



Central Intelligence Agency

Office of Privacy and Civil Liberties

Semiannual Report

July 1, 2018 – December 31, 2018



April 14, 2020

I am pleased to present the Semiannual Report of Central Intelligence Agency's Office of Privacy and Civil Liberties (OPCL), covering the period of July 1, 2018 to December 31, 2018, in accordance with Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended.

As detailed in this report, OPCL continues to advise senior CIA 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 obligations to appropriately protect the rights and liberties of every American.

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Purpose and Scope

In accordance with Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, as amended, this report summarizes the activities of the Central Intelligence Agency's (CIA) Office of Privacy and Civil Liberties (OPCL) for the reporting period of July 1, 2018 to December 31, 2018.¹ This report provides an overview of the role of OPCL 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.²

Overview of the Office of Privacy and Civil Liberties

CIA's OPCL is led by the Privacy and Civil Liberties Officer (PCLO), a senior Agency official charged pursuant to the *Implementing Recommendations of the 9/11 Commission Act*³ with the following responsibilities:

- Assist the Director of CIA 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 that CIA is adequately considering privacy and civil liberties in its actions;
- Ensure that 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
- 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; there is adequate supervision of the use by CIA of the power to ensure protection of privacy and civil liberties; and 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

¹ 42 U.S.C. § 2000ee-1(f) (2012).

² 42 U.S.C. § 2000ee-1(g) (2012).

³ 42 U.S.C. § 2000ee-1(a) (2012).

represents CIA on the Federal Privacy Council, the principal interagency forum established by Executive Order 13179 to improve privacy practices at agencies across the Federal Government.

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, on behalf of CIA, 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, as well as with 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 CIA, other Intelligence Community (IC) elements, and other Executive branch agencies and departments. A senior level Privacy and Civil Liberties Counsel within the Office of the General Counsel also supports OPCL. 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.

I. 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, Section 2.3 requires that the collection, retention, and dissemination of information concerning U.S. persons be conducted only in accordance with procedures established by the head of the Intelligence Community element concerned and approved by the Attorney General, after consultation with the Director of National Intelligence.

CIA's revised implementing procedures (hereinafter, the "Attorney General Guidelines"), which were publicly released in January 2017,⁴ reflect changes in CIA intelligence activities since the 1980s and, in particular, incorporate appropriate updates that relate to the manner in which CIA collects and uses information in a digital and interconnected environment.

Consistent with OPCL's statutory role to conduct reviews, OPCL has been designated as the lead entity within CIA to conduct oversight reviews of the Agency's implementation and use of the Attorney General Guidelines.

During this reporting period, OPCL completed an Agency-wide review of efforts to implement Section 5 of the Attorney General Guidelines, which govern the initial approval and documentation of the acquisition of bulk and other large data sets. This review consisted of

⁴ 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>.

surveys, interviews, and analysis of implementation efforts. During this reporting period, OPCL also initiated a review of CIA's access and training controls for "exceptional handling data" as defined in the Attorney General Guidelines. Exceptional handling data includes nonpublic telephone or electronic communications that were obtained without the consent of a party to the communication as well as other unevaluated information that is anticipated to contain United States personally identifiable information that has been determined to be significant in volume, proportion, or sensitivity. In both these reviews, OPCL highlighted and shared best practices for handling data and provided specific recommendations for continued implementation. During this reporting period, OPCL also supported the Attorney General Guidelines implementation team with planning a 2019 CIA-wide conference highlighting the history of the Guidelines, what is required of CIA under the Guidelines, consequences of not implementing the Guidelines, implementation resources, and the importance of compliance.⁵

Privacy and Civil Liberties Oversight Board Engagement

OPCL continued to interact with the Privacy and Civil Liberties Oversight Board (PCLOB) during this reporting period. The PCLOB was established as an independent, bipartisan agency within the Executive branch by the *Implementing Recommendations of the 9/11 Commission Act*. The PCLOB's enabling statute, codified at 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 kept PCLOB staff apprised of CIA's role in an ongoing inter-agency activity and met with an internal component regarding implementation of PCLOB recommendations made in an earlier report.

Workforce Engagement

OPCL provides numerous educational and training opportunities for the Agency workforce to increase awareness of privacy and civil liberties requirements and available resources. OPCL conducts online and in-person training regarding the requirements of the Privacy Act of 1974⁶ and other protections of personally identifiable information. OPCL also provided more specialized briefings to various components from across the Agency, from diversity and inclusion officers to data scientists, on assessing and safeguarding personally identifiable information in Agency information systems under applicable laws, policies, and guidance. For new Agency employees, OPCL conducts a baseline overview on protecting privacy and civil liberties at CIA and the functions of OPCL, to ensure officers are aware of their responsibilities as they begin their CIA careers. OPCL also conducts more general interest educational events, such as a series of trainings surrounding Constitution Day regarding the continued relevance of the

⁵ Additional information regarding PCLOB activities associated with the conference, held in January 2019, will be included in the January-June 2019 semiannual 803 report.

⁶ 5 U.S.C. § 552a (2015).

debates surrounding the ratification of the Constitution, and facilitated and participated on a panel for the workforce about European Union's General Data Protection Regulation, and provided briefings on protecting PII in Agency systems.

Interagency Engagement

OPCL serves as CIA's focal point for interactions with counterpart privacy and civil liberties organizations within the Office of the Director of National Intelligence (ODNI), the Office of Management and Budget (OMB), the Department of Justice (DOJ), Intelligence Community elements, and other departments and agencies within the Executive branch, regarding privacy and civil liberties matters.

For example, OPCL continued to represent CIA on the Privacy, Civil Rights, and Civil Liberties Working Group for the National Vetting Center,⁷ an interagency effort to ensure that the use of intelligence information in vetting determinations conforms to appropriate privacy, civil rights, and civil liberties requirements. OPCL also regularly participates in the Federal Privacy Council, the Intelligence Community Civil Liberties Privacy Council, and other comparable working groups. In these interagency efforts, OPCL utilizes its advice role to provide guidance and develop practical solutions to ensure the proper handling and utilization of personally identifiable information. OPCL also met with privacy and civil liberties offices from other elements of the Intelligence Community to exchange best practices.

Additionally, OPCL regularly conducts or participates in educational events that extend beyond CIA. During this reporting period, these activities included presenting at the *Federal Privacy Council Privacy Summit* on CIA's approach to protecting civil liberties and, with privacy officers from other Federal agencies, briefing European data protection officials on the United States Government's framework for protecting privacy.

Public Engagement

Consistent with the Intelligence Community's *Principles of Intelligence Transparency*, 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.

As an example, the PCLO worked with the Office of Public Affairs on CIA's public engagement strategy and gave an interview for CIA.gov regarding transparency, privacy, and civil liberties. OPCL also engaged in a variety of outreach activities, including meetings with students, briefing foreign officials about how the U.S. Intelligence Community protects privacy and civil liberties, and engaging with non-governmental organizations and advocates on privacy and civil liberties topics.

⁷ See National Security Presidential Memorandum 9, *Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise* (Feb. 6, 2018).

During this reporting period, an officer from OPCL was honored at the *Federal Privacy Council Privacy Summit*, the annual conference of privacy professionals from across the federal government. This officer received the Award for Exceptional Contributions in Advancing Agency Privacy Missions, recognizing her creation of a CIA workforce course for Constitution Day. Every year, the OPCL celebrates Constitution Day by creating an event to educate the workforce about the Constitution. The 2018 event was a seminar on the Founding Fathers' roles in creating and ratifying the Constitution, how the Constitution creates three branches of government with checks and balances, and how CIA's authorities and oversight are based in the Constitution. Finally, the seminar ties the role of the Privacy and Civil Liberties Office to the Constitution.

II. 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*.

Advice

OPCL provides information, guidance, and/or assistance (generically categorized as "advice") to CIA components to ensure Agency programs and activities incorporate appropriate privacy and civil liberties protections. Advisory activities generally are forward-looking and may involve a proposed course of action or a request for comments on a proposed rule, policy, or guidance. During this reporting period, OPCL provided advice to various CIA Directorates, Mission Centers, and components, ODNI, other IC elements, and Executive branch agencies on a variety of matters to include interagency initiatives, individual requests for advice regarding the Privacy Act of 1974, the proper handling of personally identifiable information, and application of Executive Order 12333 Attorney General Guidelines.

Representative examples include where OPCL:

- Assisted in the development of procedures to govern CIA's response to requests to disseminate the identity of U.S. persons that were not included in previously disseminated intelligence products, as required by Intelligence Community Policy Guidance 107.1.
- Advised several Agency components on how to maintain employee records and information in a more privacy-protective manner by the application of appropriate administrative, technical, and physical safeguards.
- Advised CIA components on the proper protection of personally identifiable information in Agency information systems, in accordance with applicable technical standards.
- Conducted numerous meetings with CIA components to determine the applicability of the Privacy Act to specific data holdings, to include CIA System of Records Notices.

- Continued to provide specific guidance to Agency components about the application of Presidential Policy Directive-28 (PPD-28), *Signals Intelligence Activities*, limitations, principles, and safeguards.

Reviews

OPCL reviews CIA systems, processes, programs, and activities to ensure adherence to applicable laws, regulations, and policies, such as the Privacy Act of 1974, as amended, and the Attorney General Guidelines, implementing Section 2.3 of Executive Order 12333.

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 assessing a proposed system, action, or procedure. A review may be formal and responsive to a complaint or issue that has come to the attention of OPCL or form a part of OPCL’s program of periodic investigation and review of Agency systems, processes, programs, or activities. A review also may be collateral to OPCL providing advice to an Agency Office, Directorate, Mission Center, or component. 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.

The following table provides metrics regarding the instances in which OPCL conducted reviews:

Table I	
Reviews Conducted: July 1, 2018 – December 31, 2018	
Type of Review	Number of Reviews
Related to the Collection, Retention, and Dissemination of U.S. Persons Information	2
Related to Privacy Act Requirements	1
Related to the Use and Handling of Personally Identifiable Information	8
Related to Federal Agency Data Mining Reporting Act of 2007 Requirements ⁸	3
Total Reviews	14

In the reviews related to the collection, retention, and dissemination of U.S. persons information, one review included an Agency-wide review of efforts to implement Section 5 of the Agency’s Attorney General Guidelines, which requires approval and documentation for bulk and certain other collection activities. Another review was conducted pursuant to a data sharing agreement between CIA and another U.S. government entity; as part of the data sharing agreement, OPCL reviews and certifies that the restrictions in the agreement are complied with.

⁸ 42 U.S.C. § 2000ee-3.

In the reviews concerning the Privacy Act of 1974, as amended, OPCL reviewed existing information technology systems to determine whether the system contained information or records subject to the Privacy Act and, if so, determined if Systems of Records Notice requirements about collection, use, and dissemination of data were being met.

In the reviews concerning the use and handling of personally identifiable information, OPCL met with developers, system owners, data stewards, and information management officers to ensure personally identifiable information was being correctly identified and that appropriate safeguards had been put in place to protect against unauthorized access, use, or disclosure of the information.

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.

During the reporting period, OPCL received three complaints from government personnel and nineteen complaints from the public. The PCLO conducted appropriate reviews and inquiries to assess the nature of the complaint and to assess their disposition.

The following tables provide metrics regarding the number, nature, and disposition of the complaints received by the PCLO:

I. Internal complaints:

Nature of Complaint	Number of Complaints	Disposition of Complaint
Allegation that CIA violated a privacy or civil liberty right.	1	Complaint closed after OPCL reviewed the office’s policies and practices and provided guidance for the best way to protect privacy regarding the handling of emergency contact information for CIA personnel.

II. Complaints from the Public:

Nature of Complaint	Number of Complaints	Disposition of Complaint
Allegation that CIA violated a privacy or civil liberty right.	6	Six complaints closed. OPCL determined there was no discernable basis in fact for each of these six complaints.

Individuals alleging that a third party is violating their privacy or civil liberties and requesting CIA intervention.	6	Complaints closed. In each case, OPCL determined there was either no discernable basis in fact for the complaint or the complaint had no nexus to the authorities and activities of the CIA.
Request for assistance or information from CIA.	1	Complaint closed. OPCL determined the request had no discernable nexus to CIA.

Members of the public may 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. A complaint may be sent via U.S. postal mail to the following address:

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

Complaints may also be submitted via a web form available at www.cia.gov/privacy.

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 and/or policy. OPCL also may refer a complaint to the CIA Office of Inspector General or to another federal government entity, as appropriate. Complaints are kept confidential.

III. Conclusion

This semiannual report summarizes CIA OPCL’s activities for the reporting period of July 1, 2018 to December 31, 2018. OPCL is committed to ensuring that CIA’s activities align with an enduring commitment to protecting privacy and civil liberties.



**Office of Privacy and Civil Liberties
Central Intelligence Agency**