

(e) the Counsel for Intelligence Policy, Department of Justice;

(f) the Chair of the Privacy Council, Federal Bureau of Investigation;

(g) the Assistant Secretary for Information Analysis, Department of Homeland Security;

(h) the Assistant Secretary (Policy), Directorate of Border and Transportation Security, Department of Homeland Security;

(i) the Officer for Civil Rights and Civil Liberties, Department of Homeland Security;

(j) the Privacy Officer, Department of Homeland Security;

(k) the Under Secretary for Enforcement, Department of the Treasury;

(l) the Assistant Secretary (Terrorist Financing), Department of the Treasury;

(m) the General Counsel, Office of Management and Budget;

(n) the Deputy Director of Central Intelligence for Community Management;

(o) the General Counsel, Central Intelligence Agency;

(p) the General Counsel, National Security Agency;

(q) the Under Secretary of Defense for Intelligence;

(r) the General Counsel of the Department of Defense;

(s) the Legal Adviser, Department of State;

(t) the Director, Terrorist Threat Integration Center;

and

(u) such other officers of the United States as the Deputy Attorney General may from time to time designate.

A member of the Board may designate, to perform the Board or Board subgroup functions of the member, any person who is part of such member's department or agency and who is either (i) an officer of the United States appointed by the President, or (ii) a member of the Senior Executive Service or the Senior Intelligence Service. The Chair, after consultation with the Vice Chair, shall convene and preside at meetings of the Board, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct subgroups of the Board that shall consist exclusively of members of the Board. The Chair may invite, in his discretion, officers or employees of other departments or agencies to participate in the work of the Board. The Chair shall convene the first meeting of the Board within 20 days after the date of this order and shall thereafter convene meetings of the Board at such times as the Chair, after consultation with the Vice Chair, deems appropriate. The Deputy Attorney General shall designate an official of the Department of Justice to serve as the Executive Director of the Board.

SEC. 5. Cooperation. To the extent permitted by law, all Federal departments and agencies shall cooperate with the Board and provide the Board with such information, support, and assistance as the Board, through the Chair, may request.

SEC. 6. Administration. Consistent with applicable law and subject to the availability of appropriations, the Department of Justice shall provide the funding and administrative support for the Board necessary to implement this order.

SEC. 7. General Provisions. (a) This order shall not be construed to impair or otherwise affect the authorities of any department, agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(b) This order shall be implemented in a manner consistent with applicable laws and Executive Orders concerning protection of information, including those for the protection of intelligence sources and methods, law enforcement information, and classified national security information, and the Privacy Act of 1974, as amended (5 U.S.C. 552a).

(c) This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right or benefit,

substantive or procedural, enforceable at law or in equity, by a party against the United States, or any of its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

GEORGE W. BUSH.

§ 2000ee-1. Privacy and civil liberties officers

(a) Designation and functions

The Attorney General, the Secretary of Defense, the Secretary of State, the Secretary of the Treasury, the Secretary of Health and Human Services, the Secretary of Homeland Security, the Director of National Intelligence, the Director of the Central Intelligence Agency, the Director of the National Security Agency, the Director of the Federal Bureau of Investigation, and the head of any other department, agency, or element of the executive branch designated by the Privacy and Civil Liberties Oversight Board under section 2000ee of this title to be appropriate for coverage under this section shall designate not less than 1 senior officer to serve as the principal advisor to—

(1) assist the head of such department, agency, or element and other officials of such department, agency, or element 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;

(2) periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

(3) ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

(4) in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

(A) that the need for the power is balanced with the need to protect privacy and civil liberties;

(B) that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

(C) that there are adequate guidelines and oversight to properly confine its use.

(b) Exception to designation authority

(1) Privacy officers

In any department, agency, or element referred to in subsection (a) or designated by the Privacy and Civil Liberties Oversight Board, which has a statutorily created privacy officer, such officer shall perform the functions specified in subsection (a) with respect to privacy.

(2) Civil liberties officers

In any department, agency, or element referred to in subsection (a) or designated by the

Board, which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) with respect to civil liberties.

(c) Supervision and coordination

Each privacy officer or civil liberties officer described in subsection (a) or (b) shall—

- (1) report directly to the head of the department, agency, or element concerned; and
- (2) coordinate their activities with the Inspector General of such department, agency, or element to avoid duplication of effort.

(d) Agency cooperation

The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

- (1) has the information, material, and resources necessary to fulfill the functions of such officer;
- (2) is advised of proposed policy changes;
- (3) is consulted by decision makers; and
- (4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

(e) Reprisal for making complaint

No action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to a privacy officer or civil liberties officer described in subsection (a) or (b), or to the Privacy and Civil Liberties Oversight Board, that indicates a possible violation of privacy protections or civil liberties in the administration of the programs and operations of the Federal Government relating to efforts to protect the Nation from terrorism shall be taken by any Federal employee in a position to take such action, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) Periodic reports

(1) In general

The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) shall periodically, but not less than semiannually, submit a report on the activities of such officers—

- (A)(i) to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;
- (ii) to the head of such department, agency, or element; and
- (iii) to the Privacy and Civil Liberties Oversight Board; and
- (B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents

Each report submitted under paragraph (1) shall include information on the discharge of

each of the functions of the officer concerned, including—

- (A) information on the number and types of reviews undertaken;
- (B) the type of advice provided and the response given to such advice;
- (C) the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and
- (D) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

(g) Informing the public

Each privacy officer and civil liberties officer shall—

- (1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and
- (2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(h) Savings clause

Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

(Pub. L. 108-458, title I, § 1062, Dec. 17, 2004, 118 Stat. 3688; Pub. L. 110-53, title VIII, § 803(a), Aug. 3, 2007, 121 Stat. 360; Pub. L. 113-126, title III, § 329(b)(4), July 7, 2014, 128 Stat. 1406; Pub. L. 115-118, title I, § 109, Jan. 19, 2018, 132 Stat. 15.)

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-118 inserted “, the Director of the National Security Agency, the Director of the Federal Bureau of Investigation” after “the Director of the Central Intelligence Agency” in introductory provisions.

2014—Subsec. (f)(1). Pub. L. 113-126 substituted “semiannually” for “quarterly” in introductory provisions.

2007—Pub. L. 110-53 amended section generally. Prior to amendment, text of section read as follows: “It is the sense of Congress that each executive department or agency with law enforcement or antiterrorism functions should designate a privacy and civil liberties officer.”

§ 2000ee-2. Privacy and data protection policies and procedures

(a) Privacy Officer

Each agency shall have a Chief Privacy Officer to assume primary responsibility for privacy and data protection policy, including—

- (1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of information in an identifiable form;
- (2) assuring that technologies used to collect, use, store, and disclose information in identifiable form allow for continuous auditing of compliance with stated privacy policies and practices governing the collection, use and distribution of information in the operation of the program;
- (3) assuring that personal information contained in Privacy Act systems of records is