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OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE

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**Office of Civil Liberties, Privacy, and  
Transparency Annual Report: 1 January 2023 to  
31 December 2023**

October 2024

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## Message from the Chief

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As the Chief of the Office of Civil Liberties, Privacy, and Transparency (CLPT) for the Office of the Director of National Intelligence (ODNI), and ODNI's Civil Liberties Protection Officer (CLPO) and Chief Transparency Officer, I am pleased to present this report concerning CLPT activities, from 1 January to 31 December 2023, as required by Section 1062 of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004.<sup>1</sup> This report provides an overview of the work that ODNI CLPT's dedicated team of professionals accomplished during that time.



There were several major initiatives that CLPT led during the reporting period, including:

- Foreign Intelligence Surveillance Act (FISA) Section 702: Engagement with Congress, the Privacy and Civil Liberties Oversight Board (PCLOB), the President's Intelligence Oversight Board (IOB), and the public on the value and civil liberties and privacy protections of Section 702 of FISA, which Congress re-authorized in December 2023 for an additional four months while continuing to consider legislative reforms.<sup>2</sup>
- Executive Order (E.O.) 14086 Procedures: Development and issuance of supplemental procedures required under the Data Privacy Framework of E.O. 14086, which provides additional privacy protections for non-United States persons during the conduct of signals intelligence (SIGINT).
- E.O. 14086 Redress: Development of the redress mechanism to receive complaints from the individuals in the European Union under E.O. 14086.
- Engagement and Transparency on civil liberties and privacy protections with foreign and domestic partners, as well as the public, through intel.gov—the chief digital component of the IC's transparency effort and a comprehensive online resource for IC-related information, which CLPT manages.

It is the mission of every intelligence agency throughout the world to provide a decision advantage to their leaders. In the United States, Intelligence Community (IC) elements accomplish this mission by complying with the law and respecting the foundational values of our free society.

Top among these values is that our IC activities, programs, and policies protect privacy and civil liberties and incorporate an appropriate level of transparency to engender and enhance public trust. It is the responsibility of every intelligence professional to act in accordance with these values.

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<sup>1</sup> Pub. L. No. 108-458, 118 Stat. 3638 (2004).

<sup>2</sup> Section 702 of FISA was subsequently reauthorized for a two-year period in April 2024.

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I am proud that CLPT successfully continued providing advice, conducting reviews, and handling complaints regarding privacy and civil liberties within ODNI, and continued integration of the privacy, civil liberties, and transparency efforts of the broader IC.

REBECCA J. RICHARDS

*Chief, Office of Civil Liberties, Privacy and Transparency, and  
ODNI Civil Liberties Protection Officer and Chief Transparency Officer*

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## About The Office of Civil Liberties, Privacy, and Transparency

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CLPT champions the *Principles of Professional Ethics for the Intelligence Community*, which focus on mission, truth, lawfulness, integrity, stewardship, excellence, and diversity.<sup>3</sup> These are fundamental ethical principles that unite professionals across agencies and functions. CLPT leads the assessment, integration, and oversight of civil liberties and privacy protections into the policies, procedures, programs, and activities of the IC. CLPT provides appropriate transparency, and promotes practices that are intended to earn and retain the trust of the American people. CLPT's participation in developing and overseeing IC activities seeks to give the American people confidence the IC is pursuing its vital national security mission consistent with our nation's values.

More specifically, CLPT collaborates closely with ODNI's components to understand their initiatives and projects in detail. It starts with the intelligence purpose for specific activities, the authority pursuant to which data is obtained or the activity is undertaken, and the characteristics and use of the data. Based on each set of individual circumstances, CLPT reviews the appropriateness of protective measures, reviews compliance with legal and policy mandates, and works with components to modify or formulate additional protections as necessary.

CLPT reviews proposed legislation, policy documents, instructions, standards, guidance, testimony, reports, releases, and other materials to ensure that privacy and civil liberties issues are appropriately addressed and properly articulated. These reviews may pertain specifically to ODNI or to other IC elements to the extent that the issues fall within ODNI's IC-wide responsibilities.

CLPT also conducts joint oversight of Section 702 of FISA with other offices at ODNI, as well as the Department of Justice (DOJ). CLPT is responsible for oversight of ODNI's Attorney General Guidelines under E.O. 12333.

In October 2022, CLPT assumed a significant role in ensuring compliance with E.O. 14086, which directs the ODNI CLPO to perform three key roles. First, pursuant to Section 2(b)(iii) of the E.O., ODNI's CLPO must now assess whether anticipated SIGINT collection activities conducted under the National Intelligence Priorities Framework (1) advance the defined legitimate objectives, (2) are neither designed nor anticipated to result in SIGINT collection in contravention of defined prohibited objectives, and (3) have been established after appropriate consideration of the privacy and civil liberties of all persons, regardless of their nationality or wherever they might reside. Second, Section 2(c)(iv) requires the CLPO to be consulted in the IC elements' updating of their procedures to comply with E.O. 14086, including making updates necessary to implement privacy and civil liberties safeguards. Third, Section 3(c) directs the CLPO to play a critical role in the new multi-level independent and binding mechanism enabling individuals in qualifying states to seek redress for a covered violation arising from U.S. SIGINT activities of their personal data that was reasonably believed to have

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<sup>3</sup> Office of the Director of National Intelligence, *Principles of Professional Ethics for the Intelligence Community* (2017), <https://www.dni.gov/index.php/who-we-are/organizations/clpt/clpt-features/1789-principles-of-professional-ethics-for-the-intelligence-community>.

been transferred from the qualifying state to the United States. The E.O. assigning such critical roles to the CLPO demonstrates recognition of the independence of the CLPO as well as the global importance of the CLPO in championing privacy and civil liberties considerations in intelligence collection practices.

CLPT reviews and investigates, as appropriate, alleged privacy and civil liberties abuses. When CLPT receives a complaint, it must determine whether the complaint was properly directed to CLPT or whether it should have been referred to a different office or agency. For example, depending on the circumstances, certain complaints may be referred to the IC Inspector General, the Office of Equal Employment Opportunity, or another agency. If CLPT determines a complaint is not frivolous and merits a full review, it obtains and analyzes relevant information consistent with pertinent legal and policy standards. Based on its findings, CLPT determines the appropriate course of action to resolve the complaint and notifies the complainant of the disposition.

The CLPO also serves as ODNI's Chief Transparency Officer. CLPT is responsible for leading implementation of the *Principles of Intelligence Transparency for the Intelligence Community*.<sup>4</sup> The *Principles of Intelligence Transparency* guide how the IC makes information available to the public in a manner that enhances the public's understanding of intelligence activities, while continuing to protect information when disclosure would harm national security.

CLPT carries out its duties in close consultation with other offices with relevant and complementary responsibilities, including offices of general counsel, offices of inspectors general, intelligence oversight offices, civil liberties and privacy offices, and DOJ.

## Key Initiatives

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The following provides a synopsis of key initiatives undertaken by CLPT during the reporting period. Additional information on advisory, assessment, oversight, engagement, and transparency activities is provided later in this report in the section covering CLPT's established and ongoing work.

### Foreign Intelligence Surveillance Act

#### *External Oversight—Supporting the Privacy and Civil Liberties Oversight Board*

CLPT led the IC and DOJ's response to the PCLOB's requests for information as the Board drafted its public report on Section 702 of FISA. The 300+ page final product includes an unclassified report and a classified annex with substantial information detailing the value of Section 702 and how the IC implements it. The report also provides recommendations to the Administration and Congress. To support the public debate on Section 702 reauthorization and to further the IC's commitment to transparency, CLPT led the IC in reviewing the report's classification and in obtaining the Director of National Intelligence's (DNI) public interest declassification of certain facts.

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<sup>4</sup> Office of the Director of National Intelligence, *Principles of Intelligence Transparency for the Intelligence Community* (2015), <https://www.intelligence.gov/transparency>.

### *External Oversight—Supporting the President’s Intelligence Oversight Board*

CLPT led the IC and DOJ’s accuracy and classification review of the President’s Intelligence Oversight Board’s (IOB) unclassified report on Section 702 of FISA. This 40+ page report provided a variety of recommendations for the Administration and Congress to consider as part of Section 702 legislative debates around reauthorization, and its release advanced the IC’s transparency goals.

### *Transparency*

As noted elsewhere in this report, CLPT led the IC in being transparent with external overseers and, where appropriate, the public regarding the IC’s use of Section 702.

### Executive Order 14086—Data Privacy Framework

On 7 October 2022, President Biden issued E.O. 14086, *Enhancing Safeguards for United States Signals Intelligence Activities*, which updated and substantially enhanced the protections for all individuals, regardless of nationality, whose information may be acquired as the result of U.S. SIGINT activity.<sup>5</sup> E.O. 14086 bolsters rigorous privacy and civil liberties safeguards found in FISA, E.O. 12333, and, previously, in Presidential Policy Directive 28.

New safeguards found in E.O. 14086 include, but are not limited to, requirements that all U.S. SIGINT activities be conducted only in pursuit of defined national security objectives, take into consideration the privacy and civil liberties of all persons regardless of nationality or country of residence, and be conducted only when necessary to advance a validated intelligence priority and only to the extent in and in a manner proportionate to that priority. As noted by the White House, E.O. 14086 underpins the European Union-U.S. Data Privacy Framework (DPF) and the transatlantic data flows enabling the \$7.1 trillion economic relationship between the United States and the European Union.<sup>6</sup>

### *Supplemental Procedures*

During the review period, CLPT collaborated with ODNI Office of General Counsel (OGC) to lead the effort to issue procedures required by E.O. 14086. These procedures advance the goal of the DPF to protect the privacy of non-U.S. persons in SIGINT activities, including Section 702 of FISA. In addition to ODNI review, the procedures required review and coordination with all 18 IC elements and the Attorney General and were completed ahead of schedule and publicly released. Early completion allowed the European Commission to

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<sup>5</sup> Exec. Order No. 14086, 87 Fed. Reg. at 62,293, <https://www.federalregister.gov/documents/2022/10/14/2022-22531/enhancing-safeguards-for-united-states-signals-intelligence-activities>; see also The White House, *FACT SHEET: President Biden Signs Executive Order to Implement European Union-U.S. Data Privacy Framework* (2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/07/fact-sheet-president-biden-signs-executive-order-to-implement-the-european-union-u-s-data-privacy-framework>.

<sup>6</sup> The White House, *FACT SHEET: President Biden Signs Executive Order to Implement European Union-U.S. Data Privacy Framework* (2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/10/07/fact-sheet-president-biden-signs-executive-order-to-implement-the-european-union-u-s-data-privacy-framework>.

designate the United States as having adequate privacy protections to enable the lawful transfer of data between the European Union and the United States.

### *ODNI CLPO Redress Mechanism*

CLPT developed processes to support the ODNI CLPO redress mechanism, newly created by E.O. 14086, for individuals in designated countries to submit complaints concerning IC SIGINT activities. In addition to creating processes and systems to support execution of the CLPO redress mechanism, CLPT released public documents (a slide deck, postcard, and frequently asked questions) and engaged in public conferences to advance the public's awareness of this new redress complaint mechanism. CLPT also recorded a publicly posted webinar with the International Association of Privacy Professionals (IAPP) and spoke about the redress mechanism at numerous public conferences to broaden understanding of the redress mechanism.

Through extensive collaboration within the IC and the Departments of Justice, Commerce, and State, as well as with the European Data Protection Board and the United Kingdom Information Commissioner's Office, CLPT developed public materials on the redress mechanism and technical controls to allow complaints to be securely transferred between designated public authorities and the ODNI CLPO. On multiple occasions, CLPT further engaged with the data protection authorities, including at in-person meetings, to discuss the redress mechanism to facilitate clear understanding of it by the authorities and enhance public awareness about it. Further, CLPT worked extensively with IC elements to develop internal procedures for the IC elements to use when responding to the CLPO's request to access information concerning a submitted qualified complaint.

During the reporting period, ODNI CLPO reviewed and assessed the National Intelligence Priority Framework (NIPF) established by the DNI prior to the DNI submitting the priorities to the President for approval. The ODNI CLPO assessed that with regard to anticipated SIGINT collection activities, each of the intelligence priorities identified in the NIPF: (1) advanced one or more of the legitimate objectives set forth in E.O. 14086; (2) neither was designed nor is anticipated to result in SIGINT collection in contravention of the prohibited objectives set forth in the E.O.; and (3) was established after appropriate consideration for the privacy and civil liberties of all persons, regardless of their nationality or wherever they might reside.

### **Engagement and Transparency Activities**

CLPT conducts extensive outreach to foreign partners, oversight entities, academia, civil society, and the public on the work of the IC. During this reporting period, there was particular focus on the Data Privacy Framework and the CLPO redress function. Overall, CLPT's global public engagements about intelligence oversight and data privacy improved public understanding and trust in the United States' intelligence collection practices.

For the first time, CLPT applied for and received observer status in the Global Privacy Assembly, a global forum for over 130 data protection and privacy authorities to engage and lead, at an international level, on data protection and privacy. CLPT's participation afforded

CLPT a unique opportunity to share with global data privacy officials the IC's privacy safeguards and explain the new ODNI CLPO redress mechanism.

CLPT facilitated in-depth conversations of how European and United States IC elements protect data privacy in their intelligence activities. CLPT led the first set of meetings between ODNI, the National Security Agency, and Central Intelligence Agency privacy officials and intelligence counterparts in the United Kingdom, France, and Belgium, along with their oversight entities, to learn about how those countries safeguard privacy in their intelligence mission, how their oversight bodies work to ensure compliance with the safeguards, and how those countries respond to individuals' privacy related complaints. CLPT also facilitated a meeting with Dutch counterparts in the United States to discuss those topics, along with the topic of intelligence transparency.

### Policy Development

During the review period, in collaboration with OGC, the Open Source Intelligence Executive and CLPT finalized the *IC Principles for the Acquisition, Use, and Retention of Commercially Available Information*.

The framework is the culmination of deliberate work to study this issue, to include the DNI convening a Senior Advisory Group Panel that issued recommendations the IC accepted and that the framework reflects. The panel recommended that the IC (1) develop a process to catalog the commercially available information (CAI) that IC elements acquire; (2) develop a set of standards and procedures for CAI, governing and requiring regular re-evaluation of acquisition and use decisions; and (3) develop more precise guidance to identify and protect sensitive CAI that implicates privacy and civil liberties concerns.

The framework augments each IC element's Attorney General Guidelines and establishes a common baseline for how the IC accesses, collects, and processes CAI, while allowing individual IC elements flexibility to operate in the manner best suited to meet their mission needs and protect privacy and civil liberties.

## The Established and Ongoing Work of CLPT

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As part of its established mission, CLPT continued its critical function of providing privacy and civil liberties advice, assessment, oversight, engagement, and transparency to ODNI and IC elements. CLPT also conducted extensive outreach to include speaking at conferences, engaging with non-governmental organizations (NGO), academics, and the press, and engaging with foreign partners and an international audience. CLPT played key leadership roles in the U.S. Federal Privacy Council (FPC), as well as leading the IC Civil Liberties and Privacy (CLP) Council and the IC Transparency Council. CLPT continued to lead the interagency on interactions with the PCLOB and the IOB.

<b>2023 Advice and Assessment Activities</b>	<b>Total</b>
CLPT Advice, Assessments, Reviews, and Oversight Completed in CY 2023	217
<b>2023 Outreach and Coordination Activities</b>	
Notifications, Briefings, and Applicable Documents to External Overseers	64
Interagency Coordination and Leadership Activities	124
External Outreach (Domestic and Foreign)	107

Consistent with the role of ODNI in integrating intelligence activities across the IC, CLPT also leads two IC councils: (1) the IC CLP Council and (2) Intelligence Transparency Council.

### Advice and Assessment

#### *CLPT's Advice on General Intelligence Community Activities*

CLPT reviewed all IC Directives to ensure they fully addressed privacy and civil liberties concerns. Of particular note during this reporting period, CLPT advised on a new IC Directive that will provide privacy and civil liberties protections related to medical information related to gender identity and transgender status. CLPT supported the IC Diversity, Equity, Inclusion, and Accessibility Office (DEIA) as it compiled sensitive personally identifiable information (PII) from across all 18 IC elements. CLPT's support allowed DEIA to develop detailed diversity metrics to include in the congressionally directed Annual Diversity Report, while protecting the privacy of IC employees.

CLPT examined draft legislation with national security implications to assess potential impacts to privacy and civil liberties, and provide technical assistance both within the executive branch and, when requested, to Congress. In particular, CLPT reviewed a number of proposals related to the re-authorization of Section 702 of FISA and provided technical assistance.

CLPT provided advice to the IC Chief Data Officers' Council on their IC Data Strategy, ensuring the integration of civil liberties and privacy equities in carrying out data collection, exploitation, and dissemination, informing key initiatives in artificial intelligence and machine learning. Also, in collaboration with ODNI's OGC, CLPT finalized the *IC Principles for the Acquisition, Use, and Retention of Commercially Available Information*.

*CLPT's Advice to ODNI, Review of ODNI Activities, and Related Training*

CLPT has embedded personnel in two ODNI centers: National Counterterrorism Center (NCTC) and National Counterintelligence and Security Center (NCSC). Having CLPT personnel dedicated to those centers ensures that CLPT can provide timely privacy and civil liberties guidance at early stages of proposed intelligence activities. CLPT's embedded personnel are well-known to the centers' personnel and facilitate continual informal checks with CLPT in addition to more formal requests for guidance.

*CLPT's Advice to ODNI, Review of ODNI Activities, and Related Training—NCTC*

NCTC's mission is to lead the nation's effort to protect the United States from terrorism by integrating, analyzing, and sharing information to drive whole-of-government action and achieve national counterterrorism objectives.<sup>7</sup>

CLPT worked with NCTC to release the first NCTC and ODNI Civil Liberties, Privacy, and Transparency Policy. The joint policy formalizes a process that has been in place for several years, specifying which analytic products are to be submitted to CLPT for review and clarifies criteria for review, in an effort to ensure NCTC's approach to terrorism analysis takes into account civil liberties, privacy, and transparency values.

CLPT also worked with NCTC to update its training for users of the Terrorist Identities Datamart Environment (TIDE), the nation's central, classified database on persons known or suspected to have a nexus to international terrorism. The collaboration yielded an updated training that is specific to TIDE records and how to handle records that may require special care.

CLPT also participated in the task force to establish an NCTC Data Governance Board, a subset of ODNI's Data Governance Board, which fulfills an Office of Management and Budget requirement for certain agencies to set and enforce priorities for managing data as a strategic asset to support the agency in meeting its mission. CLPT's service to the NCTC Data Governance Board helped facilitate effective, NCTC-wide communication regarding data governance, and, helped integrate IC and commercial industry data governance best practices.

CLPT also advised NCTC on its acquisition, handling, use, and retention of data. CLPT oversaw compliance with ODNI's Attorney General Guidelines, corresponding NCTC Implementation Procedures, and various ODNI policies. CLPT also advised on other privacy, civil liberties, and transparency considerations regarding NCTC's data, ensuring that individuals' privacy and civil liberties interests in their data were properly protected. Additionally, CLPT reviewed NCTC reports of compliance incidents reported to, or discovered by, the NCTC Compliance & Transparency Group, as well as reports of periodic audits conducted of NCTC's data holdings and systems. The review enabled CLPT to identify systematic compliance issues and trends that could impact privacy, civil liberties, and transparency. CLPT also reviewed dozens of NCTC analytic products concerning domestic terrorism to ensure protection of U.S. persons' privacy and U.S. persons' exercise of their constitutional rights.

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<sup>7</sup> The NCTC mission statement is available at <https://www.dni.gov/index.php/nctc-who-we-are>.

*CLPT's Advice to ODNI, Review of ODNI Activities, and Related Training—NCSC*

NCSC's mission is to lead and support the U.S. Government's counterintelligence and security activities critical to protecting the nation; provide counterintelligence outreach to U.S. private sector entities at risk of foreign intelligence penetration; and issue public warnings regarding intelligence threats to the United States.<sup>8</sup>

During the review period CLPT:

- Advised on the privacy and civil liberties concerns and implications in the development of a new policy to implement an aspect of the Consolidated Appropriations Act of 2022<sup>9</sup> requiring an implementing directive for sharing covered insider threat information pertaining to contractor employees in the national security workforce, work which remains ongoing.
- Advised on the privacy and civil liberties concerns in the draft report regarding the current and planned use of publicly available social media information in personnel vetting and security clearance processes. Submission of this report is planned for 2024.
- Advised on the ongoing development of privacy risk assessments and statutorily required system of records notices (SORN) for NCSC information systems, including new systems of records to foster integration and coordination across the whole of government regarding activities such as counterintelligence and personnel vetting and clearance determinations.
- Advised on the continued development of the Trusted Workforce 2.0 initiative, including development of an annual vetting questionnaire and developing or updating SORNs for existing programs.

*CLPT's Advice to Other ODNI Directorates, Components, and Offices*

CLPT also conducts regular reviews to ensure that privacy and civil liberties controls are properly applied within ODNI. For example, CLPT continued its ongoing efforts to:

- Work with system owners and security personnel to conduct privacy assessments that evaluate the privacy controls on all new or substantially updated ODNI systems.
- Review reports of potential breaches involving PII and direct any necessary remedial efforts.
- Evaluate proposed new seedlings and programs and regularly reevaluate existing programs funded by the Intelligence Advanced Research Projects Activity (IARPA) to ensure that appropriate privacy and civil liberties controls are applied in all funded research activities.
- Assist, in conjunction with OGC, in making sure ODNI meets its oversight obligations to the IOB. These duties include reporting potential intelligence

<sup>8</sup> The NCSC mission statement is available at <https://www.dni.gov/index.php/ncsc-who-we-are/ncsc-mission-vision>.

<sup>9</sup> Pub. L. No. 117-103, 136 Stat. 49 (2022).

compliance issues to the IOB and evaluating the IOB incident submissions of all other IC elements to ensure that appropriate steps have been taken to rectify and mitigate compliance issues, such as by contributing to an IOB working group revising IOB reporting criteria, and assisting on intelligence oversight reporting.

- Advise ODNI's Policy and Capabilities Directorate on applicable privacy and civil liberties considerations it must consider when pursuing private sector partnerships, a mission imperative to facilitate comprehensive understanding of the threats posed by modern adversaries and the methods needed to best harness technological advantage and foster innovation.
- Provide guidance for the National Intelligence University's Institutional Review Board, consistent with National Archives and Records Administration information handling recommendations.
- Advise IARPA on its research considerations to ensure more precise data collection, analysis, and dissemination in compliance with privacy and civil liberties safeguards. These efforts included providing advice and counsel in more than fifty instances over the reporting period, including on areas as diverse as large-scale data analytic applications, predictive analysis based on diverse data sources, mission capabilities against bio-intelligence and bio-security threats, and protection of critical infrastructure and transportation facilities, military force protection, and border security.
- Work with the Foreign Malign Influence Center to ensure commercially available information collected to measure the impact of foreign influence operations would protect privacy and civil liberties in accordance with the IC principles.

To ensure privacy and civil liberties protections are fully integrated into the IC's processes, CLPT also conducts regular training activities for IC personnel and professional development activities for privacy and civil liberties officers. These activities include periodic in-person and online trainings to explain or clarify civil liberties and privacy protections, as well as trainings that share best practices in the promotion of privacy and civil liberties protection and transparency. CLPT also provides entry on duty privacy and civil liberties training to incoming ODNI personnel.

#### *CLPT's Advice to U.S. Government-Wide Efforts*

Further, CLPT also reviewed, on behalf of the IC, government-wide efforts seeking IC review. CLPT worked with the IC elements and compiled and provided coordinated feedback on a variety of topics to include implementation of the United States National Strategy for Artificial Intelligence and on the strategic plan of the Coalition for Academic Scientific Computation. CLPT continued to promote awareness of the *AI Ethics Principles* and *AI Ethics Framework* to advance the technical discussion and the responsible use of technology, ensuring continued focus on privacy and civil liberties protections.

CLPT continued to contribute to government-wide efforts by participating in panels and other training opportunities sponsored by the FPC designed to increase the privacy acumen of

professionals throughout the U.S. Government, as well as participating in bi-monthly meetings led by the FPC for all Senior Agency Officials for Privacy.

CLPT supported the FPC, including its Agency Implementation Committee. The FPC hosts educational sessions each month for 140–160 federal privacy professionals on key privacy topics, including the protection of diversity, equity, inclusion, and accessibility data and sharing data responsibly.

Additionally, CLPT continued to provide feedback on U.S. Government work relating to implementing practical aspects of the redress mechanism under E.O. 14086 (e.g., securely transmitting qualified complaints) and relating to advancing a Data Privacy Framework with Switzerland. For example, CLPT reviewed documents for accuracy in describing the ODNI CLPO redress mechanism consistent with the E.O. and IC Directive 126.

## Intelligence Oversight

### *E.O. 12333 Guidance and Oversight*

E.O. 12333 authorizes, guides, and limits activities the IC conducts.<sup>10</sup> This report focuses on E.O. 12333’s sections that directly impact U.S. persons because those sections’ specific requirements ensure that U.S. person’s civil liberties are protected. First, Section 2.3 provides that the collection, retention, or dissemination of any information concerning U.S. persons in intelligence activities must be governed by procedures approved by the relevant head of the IC element and the Attorney General after consultation with the DNI. Second, Section 2.4 procedures require that IC elements shall use the least intrusive collection techniques feasible within the United States or when directed against U.S. persons abroad. Third, Section 2.9 procedures prescribe the limited circumstances in which IC personnel may participate in a U.S. organization without disclosing their IC affiliation. These procedures are commonly referred to as an IC element’s “Attorney General Guidelines.”

Over the past decade, CLPT worked with DOJ in leading IC elements to update and revise their Attorney General Guidelines. During this time, ODNI established its own Attorney General Guidelines, which became effective on 23 March 2021.<sup>11</sup> The effort to update IC elements’ procedures was designed to ensure that Attorney General Guidelines reflect best practices for protecting privacy and civil liberties in the collection and handling of digital information; adopt common definitions across the IC to improve intelligence integration and provide consistent protections; and provide maximum transparency to the public regarding the law and policies that govern the IC’s activities.<sup>12</sup>

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<sup>10</sup> See generally Exec. Order No. 12333, 46 Fed. Reg. at 59,941 (Dec. 4, 1981).

<sup>11</sup> Press Release, Office of the Director of National Intelligence, *ODNI Releases ODNI Attorney General Procedures for Conducting Intelligence Activities* (Jan. 14, 2021), <https://www.dni.gov/index.php/newsroom/press-releases/press-releases-2021/item/2180-odni-releases-odni-attorney-general-procedures-for-conducting-intelligence-activities>.

<sup>12</sup> CLPT has created a chart with links to the Attorney General Guidelines for various IC elements, available at [https://www.intel.gov/assets/documents/guide/Chart\\_of\\_EO\\_12333\\_AG\\_approved\\_Guidelines\\_April\\_2024.pdf](https://www.intel.gov/assets/documents/guide/Chart_of_EO_12333_AG_approved_Guidelines_April_2024.pdf).

During the reporting period, CLPT collaborated with the Department of the Treasury (Treasury), which finalized its Attorney General Guidelines in June 2023. CLPT helped to ensure that Treasury drafted its guidelines consistent with applicable law and with other IC elements' updated guidelines containing civil liberties and privacy protections.

CLPT collaborated with OGC to develop updated content and training materials to ensure that ODNI personnel operated under the civil liberties and privacy safeguards specified in E.O. 12333. CLPT further collaborated with OGC and provided "train-the-trainer" training to two offices within ODNI on the requirements of the ODNI Attorney General Guidelines issued pursuant to E.O. 12333.

### *FISA Joint Oversight*

CLPT, in partnership with other ODNI offices, conducted with the DOJ joint oversight of the IC's use of Section 702 of FISA. Further, CLPT continued to develop policies to facilitate compliance with Section 702's rules and procedures. CLPT's efforts resulted in stronger compliance with Section 702 requirements through oversight and policy development and advanced accountability to external overseers and the public.

CLPT participated in 15 on-site reviews, reviewed compliance documentation and guidance, and worked with DOJ to identify, resolve, and report to the Foreign Intelligence Surveillance Court (FISC) and Congress incidents of noncompliance. Participating in such oversight efforts afforded CLPT visibility into compliance trends and equipped CLPT with the factual information to provide policy recommendations and guidance to advance oversight and promote best practices to protect civil liberties and privacy.

CLPT's FISA oversight activities are extensively documented in multiple *Semiannual Assessments of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act*, submitted by the Attorney General and the Director of National Intelligence (Joint Assessment) and available at intel.gov. During this reporting period, CLPT led the public release of the 25th and 26th Joint Assessments in redacted form.<sup>13</sup> Importantly, CLPT continued to play a leading role, working closely with DOJ, in drafting these Joint Assessments. The Joint Assessments identify and analyze compliance trends, including through presenting compliance metrics over multiple reporting periods, as well as providing descriptions on the categories of compliance incidents and detailed examples of certain incidents. The Joint Assessments often identify what causes the compliance incidents, such as human errors and system errors, allowing ODNI and DOJ to advise on prevention efforts to reduce or otherwise avoid future incidents and remediation efforts to address current incidents. Further, while these Joint Assessments are required to be submitted to congressional overseers and the

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Additional information can be found at: <https://www.intel.gov/ic-on-the-record/guide-to-posted-documents#EO12333>.

<sup>13</sup> ODNI and DOJ's 25th Joint Assessment of the Section 702 program is available at [https://www.intel.gov/assets/documents/702%20Documents/declassified/25th\\_Joint\\_Assessment\\_for\\_public\\_release.pdf](https://www.intel.gov/assets/documents/702%20Documents/declassified/25th_Joint_Assessment_for_public_release.pdf), and the 26th Joint Assessment of the Section 702 program is available at [https://www.intel.gov/assets/documents/702%20Documents/declassified/26th\\_Joint\\_Assessment\\_for\\_public\\_release.pdf](https://www.intel.gov/assets/documents/702%20Documents/declassified/26th_Joint_Assessment_for_public_release.pdf).

FISC, CLPT drafts the assessments for subsequent public release to enhance the public understanding of the IC's use of and compliance with Section 702.

CLPT participated in or led, often in coordination with ODNI's Directorate for Mission Integration and OGC, interagency working groups monitoring the implementation of policy guidance for compliance with Section 702 requirements. CLPT led a working group, along with DOJ and the Federal Bureau of Investigation (FBI), to facilitate compliance with rules and procedures for the FBI's querying of Section 702-acquired information. The working group focused on remediating the causes of previous compliance incidents and mitigating future incidents by updating and modifying relevant systems and applicable training. CLPT's efforts resulted in improved compliance practices for protecting U.S. person information for IC personnel who query FISA-acquired information. The collaboration also facilitated FBI systems modifications that improved Section 702 compliance.

### International and Domestic Engagement

CLPT routinely meets with foreign partners to describe civil liberties and privacy protections that have been embedded in the IC's activities; to detail the IC's initiatives to enhance transparency about the IC's mission, authorities, and oversight mechanisms; and to learn from foreign partners regarding the comparable protections and programs that they have instituted in the service of common democratic values. Such efforts support the *Principles of Intelligence Transparency* to enhance public understanding of global stakeholders and advance global civil liberties and privacy safeguards and norms and further the DNI's objective of intelligence diplomacy.

During this reporting period, CLPT engaged in outreach with international and civil society audiences and foreign government representatives to share how the United States protects both national security and data privacy when conducting its intelligence mission. CLPT's engagement builds trust and cooperation with various stakeholder communities.

Further, CLPT spoke at the U.S.-hosted event for international Data Protection Authorities in Washington, D.C., where authorities from across Europe learned about the U.S. Government-wide data privacy protections. CLPT spoke about the redress mechanisms set up under the DPF under E.O. 14086. CLPT also was invited to and spoke at a meeting of Members of the European Parliament in Washington, D.C. Along with representatives of DOJ, CLPT presented on the same topic.

CLPT participated in international outreach with industry representatives, civil society, and academia, as well as with different audiences within the U.S. Government. CLPT and representatives from the Departments of Commerce and Justice spoke to the U.S. Chamber of Commerce about the DPF. CLPT discussed the ODNI CLPO redress mechanism.

CLPT joined the Department of Commerce at training for the Department of State's cyber and digital policy officers to explain data privacy protections, especially related to government access to data. Ensuring that these officers understand the IC's privacy safeguards

is important so that they may accurately and effectively engage with their foreign partners when stationed at overseas posts.

Building on the international work concluded in December of 2022 with the adoption of the Organization of Economic Cooperation and Development's (OECD) Declaration on Government Access to Personal Data Held by Private Sector Entities (commonly referred to as the TGA Principles), CLPT recognized the need to bring together more international partners who work privacy and civil liberties/human rights issues at intelligence agencies.

CLPT convened a landmark group of international intelligence data privacy officials to participate in a variety of privacy conferences to publicly share the privacy safeguards that European, Canadian, and United States intelligence services uphold when accessing and handling data for national security. Specifically, intelligence data privacy officials from Canada, Belgium, Denmark, France, the Netherlands, and the United Kingdom joined CLPT officials in speaking at the following conferences: the IC's 6th Annual Civil Liberties, Privacy, and Transparency Summit in Bethesda, Maryland; the IAPP Global Summit in Washington, D.C.; the Privacy Symposium in Venice, Italy; a Cross Border Data Flows conference in Luxembourg; and the Privacy + Security Fall Academy in Washington, D.C. CLPT and DOJ's Privacy and Civil Liberties office also spoke to Danish attorneys at a law firm in Copenhagen, Denmark, and at the public RightsCon in Costa Rica.

These public engagements also included discussion about the OECD Trusted Government Access to Data Principles. At the Privacy + Security Fall Academy, CLPT led a panel with intelligence representatives from Canada, the Netherlands, and the United States to publicly share practical insights on how their respective countries implement the OECD's TGA Principles. At the conference in Denmark and virtually at the RightsCon in Costa Rica, CLPT discussed the TGA Principles, how like-minded democracies in the OECD have very similar data privacy safeguards, and the significance in having, for the first time, national security representatives actively participating at the OECD effort to develop such principles.

CLPT additionally engages in discussions with smaller groups of outside experts, including academia and industry representatives, on these topics. For example, CLPT participated, along with representatives from DOJ, in a Chatham House hosted discussion about cross border data sharing. CLPT spoke about U.S. Government access to data for national security purposes, including highlighting how the USG implements the TGA Principles. Further, CLPT and DOJ spoke to the FPC about the TGA Principles.

## Intelligence Transparency

Intelligence transparency, both to external overseers and the public, is integral to the execution of CLPT's duties. In addition to advocating for and coordinating the public release of key documents, CLPT has developed or supported efforts across the IC to explain in a clear, concise, and effective manner the IC's mission, activities, authorities, and oversight mechanisms. CLPT's championing of this type of proactive transparency advances the *Principles of Intelligence Transparency* to enhance public understanding while protecting classified information.

*Transparency to External Overseers*

CLPT continued to lead the IC in being transparent to external overseers. CLPT continued to facilitate ongoing oversight of Section 702 and other intelligence authorities by Congress and the PCLOB by coordinating and supporting the ongoing production of classified FISA documentation, interagency responses to questions from those overseers, and briefings on the mission use, value, and privacy and civil liberties controls of the Section 702 program. For example, ODNI and DOJ coordinated IC responses to the PCLOB's requests for information to support their unclassified 2023 FISA Section 702 report. The PCLOB and Congress also received the 27th Joint Assessment, having previously received the 25th and 26th. As a result of these transparency efforts, IC overseers became better informed about the IC's use of important surveillance authorities.

*Transparency to the Public*

CLPT has also championed and facilitated the IC's transparency to the public through authorized releases, whether such releases were required by statute or were proactive releases. Consistent with the *Principles of Intelligence Transparency*, CLPT publicly released the 25th and the 26th Joint Assessments in redacted form to ensure that the public has an accurate understanding of the scope of ODNI and DOJ's oversight activities, as well as the compliance trends and findings related to the IC's use of Section 702.

CLPT also developed additional resources to assist the public in understanding how the IC uses Section 702 to combat foreign security threats, how privacy and civil liberties safeguards are built into the processes for Section 702 collection, as well as how each branch of government conducts oversight of the IC's use of this important national security tool. These materials are available through ODNI's FISA Resource Library on [www.intel.gov](http://www.intel.gov).

ODNI and DOJ work together to publicly release significant decisions of the FISC and the Foreign Intelligence Surveillance Court of Review (FISC-R). In 2015, Congress enacted the USA FREEDOM Act, which requires the DNI to continue to conduct a declassification review of new opinions or orders of the FISC and FISC-R that contain "a significant construction or interpretation of any provision of law," and "make publicly available to the greatest extent practicable" such opinions or orders.<sup>14</sup> Pursuant to this law, ODNI publicly released a 2022 FISC Opinion and Order and related 2023 Opinion of the FISC-R regarding whether a provider of certain services is an "electronic communication service provider" as defined in the FISA.<sup>15</sup>

CLPT also notes that while the public release of Joint Assessments is not required, the proactive release provides additional substantial information about how the IC implements Section 702 and about compliance trends, by providing metrics, categories of compliance incidents, descriptions of certain incidents, and steps the IC takes to prevent or remediate incidents.

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<sup>14</sup> See 50 U.S.C. § 1872(a).

<sup>15</sup> These opinions and orders are available at <https://www.intel.gov/ic-on-the-record-database>.

CLPT's transparency efforts include publicly releasing information pursuant to statutory requirements,<sup>16</sup> and pursuant to the *Principles of Intelligence Transparency*. CLPT supplements the release of documents on intel.gov with corresponding releases on www.IContheRecord.gov.

The impact of CLPT's extensive transparency efforts is to facilitate the IC's adherence to the democratic value of accountability to the public. The IC must both follow the rule of law and ensure that the relevant overseers and the public understand the governing authorities and rules and compliance with those requirements. During the reporting period CLPT led the release of nine one-page fact sheets discussing the IC's use of the FISA authority, all publicly available on Intel.gov at the FISA Resource Library. These were in addition to 10 previously released documents discussing different aspects of FISA released in 2022.<sup>17</sup>

CLPT's transparency efforts are not limited to the release of material, but also involve direct engagement with varied government audiences, the public, academics, the private sector, and NGOs. CLPT continued participating in panel discussions regarding surveillance issues sponsored by NGOs and facilitating academic and NGO engagements between the IC and NGOs and academics on topics ranging the impact of surveillance on different groups to strategies to address commercial spyware and "dual use" surveillance technology. These engagements provide CLPT and the IC with an opportunity to contribute accurate information to public debates; understanding of the IC's activities; and privacy and civil liberties safeguards contained within the IC's authorities. These engagements and activities continued to enable an informal exchange of ideas between IC and outside government experts.

### The Intelligence Community Civil Liberties and Privacy Council and the Intelligence Transparency Council

Consistent with the role of ODNI in integrating intelligence activities across the IC, CLPT leads two IC councils: (1) the IC CLP Council and (2) Intelligence Transparency Council. These councils facilitate collaboration between the IC civil liberties, privacy, and transparency officers and contribute to efforts and output that significantly advance civil liberties and privacy protections and transparency.

CLPT and the National Security Agency's Office of Civil Liberties, Privacy, and Transparency co-led the interagency Committee on National Security Systems Instruction (CNSSI) Privacy Sub Working Group, which completed development of the updated Privacy Overlays, a part of the CNSSI No. 1253, *Categorization and Control Selection for National Security Systems*.<sup>18</sup> The Privacy Overlays support the Categorize and Select steps of the

<sup>16</sup> For example, the Annual Statistical Transparency Report complies with 603(b) of FISA (codified at 50 U.S.C. § 1873(b)), and FISC-related transparency releases comply with Section 602(a) of FISA, which requires the Director of National Intelligence to continue to conduct a declassification review of new opinions or orders of the FISC and FISC-R that contain "a significant construction or interpretation of any provision of law," and "make publicly available to the greatest extent practicable" such opinions or orders (codified at 50 U.S.C. § 1872(a)).

<sup>17</sup> The one-page fact sheets are available at <https://www.intel.gov/foreign-intelligence-surveillance-act>.

<sup>18</sup> Committee on National Security Systems, Instruction No. 1253, *Categorization and Control Selection for National Security Systems* (July 29, 2022), [https://rmf.org/wp-content/uploads/2022/10/CNSSI\\_1253\\_2022.pdf](https://rmf.org/wp-content/uploads/2022/10/CNSSI_1253_2022.pdf).

National Institute of Standards and Technology Risk Management Framework. The Privacy Overlays establish and define the factors used to evaluate the privacy risk of national security systems (NSS) that process PII. This risk assessment is then used to select security and privacy control specifications required to protect PII in NSS, resulting in reduced privacy risks to individuals, agencies, and organizations throughout the information lifecycle. The draft updated Privacy Overlays have been submitted and are awaiting final approval.

With regard to the Intelligence Transparency Council, during the review period CLPT launched an initiative around proactive transparency that remains ongoing to further ODNI transparency goals.

## Complaints

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CLPT ensures that there is an avenue to redress complaints, address concerns, or answer questions having to do with privacy and civil liberties, whether broadly focused (e.g., the privacy implications of intelligence activities) or related to narrow, individual concerns (e.g., how a particular personnel record may have been used).

During the reporting period, CLPT received and processed six formal complaints. In addition to the formal complaints received, CLPT routinely addressed broader privacy and civil liberties concerns and questions raised with CLPT by IC personnel, other government personnel, and members of the public. The existence of CLPT's program for review and evaluation of formal complaints strengthens privacy and civil liberties oversight across the IC.

While the details of formal complaints generally remain anonymous to protect the confidentiality of the complainants, these six complaints can be generally described as follows:

- CLPT reviewed and investigated four of these complaints and determined they were valid privacy complaints. CLPT provided one or more recommendations to other ODNI offices, the resolution of which remained pending at the end of this reporting period. In three of these four instances, CLPT also provided enhanced advisory engagement with the subject offices to improve privacy processes or policies.
- CLPT reviewed and investigated one complaint and determined it was not a valid privacy complaint but it highlighted a need for enhanced CLPT advisory engagement and improved privacy awareness in the subject office.
- CLPT's investigation of one complaint involving civil liberties was ongoing at the end of 2023, as CLPT explored the extent to which the complex allegations implicated, or did not implicate, issues actionable under CLPT's authorities. One portion of this complaint was determined to not be under CLPT's purview and was appropriately referred within ODNI.

As CLPT personnel inform the ODNI workforce through in-person sessions and through CLPT's websites, anyone can report a potential civil liberties and privacy violation or file a complaint. IC and ODNI personnel may go in person to CLPT offices or use CLPT's intra-IC website. Individuals outside of the IC (as well as those inside the IC) may submit a complaint to

CLPT by providing a written, detailed description of the incident and surrounding circumstances, to include copies of any unclassified documentation pertaining to the matter, to the following address:

Office of the Director of National Intelligence  
ATTN: Office of Civil Liberties, Privacy, and Transparency  
Washington, DC 20511

To ensure that individuals within the IC feel protected from retaliation when bringing allegations of civil liberties and privacy abuses to CLPT, no action constituting a reprisal, or threat of reprisal, may be made against a federal employee for making a complaint or for disclosing information to the CLPT that indicates a possible violation of civil liberties or privacy protections in the administration of ODNI programs and operations, unless the complaint is made or the information is disclosed with the knowledge that it was false or made with willful disregard for its truth or falsity.

### Complaints Submitted Per E.O. 14086

In December 2022, the President signed E.O. 14086, discussed above, that created a SIGINT redress mechanism, with two levels of independent redress. The first level of redress requires that the independent ODNI CLPO shall investigate, review, and, as appropriate, determine remediation of qualified complaints transmitted by an appropriate public authority of a qualifying state. During the reporting period, the Attorney General designated the European Union, European Economic Area, and the United Kingdom as qualifying states.<sup>19</sup>

No qualifying complaints were transmitted to the ODNI CLPO.

The CLPO received one complaint that was not qualifying because the individual submitted the complaint directly to the CLPO and did not submit the complaint to an appropriate public authority. The CLPO advised the individual of the requirement that complaints must be transmitted through an appropriate public authority and provided information on the public authority's website.

The second level of redress requires that the independent Data Protection Review Court shall, upon application filed by a complainant or the IC, review the ODNI CLPO's determination of the complainant's qualifying complaint. The Executive Order requires IC elements, through the ODNI CLPO, provide the Data Protection Review Court (DPRC) access to information necessary to conduct its review.

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<sup>19</sup> On June 30 2023, the Attorney General designated the European Union and the European Economic Area as "qualifying states" for purposes of implementing the redress mechanism established in E.O. 14086. This designation became effective on 11 July 2023, after the European Commission's adoption on 10 July 2023, of an adequacy decision for the United States as part of the EU-U.S. Data Privacy Framework. *See generally* <https://www.justice.gov/opcl/executive-order-14086>. On 18 September 2023, the Attorney General designated the United Kingdom (UK) as a "qualifying state" for purposes of implementing the redress mechanism, and the designation became effective on 12 October 2023, when the UK regulations implementing the data bridge for the UK Extension to the EU-U.S. Data Privacy Framework entered into force. *Id.*

## Metrics

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This report also documents metrics-related complaints received during this reporting period. In calculating these metrics, CLPT used the following definitions:

- **Complaints Received by ODNI CLPO related to E.O. 14086:** A complaint identifying a concern related to E.O. 14086 that is received directly by the ODNI CLPO rather than following the process, required by E.O. 14086, to go through an appropriate public authority. These complaints are not “qualified complaints” under the E.O. 14086.
- **Complaints Transmitted to the ODNI CLPO by an Appropriate Public Authority:** A complaint received from an appropriate public authority related to E.O. 14086, upon which the authority verified the complainant’s identity and reviewed the criteria specified in IC Directive 126. Per IC Directive 126, the authority may transmit those complaints to the ODNI CLPO to determine if qualifying under E.O. 14086.
- **ODNI CLPO Investigations of Qualifying Complaints:** A complaint that has been determined to be qualifying by the ODNI CLPO and about which the ODNI CLPO initiated investigation has been initiated.
- **ODNI CLPO Notification of Completed Review of Qualifying Complaints:** A qualifying complaint about which the ODNI CLPO completed investigation and provided notification to the appropriate public authority that the review was completed.
- **Data Protection Review Court Reviews of ODNI CLPO’s Determinations:** A qualified complaint upon which the ODNI CLPO made a determination that was transmitted to the complainant through the appropriate public authority and to the IC, and about which the complainant or the IC element has appealed to the DPRC. To impartially review the ODNI CLPO’s determination, the DPRC will notify the ODNI CLPO of such an appeal, and the ODNI CPLO shall provide access to any information necessary, including but not limited to the ODNI CLPO’s determination, for the DPRC to conduct its review.
- **Privacy Act Complaint:** An allegation made to CLPT regarding ODNI non-compliance with a requirement of the Privacy Act.
- **Privacy and Civil Liberties Complaint:** An allegation charging violation of information privacy rights and/or civil liberties (e.g., relating to improper collection, use, retention, and dissemination of the information about U.S. persons, or violation of First Amendment rights of free speech and association, or Fifth Amendment guarantees of due process and equal protection).

<b>Complaints—Various Authorities</b>	<b>Total</b>	<b>Qualified</b>	<b>Pending</b>	<b>Resolved</b>	<b>Not Qualified</b>
E.O. 14086 Complaints received by ODNI CLPO	1				1
E.O. 14086 Complaints Transmitted to the ODNI CLPO by an Appropriate Public Authority	0				
E.O. 14086 ODNI CLPO Investigations of Qualifying Complaints	0				
E.O. 14086 Applications to the DOJ Data Protection Review Court	0				
Privacy Act Complaints 50 U.S.C. 3029; 5 U.S.C. 552a	5			5	
Privacy and Civil Liberties Complaints 50 U.S.C. 3029	1		1		

## Conclusion

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As required by Section 1062 of the IRTPA of 2004, this report provides information about CLPT's activities from 1 January through 31 December 2023. These activities continue to assist ODNI and the IC in meeting its obligations to the American people by ensuring that intelligence activities are conducted in a manner that protects privacy and civil liberties while promoting transparency and accountability.