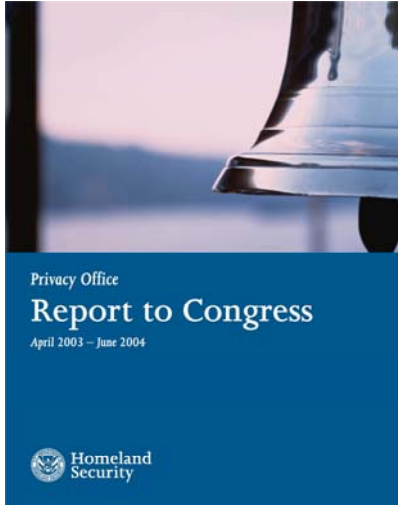




Homeland Security Privacy Matters

EVERYTHING THAT'S PUBLIC ABOUT PRIVACY – FEBRUARY 2, 2005

Annual Privacy Report Issued Department Priority on Privacy Protection Produces Results



The image above is hyperlinked to the full .pdf copy of the Privacy Annual Report. It can also be obtained from the DHS Privacy Office web page: www.dhs.gov/privacy

The first U.S. Department of Homeland Security annual Privacy Report to Congress is being released this week. The report outlines the challenges in implementing the first legislatively mandated Privacy Officer position and department-wide privacy office function in the Federal Government. Challenges ranged from routine administrative matters to the investigation and examination of national issues of privacy protection. The Privacy Office achievements included establishing a Privacy Protection seminar that is presented to newly hired employees at the DHS headquarters offices and directorates, establishing a network of Privacy Officers and Freedom of Information Act Officers to respond to the more than 160,000 requests received by the Department in its first year of operation, building professional partnerships with international privacy councils and workgroups, and establishing a proactive consulting reputation so that privacy protection, compliance, and redress are considered at the front end of security and information systems development.

“Protecting the privacy of individuals and also the homeland is not difficult,” said Homeland Security Secretary Tom Ridge, “when you place a high priority on both. It is personally satisfying to see the evolving sensitivity and support toward privacy protection and

information access throughout the organization. Privacy protection is every employee’s responsibility, and I believe we are sending that message clearly and effectively.”

“The Privacy Office got off to a strong start, and hasn’t stopped,” said Nuala O’Connor Kelly, Chief Privacy Officer. “The most significant change is there is now a strong leadership team at Headquarters, as well as key leaders throughout the Directorates and programs, who can take on more activities and outreach. The annual report reflects what can be achieved with the right people.”

The Privacy Office was established when Kelly was appointed as the Chief Privacy Officer in November 2003. With the assistance of one support staff employee, she began setting privacy policy and participating on workgroups for organizational initiatives, projects, and also systems development where personal information was a part of the system. Her first staff assistant and the Chief Counsel to the Privacy Office were brought on board a few months later. In 2004 the Chief of Staff and Director of International Privacy Policy was selected followed by the Director’s for Privacy Compliance, Privacy Technology, and Departmental Disclosure and FOIA.

“We have achieved a great deal in one year and the entire staff is dedicated to continuing to build the culture and infrastructure for protecting privacy and providing access throughout the Department,” Kelly concluded.

TALK TO US: If you would like to make a presentation to the Privacy Officers and Freedom of Information Act Officers for the Department of Homeland Security, please contact the DHS Privacy Office at 202-202-772-9848. Topics should be related to privacy or FOIA issues rather than privacy or FOIA products or services. If you would like to have a member of the DHS Privacy Office make a presentation to your organization please make your request to 202-772-9848. Or you may contact the Privacy Office at FOIA@dhs.gov.

MEET THE DHS PRIVACY LEADERSHIP

Nuala O'Connor Kelly Chief Privacy Officer



Nuala O'Connor Kelly was appointed Chief Privacy Officer of the Department of Homeland Security by Secretary Tom Ridge on April 16, 2003. In this capacity, O'Connor Kelly is responsible for privacy compliance across the Department. Her responsibilities encompass assuring that the technologies used by the Department to protect the United States sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal and Department information. The Privacy Office also has oversight of all privacy policy matters, including compliance with the Privacy Act of 1974, the Freedom of Information Act of 1966 (as amended), and the completion of Privacy Impact Assessments on all new programs, as required by the E-Government Act of 2002 and Section 222 of the Homeland Security Act. The Privacy Office also evaluates legislative and regulatory proposals involving collection, use, and disclosure of personal and Department information by the Federal Government.

Before joining the Department of Homeland Security, O'Connor Kelly served as Chief Privacy Officer for the U.S. Department of Commerce. While at Commerce, O'Connor Kelly also served as Chief Counsel for Technology, and as Deputy Director of the Office of Policy and Strategic Planning.

Prior to beginning her government career, O'Connor Kelly served as Vice President-Data Protection and Chief Privacy Officer for Emerging Technologies for the online media services company, DoubleClick. O'Connor Kelly helped found the company's first data protection department and was responsible for the creation of privacy and data protection policies and procedures throughout the company and for the company's clients and partners. O'Connor Kelly also served as the company's first deputy general counsel for privacy.

O'Connor Kelly received her A.B. from Princeton University, a master's of education from Harvard University, and J.D. from the Georgetown University Law Center. She has practiced law with the firms of Sidley & Austin, Hudson Cook, and Venable, Baetjer, Howard & Civiletti in Washington, D.C. She is a member of the bar in Washington, D.C., and Maryland.

Maureen Cooney Chief of Staff Senior Advisor, International Privacy Policy



As the Chief of Staff for the Privacy Office, Ms. Cooney is responsible for assisting the Chief Privacy Officer in developing and representing the DHS Privacy Office policies, programs and goals. Ms. Cooney represents the Privacy Office both internally and externally, liaising with other federal agencies on privacy policy matters and federal implementation of privacy laws and regulations.

Ms. Cooney's responsibilities as the Director of International Privacy Policy include international policy development and counseling on international privacy law and policies. Cooney monitors DHS activities for international privacy impact and compliance with international arrangements, such as the U.S. - European Union Passenger Name Record Undertakings and Agreement. As part of her duties, Cooney represents the interests of the DHS at international meetings, including as a U.S. delegate to many multilateral organizations, as well as in bilateral dialogues with representatives of foreign governments and data protection commissions.

Before joining DHS, Cooney worked on international privacy and security issues as the Legal Advisor for International Consumer Protection at the U.S. Federal Trade Commission. Ms. Cooney's government legal career also has included a litigation and counseling practice focused on financial services and enforcement issues, including extensive international work on anti-money laundering and foreign compliance issues, information sharing, and internal risk management, including privacy and security matters. Ms. Cooney received her A.B. degree in American Studies from Georgetown University and her J.D. from the Georgetown University Law Center.

PRIVACY & FOIA PROGRAM IN THE SPOTLIGHT: TSA

No Backlog for you!

The Department's annual FOIA report is made on a Fiscal Year basis and preliminary results are showing that the Transportation Security Administration, in the Border and Transportation Security Directorate, is ending the year without a FOIA backlog!

"We started the fiscal year with a backlog of 232 requests from 2003," Catrina Pavlik, the FOIA Officer for TSA, said. "And throughout 2004 we received another 1344 requests. It was our goal to end the fiscal year without a backlog."

Pavlik's team of 5 FOIA specialists and 7 contractors eliminated the total backlog of 1576 requests; approximately 300,000 pages of documents (not all of which the FOIA precluded from being released), and ended the year without a backlog.

"I have never heard of any government agency completely eliminating their backlog so quickly," said Tony Kendrick, the DHS Director for Departmental Disclosure and FOIA, "so this is an unprecedented and awesome achievement."

Although they met the deadline for completing the FOIA backlog, it did not come without sacrifice. Pavlik noted that "My specialists worked late in the evenings and often came in on weekends to meet their goal. Responding to appeals took considerable time and we temporarily put on hold responding to '05 requests until the '04s were completed." Since eliminating the backlog, the TSA staff was able to reduce the contractor support staff from 7 to 2, in addition to the 5 fulltime FOIA specialists.

The FOIA staff priority for this year: no backlog. "We plan to stay on top of the FOIAs as they come in and meet the 20 day mandate for responding to FOIA/PA requests," said Pavlik. "Senior TSA management is stressing how important it is for the program offices to produce responsive records for the FOIAs in a timely manner." To help in FOIA/PA awareness, TSA conducted FOIA Point of Contact training in November 2004 and created an online training module that should help expedite the FOIA process within the agency.

WORK WITH US: The DHS Privacy Office has a vacancy for the position of Attorney-Advisor. The announcement closes February 24, 2005. The announcement, with application information, is available at: <http://jobsearch.usajobs.opm.gov/getjob.asp?JobID=26676387&AVSDM=2005%2D01%2D25+10%3A01%3A04&Logo=0&col=dlct&cy=&brd=3876&lid=&fn=&q>



Elizabeth Withnell
Chief Counsel to the Privacy Office

As Chief Counsel, Withnell is responsible for providing legal advice on a wide range of information disclosure and privacy matters to the Chief Privacy Officer, the Privacy Office staff, and Departmental components. Withnell reviews all Privacy Office initiatives for legal sufficiency. She also represents the Department's privacy and disclosure interests at inter-agency meetings, assists with FOIA and Privacy Act litigation matters, and conducts reviews of DHS regulatory initiatives for compliance

with privacy and disclosure mandates. In this regard, Withnell serves as the initial reviewing authority for DHS Privacy Impact Assessments which must be approved by the Chief Privacy Officer. Other previous experience includes more than a decade of FOIA administrative and litigation-related activities at the Department of Justice's Office of Information and Privacy, where she litigated FOIA cases in federal courts and provided FOIA training governmentwide. Withnell received her law degree with honors from Georgetown University Law Center. She is a member of the bar of the District of Columbia.



Peter Sand
Director, Privacy Technology

As the Director of Privacy Technology, Sand coordinates the integration of privacy awareness and protections with the Department's development and use of information technologies. This is accomplished primarily through an ongoing dialogue with members of the Department's scientific and technology components. As technology-rich programs are developed within DHS, Sand ensures that privacy is one of the first and prominent issues

considered. At the same time, Sand brings the details of the nature and use of technology back to the DHS Privacy Office to keep the policy and legal architecture of privacy grounded in the hard science of information technology. Before joining the DHS, Sand served as the Chief Privacy and Chief Information Officer for the Pennsylvania Office of the Attorney General. In the Office of Attorney General, Sand provided direct oversight of the specific technology used to support that office's law enforcement activities. In addition, Sand worked with senior law enforcement leadership in Pennsylvania as well that of other states and federal agencies to build an action-oriented strategy that integrated technology and policy. He has also practiced as an attorney and technology consultant to state and local government agencies and non-profit and educational organizations. Mr. Sand graduated from Villanova University and the Villanova University School of Law.



Tony Kendrick
Director, Departmental Disclosure & FOIA

As the Director of Departmental Disclosure and the FOIA Kendrick establishes FOIA and Privacy Act disclosure policy and regulations. He advises the Chief Privacy Officer on FOIA and privacy information release aspects of requests and systems planning. He also provides FOIA guidance to the more than 22 component offices and agencies of the Department and the more than 400 FOIA

specialists processing more than 180,000 FOIA and Privacy Act requests each year. He ensures the development of public affairs guidance and training programs are consistent with Departmental policies and regulations and FOIA and Privacy Act training programs of the Privacy Office. His government career began in 1968 and included tours of duty with the military as an Army medic in Vietnam followed by an active duty and reserve military career as a Navy officer with public affairs and FOIA responsibilities. Concurrently with his reserve career he embarked on a government public affairs and FOIA career with the Departments of Defense, Agriculture, and Health and Human Services. Mr. Kendrick received a bachelor of arts degree in law enforcement and a masters degree in journalism (public relations) from the University of Maryland.



Rebecca J. Richards
Director, Privacy Compliance

As the Director of Privacy Compliance, Richards establishes and enforces privacy policy, including privacy impact assessment requirements, for the various electronic and records systems used by the Department. She accomplishes this by reviewing and identifying best practices across the various directorates' privacy education and training, policies, procedures, protocols, and protections that have

been implemented as required by law and the Department and then implementing these best practices agency wide. In addition, her responsibilities include auditing programs to ensure they remain compliant with rules and regulations, and also international agreements, regarding the privacy of U.S. citizens as well as foreign visitors. Before joining the DHS, Richards was Director of Policy and Compliance at an independent non-profit privacy certification program for companies doing business on the web. She has also worked as an international trade specialist with the U.S. Department of Commerce and worked on the U.S.-European Union safe harbor accord. She received her B.A. from University of Massachusetts, Amherst, a Masters in international trade and investment policy, and an MBA from George Washington University.

IN THE NEWS

"US-VISIT inquiries low" Federal Computer Week, December 20, 2004. Since January, 14.6 million passengers have enrolled in US-VISIT and 330 criminals and individuals with immigration violations have been detected, detained, or denied entry. And the program has received 50 record redress inquiries. This information was shared at the NISTs Information Security and Privacy Advisory Board meeting.

"Statement of James X. Dempsey," Executive Director, Center for Democracy & Technology before the House Committee on the Judiciary Subcommittee on Commercial and Administrative Law, February 10, 2004. "It is clear that a statutory Privacy Officer, participating in senior level policy deliberations and using the tools of Privacy Act notices and Privacy Impact Assessments, can be an important mechanism for raising and mitigating privacy concerns surrounding the government's use of personal information.

"In only ten months on the job, Ms. Kelly has been able to show why the Privacy Officer position is so vital to the success of the new department. She has become a trusted participant in internal agency deliberations while at the same time reaching out to privacy advocates and increasing public transparency of some of the most controversial programs in government today.

"The DHS Privacy Officer is an important institution and one that deserves support. . . to ensure that privacy is adequately respected in all homeland security projects."

The Department of Homeland Security
PRIVACY & FOIA LEADERSHIP

Chief Privacy Officer Nuala O'Connor Kelly
 Chief of Staff Maureen Cooney
 Director of International Privacy Policy Maureen Cooney
 Chief Counsel to the Privacy Office Liz Withnell
 Director, Privacy Technology Peter E. Sand
 Director, Privacy Compliance Becky Richards
 Director, Departmental Disclosure & FOIA Tony Kendrick

U.S. Secret Service Kathy Lyerly
 U.S. Coast Guard Donald Taylor
 U.S. Citizenship & Immigration Services Magda Ortiz
 Emergency Preparedness & Response (Privacy) Rena Kim
 Emergency Preparedness & Response (FOIA FEMA) Vicky Lewis
 Science & Technology Aaron Thompson
 Information Analysis & Information Protection (FOIA) Sandy Ford
 IAIP National Cyber Security (Privacy) Andy Purdy
 Transportation & Security Administration (Privacy) Lisa Spears
 Transportation & Security Administration (FOIA) Catrina Pavlik
 Immigration and Customs Enforcement Gloria Marshall
 Customs & Border Protection Joanne R. Stump
 Federal Law Enforcement Training Center Billy Spears
 Federal Protective Service Joe Gerber
 US VISIT Steve Yonkers
 Office of the Inspector General Rick Reback