a manner that respects Americans' privacy rights and civil liberties.

During this reporting period, OPCL continued its work regarding implementation of Section 5 of the Attorney General Guidelines. Section 5 governs the initial approval and documentation of the acquisition of bulk and other large data sets. Exceptional handling data is unevaluated data that can only be held for up to five years while awaiting evaluation. It consists of large amounts of data that contain communications such as nonpublic telephone communications that were obtained without the consent of a party to the communication; it may also contain other unevaluated information that may consist of United States Person personally identifiable information (PII).<sup>5</sup>

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<sup>4</sup> See <https://www.cia.gov/about-cia/privacy-and-civil-liberties/CIA-AG-Guidelines-Signed.pdf>. A comprehensive explanation of the revised Attorney General Guidelines can be found at <https://www.cia.gov/about-cia/privacy-and-civil-liberties/Detailed-Overview-CIA-AG-Guidelines.pdf>.

<sup>5</sup> "Personally Identifiable Information (PII) refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual." OMB M-17-12, "Preparing for and Responding to a Breach of Personally Identifiable Information." January 3, 2017.

Consistent with OPCL’s statutory role to conduct reviews, OPCL has been designated as the lead entity within the CIA to conduct oversight reviews of the Agency’s implementation and use of the revised Attorney General Guidelines. During this reporting period, OPCL continued to support the Attorney General Guidelines implementation by meeting to ensure teams have the processes to preempt threats and further U.S. national security objectives by collecting foreign intelligence and counterintelligence in a lawful and appropriate manner with full consideration of the rights of United States Persons, including freedoms, privacy rights and civil liberties. In addition, OPCL facilitated the request for metrics from Agency components to ensure components were in compliance with the revised Attorney General Guidelines.

During this reporting period, OPCL submitted its report to Office of the Director of National Intelligence (ODNI) Office of Civil Liberties Privacy and Transparency (CLPT), which coordinated an IC-wide report to Congress concerning best practices for protecting the privacy and civil liberties of Chinese Americans, as required by Section 5712 of the National Defense Authorization Act (“NDAA”) for Fiscal Year 2020.

### Privacy and Civil Liberties Oversight Board Engagement

OPCL continued to engage on substantive issues with the PCLOB during this reporting period. The PCLOB is an independent, bipartisan agency within the Executive branch established by the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended.<sup>6</sup> The PCLOB’s enabling statute, codified by 42 U.S.C. § 2000ee, vests it with two fundamental authorities: (1) to review and analyze actions the Executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties, and (2) to ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation from terrorism.

During this reporting period, OPCL engaged with PCLOB regularly in both their oversight capacity and their advisory capacity. OPCL participated in PCLOB’s Machine Learning Working Group, which brought together IC elements in PCLOB’s convening capacity to ensure protections for AI/ML were built into IC elements’ programs and processes. OPCL has worked with the PCLOB to increase transparency, specifically collaborating on the declassification of substantial portions of PCLOB Deep Dives into two CIA EO 12333 programs. Additionally, OPCL has worked to implement PCLOB recommendations and provided input to multiple ongoing reviews – including

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<sup>6</sup> *Id.* at 4.

the FISA 702 Program. In 2022, OPCL arranged a meeting between the Director of the CIA and the new PCLOB Chair and a second meeting between the Director and PCLOB Board members.

## Workforce Engagement

OPCL provides numerous educational and training opportunities for the Agency workforce to increase the Agency's awareness of privacy and civil liberties requirements, protections, and resources. During this reporting period, OPCL engaged with CIA software developers and program managers about artificial intelligence (AI) ethics and implementation of the IC AI Ethics Framework and Principles.<sup>7</sup> OPCL continued to offer online training and conducted in-person training regarding the requirements of the [Privacy Act of 1974, as amended](#), (hereinafter Privacy Act) and safeguarding PII in Agency systems.

Additionally, more specialized briefings were provided to various components within the Agency. For example, OPCL briefed internal stakeholders on how to identify breaches, incidents, Privacy Act violations and Privacy Act disclosures and provided briefings to cybersecurity stakeholders on requirements under the Committee on National Security Systems for protecting PII. As a key initiative, OPCL also assists with training in support of Constitution Day every year to ensure the workforce understands how our authorities, oversight, and mission relate to the Constitution. These programs are multifaceted and engage the workforce with senior leadership.

OPCL continues to engage the workforce by creating tools and resources that will help guide the Agency workforce in implementing privacy and civil liberties safeguards into various programs and activities. During this reporting period, OPCL drafted the CIA Artificial Intelligence Ethics Framework to provide the Agency workforce with a practical approach to ensure that AI protects privacy and civil liberties.

## Interagency Engagement

OPCL serves as CIA's focal point for interactions with counterpart privacy and civil liberties organizations within the ODNI, the Office of Management and Budget (OMB), the Department of

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<sup>7</sup> Artificial Intelligence is defined as “[a]ny artificial system that performs tasks under varying and unpredictable circumstances without significant human oversight, or that can learn from experience and improve performance when exposed to data sets; [a]n artificial system developed in computer software, physical hardware, or other context that solves tasks requiring human-like perception, cognition, planning, learning, communication, or physical action; [a]n artificial system designed to think or act like a human, including cognitive architectures and neural networks; [a] set of techniques, including machine learning, that is designed to approximate a cognitive task; [a]n artificial system designed to act rationally, including an intelligent software agent or embodied robot that achieves goals using perception, planning, reasoning, learning, communicating, decision making, and acting.” [John S. McCain National Defense Authorization Act, Pub. L. No. 115-232 § 1051\(f\) \(2019\)](#).



Justice (DOJ), Intelligence Community (IC) elements, and other departments and agencies within the Executive branch, regarding privacy and civil liberties matters.

Representative examples of interagency engagement include the following:

- Working with an IC-wide group to finalize and publish the [\*Principles of AI Ethics for the Intelligence Community\*](#) and the [\*AI Ethics Framework for the Intelligence Community\*](#) and teaching AI ethics at multiple intergovernmental venues;
- Meeting with privacy and civil liberties offices from other IC elements to exchange best practices and provide guidance;
- Helping plan events and speaking on panels at the Federal Privacy Summit hosted by the Federal Privacy Council;
- Providing guidance at the Federal Privacy Council's Boot Camp on protecting privacy and civil liberties in the IC;
- Participating in [FPC](#) meetings and other interagency groups, such as the Intelligence Community Civil Liberties Privacy Council;<sup>8</sup> and
- Preparing a series of articles for the IC about privacy and civil liberties to increase awareness of privacy and civil liberties resources and celebrate Data Privacy Day.

## Public Engagement

Consistent with the [\*Principles of Intelligence Transparency for the Intelligence Community\*](#), OPCL conducts activities to inform the public about the laws, directives, authorities, and policies governing intelligence activities and the compliance and oversight frameworks in place that ensure such activities are conducted in a manner that respects privacy and civil liberties. It is important to highlight OPCL's strategy to ensure transparency with the public shifted in response to shifting opportunities during the COVID-19 pandemic, with more virtual engagements than in previous years.

When possible, OPCL officers conducted panel discussions at numerous universities and law schools in person during this reporting period and sent representatives to conferences and symposia. Representative examples include attendance at The Intelligence Oversight Forum sponsored by the UN Special Rapporteur for Privacy, speaking at the National Security Girls Squad conference in 2020, and speaking at the American Bar Association's National Security conference on AI ethics in

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<sup>8</sup> Created by the White House in 2016, the FPC is an interagency structure that supports Federal agencies in protecting privacy rights through various means, including promoting collaboration between Federal privacy personnel, developing recommendations for the Office of Management and Budget, informing government-wide priorities and identifying more effective ways to protect privacy rights.

the IC. OPCL officers also spoke at multiple professional conferences on topics ranging from applying Committee on National Security Systems protections to how protecting privacy and civil liberties is a national security objective.

OPCL also maintains the Office of Privacy and Civil Liberties section of the CIA's public website to ensure the public understands our role and how to file complaints and access oversight reports.

During this reporting period, OPCL undertook a substantial effort to update its [System of Records Notices \(SORNS\)](#).<sup>9</sup> SORNs are required under the Privacy Act to be updated and published publicly to be transparent with the public about how CIA collects, uses, shares, and disposes of records about U.S. citizens and Lawful Permanent Residents. CIA's SORNs can be accessed on the Federal Register's open website.

#### IV. Representative Examples and Metrics

In addition to the notable initiatives discussed above, this section describes representative examples and metrics regarding the activities of OPCL in carrying out the PCLO statutory responsibilities during the period covered in this report in each of the areas enumerated in Section 803 of the *Implementing Recommendations of the 9/11 Commission Act*, as amended.<sup>10</sup>

##### Advice

OPCL provides advice to CIA components to ensure Agency programs and activities incorporate appropriate privacy and civil liberties protections. Advice includes providing information, guidance or assistance to Agency components. Advisory activities are generally forward-looking and may involve a proposed course of action or providing comments on a proposed rule, policy, or guidance. During this reporting period, OPCL provided advice to various Agency Directorates and components, ODNI, other IC elements, and Executive Branch agencies on matters ranging from inter-agency initiatives to requests for advice regarding the Privacy Act,<sup>11</sup> the proper handling of PII, implementation of the EO 12333 implementing guidelines, and other matters.

Representative examples include the following:

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<sup>9</sup> SORNs are public-facing documents published in the Federal Register which inform the public of the existence of records and provides notice to the public of their rights and procedures under the Privacy Act of 1974, as amended.

<sup>10</sup> *Id.* at 4.

<sup>11</sup> 5 U.S.C. § 552a (2015).

- OPCL provided advice in support of CIA's artificial intelligence strategy;
- OPCL advised CIA components on how to identify and respond to breaches, incidents, Privacy Act violations and Privacy Act disclosures;
- OPCL continued to provide input, guidance, and advice to CIA components on the implementation of the revised Attorney General Guidelines;
- OPCL conducted meetings with Agency offices and components, including system developers, to advise on the requirements under the Privacy Act and the applicability of System of Records requirements;
- OPCL continued to provide substantive input and comments on proposed policy initiatives or frameworks on matters involving security, data access, and training requirements to ensure the appropriate consideration of privacy and civil liberties in Agency activities;
- Provided advice regarding business processes and systems that provide administrative support to CIA; and
- OPCL provided advice regarding privacy and civil liberties protections in CIA's workforce implementation of White House requirements.

## Reviews

OPCL reviews CIA systems, processes, programs, and activities to ensure adherence to applicable laws, regulations, and policies, such as the Privacy Act and the Attorney General Guidelines, implementing Section 2.3 of Executive Order 12333, as amended.

For the purposes of this report, reviews are distinguished from the provision of advice insofar as a review consists of an assessment regarding whether an existing system, process, program, or activity complies with law, regulation, or policy, in contrast to providing advice, which consists of assessing a proposed system, action, or procedure. A review may be formal and responsive to a complaint or responsive to OPCL's periodic investigation and review of Agency systems, processes, programs, or activities. Often, several separate actions may take place to complete a review. When there is one output, such as a report, these actions will be counted as one review.

OPCL continued to review CIA processes, procedures, systems, and activities during this reporting period, but shifted focus due to COVID related resource restrictions on education and policy development. As part of CIA's commitment to the Principles of Intelligence Transparency for the IC, OPCL also consulted with the PCLOB and the ODNI to release materials related to two PCLOB reviews of certain counterterrorism-related intelligence activities conducted under EO 12333. Additionally, OPCL participated in the interagency process of reviewing E.O. 14086, Enhancing Safeguards for United States Signals Intelligence Activities, which ensures signals intelligence takes into account that individuals of all nationalities, wherever they reside, have a

legitimate privacy interest in the handling of their PII. Additionally, OPCL reviewed a system and its processes pursuant to E.O. 12333 and conducted a review of a tool to ensure technical compliance with the Privacy Act.

## Complaints

Complaints include any concerns raised by members of the public, CIA staff or contractors, or any other government officials to the PCLO indicating a possible violation of privacy protections or civil liberties in the administration of the programs and operations of CIA. The complaint received from CIA personnel and public are indicated in the below illustrations. The PCLO conducted both internal reviews and inquiries to assess the nature of the complaints and their dispositions. The PCLO reviews each complaint from both internal and external to the CIA. During this reporting period, the PCLO notes that the COVID-19 pandemic caused novel and unique thematic privacy questions and complaints. During this period, OPCL worked closely with internal stakeholders on frequently asked questions, developed internal tracking systems consistent with the Fair Information Practice Principles (FIPPs), and met individually with CIA employees on how to navigate a safe workforce, while protecting the privacy of individuals.

In addition to this uptick in internal complaints received during this time period, OPCL also received an influx of seventeen (17) internal inquiries seeking clarification and practical guidance on implementing the various COVID policies and processes without compromising the protection of the PII and privacy rights of Agency personnel.

Members of the public may continue to contact the CIA PCLO to make a complaint that indicates a possible violation of privacy protections or civil liberties in the administration of CIA programs and operations. Complaints may be submitted via a [complaint web form](#) accessible on [www.cia.gov/privacy](http://www.cia.gov/privacy). A complaint may also be sent via U.S. postal mail to the following address:

Central Intelligence Agency  
Privacy and Civil Liberties Officer  
Washington, D.C. 20505.

OPCL will review all complaints directed to the PCLO. A complaint must state the possible violation of privacy protections or civil liberties with sufficient detail to allow the PCLO to assess the nature of the complaint and whether a remedy may be appropriate. A response by the PCLO will neither confirm nor deny the accuracy of the complaint and/or whether the individual has been subject to CIA action, but will confirm that the complaint has been properly investigated and indicate, when appropriate, that the matter has been remedied or found to be in compliance with

applicable law or policy. OPCL also may refer a complaint to the CIA Office of Inspector General or to another Federal Government agency, as appropriate.

## V. Conclusion

This semiannual report summarizes the CIA OPCL's activities for the reporting period of July 1, 2019 to December 31, 2022. OPCL is committed to ensuring that CIA's activities align with our enduring commitment to protecting privacy and civil liberties.

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Central Intelligence Agency**