

Tab A

Department of Defense
Report on Privacy and Civil Liberties Activities
Section 803 of the “Implementing Recommendations of the 9/11 Commission Act of 2007”
4th Quarter FY12 – July 1, 2012 to September 30, 2012

A. Number and Types of Reviews¹ Undertaken

Computer Matching Programs	2
Privacy Act Statements	534
Privacy Act Systems of Records Notices (SORNs) with applicable exemptions	174
Section (m) Contract Reviews	43

¹ A review is an activity to ensure compliance with requirements established in controlling authorities such as the Privacy Act of 1974, 5 U.S.C. § 552a; OMB Circular A-130, Appendix 1; and OMB Memo M-07-16. Examples of reviews may include a Privacy Impact Assessment, OMB Circular A-130 Privacy Act reviews (new and updated system of records reviews and reviews of proposed rules for Privacy Act exemptions), or OMB Circular A-130 Computer Matching reviews.

B. Type of Advice¹ Provided and the Responses Given² to such Advice

Collection, Use, Disclosure, Protection of Personally Identifiable Information (PII)	10,826
PII Breach Notification/Identity Theft	12,201
Privacy Act Program Requirements	4,391
Privacy Act SORNs	1,405
Privacy Act Violations	759
Privacy Briefings/Presentations	1,618
Privacy Compliance in Agency Publications	491
Privacy Compliance/DoD IT Portfolio Repository Report or Service equivalent	1,212
Privacy Impact Assessments	2,380
Privacy Reports	584
Social Security Number and PII Reduction	3,181
Training Requirements	9,714
Website Safeguards	10,355

¹ Advice is the formal issuance of policies, procedures, or guidance pertaining to privacy and civil liberties issued by: (1) the Heads of the OSD and DoD Components; (2) Component Senior Officials for Privacy or Component Chief Civil Liberties Officers; or (3) Component privacy or civil liberties points of contact.

² A response given is specific action taken by a DoD Component in response to advice provided by: (1) the Heads of the OSD and DoD Components; (2) Component Senior Officials for Privacy or Component Chief Civil Liberties Officers; or (3) Component privacy or civil liberties points of contact. Examples of a response given may include: a new or revised Component regulation, directive, procedure, or training.

C. Nature, Number, and Disposition of Complaints¹ Received

Nature of Privacy Complaint	Number Received	Disposition of Complaint	
		Responsive Action Taken ²	Pending ³
Process and Procedure <i>(Compliance Matters)</i>	11	3	8
Redress	0	0	0
Operational <i>(Collection, Use, Disclosure Issues)</i>	14	8	6
Privacy Complaints Subtotal	25	11	14
Nature of Civil Liberties Complaint	Number Received	Disposition of Complaint	
		Responsive Action Taken ²	Pending ³
First Amendment	16	11	5
Second Amendment	1	1	0
Fourth Amendment	6	5	1
Fifth Amendments	3	1	2
Fourth and Fifth Amendments	1	1	0
Fifth and Fourteenth Amendments	3	3	0
First, Fifth, and Sixth Amendments	1	0	1
First, Fifth, and Fourteenth Amendments	1	1	0
First, Fourth, Fifth, and Fourteenth Amendments	1	0	1
Civil Liberties Complaints Subtotal	33	23	10
TOTAL for 4th Qtr FY12	58	34	24

¹ A complaint is an assertion alleging a violation of privacy and/or civil liberties. Privacy complaints typically allege violations of: (1) process and procedural issues (consent, collection, and notice); (2) redress (non-Privacy Act inquiries seeking resolution of difficulties about privacy matters); or (3) operational issues (Privacy Act matters not including requests for access and/or amendment). Civil liberties complaints typically allege a violation of the Bill of Rights or other Amendments to the Constitution of the United States.

² Responsive action taken means the complaint was reviewed and a responsive action was taken and/or the complaint was resolved.

³ Pending means that the complaint is being reviewed to determine the responsive action and/or resolution.

Tab B

Details of Privacy Complaints and Dispositions
4th Quarter FY12 – July 1, 2012 to September 30, 2012

Total Number of Complaints Received: 25

Defense Finance and Accounting Service (DFAS)

Complaint #1

Description of Complaint: A complainant reported finding her personnel file in an unlocked drawer of her supervisor's desk.

Findings: Substantiated. Investigation determined the supervisor had placed the record in the back of her desk drawer upon being called away while working on the reporting employee's annual evaluation. The supervisor subsequently forgot about the file until it was reported by the employee the next day.

Disposition: Resolved. The desk in which the record was stored is located in a portion of the store that is not open to the public and is partially restricted with regard to entry by authorized personnel. There was no testimony or evidence to indicate that any of the employee's information was accessed by anyone other than the supervisor and employee. No evidence that a personally identifiable information (PII) breach occurred.

Complaint #2

Description of Complaint: Complaint from the Veterans Affairs (VA) that DFAS technician in Civilian Pay sent unencrypted report containing PII to the VA.

Findings: Substantiated. DFAS Civilian Pay was sending PII data, name and last four digits of social security numbers (SSN), to the VA to resolve civilian payroll issues. DFAS Privacy Act Officer was notified who in-turn contacted DFAS Information Technology who resolved the issue with the VA.

Disposition: Resolved. DFAS Information Technology worked with the VA to resolve the issue of the VA technicians not accepting DFAS technicians' certificates.

Department of the Army

Complaint #3

Description of Complaint: Complaint from a dependent of a service member (SM) who alleges that an Emergency Center staff member gave out her Protected Health information (PHI)/PII without her consent or authorization.

Findings: Under investigation.

Disposition: Pending.

Complaint #4

Description of Complaint: Complainant alleges that a staff member discussed her PHI/PII in a patient waiting area where everyone could hear.

Findings: Under investigation.

Disposition: Pending.

Complaint #5

Description of Complaint: Complaint that a staff member improperly accessed PHI from a co-worker.

Findings: Under investigation.

Disposition: Pending

Complaint #6

Description of Complaint: Complaint that a staff member improperly accessed PHI from a co-worker.

Findings: Under investigation.

Disposition: Pending.

Complaint #7

Description of Complaint: Complaint that a patient was improperly given someone else's PHI.

Findings: Under investigation.

Disposition: Pending.

Complaint #8

Description of Complaint: Complaint that medics inappropriately accessed PHI.

Findings: Under investigation.

Disposition: Pending.

Complaint #9

Description of Complaint: Family Advocacy Program (FAP) social worker spoke to the incorrect individual regarding an ongoing FAP case; SM's PHI and PII was improperly disclosed over the phone.

Findings: Substantiated. The FAP social worker revealed PHI and PII information to the wrong individual.

Disposition: Resolved. A letter of counseling was given to the FAP Supervisor. A Health Insurance Portability and Accountability Act (HIPAA) stand-down was held for all seven health clinics offering FAP services. During the stand-down two hours of HIPAA training and handouts were given by video teleconferencing.

Complaint #10

Description of Complaint: Complainant alleges her patient privacy was violated by a co-worker. Complainant suggests an employee retrieved copies of her medical records and disclosed confidential test results to other members of the staff.

Findings: Under investigation.

Disposition: Pending.

Complaint #11

Description of Complaint: SM complains that her patient privacy was violated when her chain of command inappropriately sent emails containing her PHI to personnel who had no authorization to receive it or need to know.

Findings: Under investigation. Waiting for copies of the email.

Disposition: Pending.

Complaint #12

Description of Complaint: SM filed a complaint stating that an employee of the General Leonard Wood Army Community Hospital had inappropriately accessed his PHI. The SM requested an audit of his Armed Forces Health Longitudinal Technology Application (AHLTA) encounters.

Findings: Substantiated. The AHLTA audit revealed the employee accessed the SM's PHI. The SM was notified by phone.

Disposition: Resolved. Employee admitted having accessed the SM's records not for the purposes of treatment, payment, or healthcare operations. An action was requested against the employee for termination; however, the employee was allowed to resign.

Complaint #13

Description of Complaint: An inquiry established that an employee improperly accessed an Army Criminal Investigation case file, most likely to see the level of involvement of his estranged wife and a person she developed a casual relationship with while deployed. His wife worked for the company under investigation and the casual friend was an executive of the company.

Findings: Under investigation.

Disposition: Pending.

Complaint #14 and 15

Description of Complaint: Two complainants raised concerns about soldiers/federal employees recording conversations in the workplace. Command was informed that a legal order could be given prohibiting secret recordings if this practice was found to detract from the unit's good order and discipline. In one instance, the recording was found not to violate state "one party" recording statutes. The second instance is under investigation.

Findings: Under investigation.

Disposition: Pending.

Department of the Navy

Complaint #16

Description of Complaint: SJA Office (Legal)/BUMED complainant alleged that personnel wrongfully accessed her dependent's medical record.

Findings: Substantiated.

Disposition: Closed.

Complaint #17

Description of Complaint: SJA Office (Legal)/BUMED complainant alleges that personnel wrongfully accessed his medical records.

Findings: Substantiated.

Disposition: Pending.

Complaint #18

Description of Complaint: Complainant alleged that incorrect information had been put in his patient record.

Findings: Substantiated.

Disposition: Closed.

Complaint #19

Description of Complaint: Complainant alleges that she observed members of the medical center allowing inappropriate access to patient's health information.

Findings: Under investigation.

Disposition: Pending.

Complaint #20

Description of Complaint: Complainant alleges that members in her chain of command wrongfully accessed her medical information. The complainant also alleges that the staff at the medical center disclosed her patient information without appropriate authorization.

Findings: Under investigation.

Disposition: Pending.

Complaint #21

Description of Complaint: Complainant alleges that medical center staff improperly access and disclosed her PHI.

Findings: Under investigation.

Disposition: Pending.

Complaint #22

Description of Complaint: A staff member working at the naval hospital filed a complaint alleging her coworker looked at and modified her allergy information in her health record. The coworker is not part of her healthcare team.

Findings: Department of Navy Chief Information Officer (DON CIO) report submitted. It was confirmed that the co-worker did briefly look at but did not modify the complainant's allergy information.

Disposition: Resolved. The complainant was notified. Privacy breach referred to command for disciplinary action.

Complaint #23

Description of Complaint: A report of Substance Abuse and Rehabilitation Program records were discovered at a staff member's private home. DON CIO breach report was submitted.

Findings: Command investigator concluded the chance of PII being compromised was low. DON CIO determined no notification of effected personnel was required.

Disposition: Resolved. Staff member referred to command for disciplinary action.

Complaint #24

Description of Complaint: Department of Health and Human Services (HHS), Office of Civil Rights (OCR) received a complaint from a former civilian staff member that her privacy was violated and the Naval Hospital is not in compliance with federal privacy standards.

Findings: An HHS/OCR letter was received by the HIPAA Compliance Officer. This privacy complaint was initially received from the complainant to Naval Hospital Jacksonville. DONCIO investigated and satisfactory closed.

Disposition: Pending. Response to HHS/ OCR complaint inquiry is being prepared.

Complaint #25

Description of Complaint: NETC received an Inspector General (IG) Complaint alleging a civilian employee was conducting an unauthorized Human Subject Research for the SEAL Profile Development Study.

Findings: Substantiated. IG found the civilian employee did collect and wrongfully disclose the PII of military members, to include individuals full names and SSNs and provided said information to entities or personnel, other than the subject of the record or the subjects designated agent in Violation of SECNAVINST 5211.5E DoN Privacy Act Program.

Disposition: Pending.

**Details of Civil Liberties Complaints and Dispositions
4th Quarter FY12 – July 1, 2012 to September 30, 2012**

Total Number of Complaints Received: 33

Department of the Air Force

Complaint #1

Description of Complaint: Alleged First, Fourth, Fifth, and Fourteenth Amendment violations. Complainant alleged that his civil liberties were infringed upon during an investigation conducted by the Air Force Office of Special Investigation (AFOSI). The complainant alleged that the investigator had a gender bias that affected the investigation and infringed upon the complainant's First, Fourth, Fifth and Fourteenth Amendment rights. The complainant also alleged that the investigator violated the Privacy Act by divulging information pertaining to the complainant and the complainant's ex-spouse.

Findings: This complaint was referred to AFOSI Field Investigations Region for resolution. That office is finalizing its findings and its closure letter is being prepared.

Disposition: Pending.

Complaint #2

Description of Complaint: Alleged First, Fifth and Sixth Amendment violations. The complainant alleged that he was subjected to reprisals for alleging that other agents committed misconduct. The complainant also alleged that, during an AFOSI internal investigation, of which he was a subject, the investigating officer would not accept his written statement after he had requested legal counsel.

Findings: A complaint analysis will be conducted to determine a resolution.

Disposition: Pending.

Complaint #3

Description of Complaint: Alleged First Amendment violation. The complainant alleged that his leadership made reprisals against him because he made a protected communication to an investigative agency. Specifically, the complainant believed that his Enlisted Performance Report (EPR) was changed from "5" to "4" because he informed leadership and Security Forces Squadron (SFS) investigators that a member in the unit had engaged in inappropriate relationships. The complainant had been under a "gag order" not to discuss the case, and the commander said that the complainant had violated that order by discussing the case with another party (i.e., not leadership or SFS).

Findings: The Air Force initially conducted an extensive reprisal complaint analysis and did not recommend an investigation into the reprisal allegation. However, a second investigation was conducted, and results of that investigation are still pending.

Disposition: Pending.

Complaint #4

Description of Complaint: Alleged Fifth Amendment violation. Parents asserted that their minor child was interviewed without parental consent.

Finding: Pending resolution

Disposition: Pending.

Complaint #5

Description of Complaint: Alleged Fifth Amendment violation. The complainant contested a Wing Commander debarment that restricted his base access during duty days and required that he be escorted at all times.

Findings: The complainant had been awaiting a court martial and had threatened leadership. The complainant was diagnosed with a psychological disorder, and requested a Chapter 4 Administrative Discharge in lieu of a court martial. The request was approved. The debarment order remains in effect until the complainant is discharged.

Disposition: Pending.

Complaint #6

Description of Complaint: Alleged First Amendment violation. The complainant alleged that Air Force policy memorandum "Maintaining Government Neutrality Regarding Religion," dated September 1, 2011, required him to abandon and/or alter his religious practices as a condition of employment, in order to avoid an adverse action.

Finding: The complainant withdrew his allegation.

Disposition: Resolved.

Complaint #7

Description of Complaint: Alleged First Amendment violation. The complainant alleged that he was made to watch a video, and was counseled about how religion and church attendance might help him with some of his problems.

Findings: The complaint was unsubstantiated. However, involved parties were briefed on appropriate behavior when talking about religion.

Disposition: Resolved.

Complaint #8

Description of Complaint: Alleged Fourth Amendment violation. The complainant, a US citizen residing in Abu Dhabi asserted that her car and person were unreasonably searched.

Findings: The complainant lives in a hotel that was hosting an international conference to be attended by the U.S. Secretary of State. The area around the hotel was barricaded and everyone entering the blockaded area was searched by security.

Disposition: Resolved.

Complaint #9

Description of Complaint: Alleged Second Amendment violation. The complainant, the Security Forces Commander, challenged a proposed policy regarding the purchase, transportation, and storage of firearms on base. He stated that the policy would allow a disgruntled individual to purchase a weapon and ammunition from Army and Air Force Exchange Service and use it immediately. The complainant asked the Inspector General (IG) for

assistance in evaluating the policy, and the possibility that an individual might allege a violation of their Second Amendment rights.

Findings: The IG discussed the Wing Commander's right and obligation to control the storage, movement, and use of firearms within the base perimeter. The IG also discussed how potential force protection issues could be addressed.

Disposition: Resolved.

Complaint #10

Description of Complaint: Alleged First Amendment violation. An Air Expeditionary Group Commander (AEG/CC) noted that an Airman sent out a base wide e-mail regarding the start of a new religious service. The Airman continued to proselytize and advocate/promote a specific religious belief in the e-mail.

Findings: The Air Expeditionary Group Judge Advocate provided proper guidance to the AEG/CC to handle the situation before complaints surfaced.

Disposition: Resolved.

Complaint #11

Description of Complaint: Alleged Fifth and Fourteenth Amendment violations. The complainant alleged that the First Sergeant directed him to sign block 10 on an Article 15 (non-judicial punishment), stating that the complainant understood that the commander decided to file the Article 15. The complainant alleged that the First Sergeant became irate, screaming and spitting while demanding that the complainant sign block 10. The complainant said he did not understand and asked to contact his Area Defense Counsel.

Findings: The complainant was informed that the IG would refer his complaint to the squadron commander. The complainant then withdrew his complaint and stated his intent to file a Congressional Inquiry.

Disposition: Resolved.

Complaint #12

Description of Complaint: Alleged First, Fifth and Fourteenth Amendment violations. The complainant alleged that he received a Letter of Reprimand (LOR) for "jumping the chain of command" because he made an appointment with his commander without his supervisor's knowledge. The complainant stated that the commander had an open-door policy.

Findings: IG discussed the issue with the SQ/CC, who stated that the reference to jumping the chain of command shouldn't have been in the LOR. The SQ/CC said that he will educate/counsel supervisors not to punish Airmen for making appointments with the commander.

Disposition: Resolved.

Complaint #13

Description of Complaint: Alleged Fifth and Fourteenth Amendment violations. The complainant alleged that a Report of Investigation (ROI) was wrongfully withheld from him, in violation of his due process rights.

Findings: The complainant was not facing criminal action that would result in the deprivation of life, liberty or property. Therefore, his denial of access to an ROI is not a violation of due process.

Disposition: Resolved.

Complaint #14

Description of Complaint: Alleged Fifth Amendment Violation. The complainant was ordered to report to his commander's office following an off-base arrest for DUI. The unit's First Sergeant was also present. The Squadron Commander advised the complainant verbally of his Article 31, UCMJ, rights. The complainant alleged that although he requested an attorney, his commander told him to "tell me what happened." The complainant stated that he answered questions because he felt compelled to respond due to his commander's rank. The next day, the complainant was ordered to report to his Wing Commander's office. The Wing Commander asked the complainant about the incident without advising the complainant of his Article 31, UCMJ rights. The complainant replied that he was invoking his right to remain silent. The Wing Commander then directed the complainant to role-play wherein he was directed to sit in the Wing Commander's chair and pretend to be the Wing Commander calling the complainant's father with news that he had died in a drunken driving accident. The complainant went to the base IG's Office and alleged that his First Sergeant, Squadron Commander and Wing Commander violated his Article 31 rights.

Findings: The complaint was referred to the IG who determined that since the complainant was not criminally charged his rights were not violated. However, the report did note the need for additional training on Article 31 rights.

Disposition: Resolved.

Complaint #15

Description of Complaint: Alleged First Amendment violation. The complaint alleged that an individual made two derogatory comments. One derogatory comment was toward the complainant. The second derogatory comment was toward another individual.

Findings: The individual making the derogatory comments was given a 14 day suspension.

Disposition: Resolved.

Complaint #16

Description of Complaint: Alleged First Amendment violation. The complainant alleged that she was given an LOR for calling a non-commissioned officer (NCO) a liar on Facebook, even though others made more insulting comments.

Findings: The complainant didn't know that the other five individuals who posted negative comments on Facebook were also punished with a letter of counseling, LOR, or Article 15, depending on the severity of their comments.

Disposition: Resolved.

Complaint #17

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that her supervisor accessed her government computer without her permission.

Findings: A commander directed investigation found that the complaint was not substantiated. However, a lack of awareness regarding the process of authorizing access to information systems was noted. Awareness training is being conducted for personnel as needed.

Disposition: Resolved.

Complaint #18

Description of Complaint: Alleged Fifth and Fourteenth Amendment violations. The complainant was the subject of a commander directed inquiry and alleged that he was denied an opportunity to present a written statement. The complainant believed that this violated his due process rights.

Findings: No violation was found. The statement was submitted but not signed, and the inquiry officer did not accept it until discussing it with the complainant's lawyer.

Disposition: Resolved.

Complaint updated from 3rd Qtr FY12

The complaint was received and reported as "pending" during the 3rd Qtr of FY 2012 and is not included as a new complaint received during the 4th Qtr of FY 2012

Description of Complaint: Alleged Fourth and Fifth Amendment violations. The complainant, a dependent spouse, alleged that she was improperly detained by SF for leaving her children (an infant and a child, approximately 7 years of age) in her car while she returned an item to the base exchange. The complainant alleged that the SF official was off-duty, did not identify himself, and did not have the authority to handcuff and detain her. She also alleged that she was improperly searched and that excessive force was used while she was handcuffed, resulting in unnecessary pain and suffering. Further, the complainant alleged that her children were left unattended during the incident.

Finding: Referred to SF squadron commander for action. A CDI found that leaving the children without evidence of reckless disregard for their safety was a violation of base policy. However, this action did not violate Ohio case law, and was administrative and not criminal. The complainant should not have been handcuffed. The SF commander will meet with the complainant and provide a written apology.

Disposition: Resolved.

Department of the Army

Complaint #19

Description of Complaint: Alleged Fourth and Fifth Amendment violation. The complainant alleged that he was improperly held in the Emergency Department, while waiting for the State of Washington mental health provider to evaluate him.

Findings: The complaint was fully investigated by the Madigan Office of Criminal Justice Assistance. The investigation determined that the complaint was unfounded because all appropriate state laws were followed, and interviews with MP's showed there was clear evidence that the individual was delusional and posed a potential danger to himself or others.

Disposition: Resolved.

Complaint #20

This matter appears to have been a holdover from the 2011-2012 Holiday Season

Description of Complaint: Alleged First Amendment violation. The complainant objected to the displays of religious holiday decorations in the workplace. The complainant was instructed to discuss the matter with the unit chaplain and equal opportunity representative. Additionally, the complainant was advised that if those discussions were not fruitful, the next step would be to follow the religious accommodation procedures in Army Regulation 600-20.

Findings: Closed, upon advice given pursuant to AR 600-20.

Disposition: Resolved.

Complaints #21 and 22

Description of Complaint: Alleged Fourth Amendment violation. The complainants questioned their unit leaderships' health and welfare inspections of their on-post privatized quarters.

Findings: The unit commanders were informed and appropriately counseled regarding installation policy prohibiting inspections of on-post privatized housing without the occupant's consent or without a search warrant.

Disposition: Resolved.

Complaint #23

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that the entry into his on-post family quarters by his first sergeant was unlawful. The complainant reported his involvement in an off-post incident involving civilian law enforcement to the unit staff duty officer. Subsequently, the soldier's squad leader and platoon sergeant went to the soldier's on-post family quarters to look for him. Since no one responded at the quarters, the installation military police informed the squad leader and platoon sergeant that nothing more could be done without a search warrant. The squadron leader and platoon sergeant then relayed this information to the first sergeant. The first sergeant then allegedly responded by calling the installation locksmith to open the door, and proceeding to search the quarters himself. The complainant did not realize anyone had entered his quarters until the following week when he received a bill for the charge of replacing the locks and keys to the quarters. The command is investigating the complaint.

Findings: On-going.

Disposition: Pending.

Complaint #24

Description of Complaint: Alleged First Amendment violation. The complainant alleged improper restrictions on speech in the workplace. The complainant argued that his commander unconstitutionally counseled him for inappropriate demeanor and language, to include using the word "bullshit" when addressing the unit commander. The complainant was advised to address this issue using appropriate grievance procedures.

Findings: On-going.

Disposition: Pending

Complaint # 25

Description of Complaint: Alleged First Amendment violation. The complainant alleged improper restrictions on speech in the workplace. The complainant protested prohibitions on political speech in the workplace.

Findings: On-going.

Disposition: Pending

Complaint #26 and 27

Description of Complaint: Alleged First Amendment violation. Two complainants were referred to the FBI for allegations of extremist activity, to include posting racist blogs and making a vague threat against an elected official. One of the complainants was a discharged member of the National Guard, and the other is under investigation.

Findings: On-going.

Disposition: Pending.

Complaints #28 through 32

Description of Complaint: Alleged First Amendment violation. Four complainants raised concern about lack of access to religious services during training. In one instance, the complainant was in a weekend "School of the Soldier" program, an alternative to non-judicial punishment.

Findings: The program was modified to accommodate religious service attendance. One other instance involved mission priorities precluding release in time for Friday Sabbath services. Another instance involved a commander's rescission of off-post pass privileges precluding attendance at Mormon services. In all cases, the complainants were advised of the religious accommodation procedures in Army Regulation 600-20, and the IG spoke to the unit leadership to make them aware of the issues.

Disposition: Resolved.

Complaint #33

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that after a bag of change was reported missing from the Pepsi vending machine his commandant ordered an "inspection" of the work area that included opening personal backpacks and purses. The complainant alleged that the commandant ordered everyone out of the barracks and searched their rooms and their persons.

Findings: On-going.

Disposition: Resolved.

Complaint updated from the 1st Qtr FY12.

The complaint was received and reported as "pending" during the 1st Qtr of FY 2012 and is not included as a new complaint received during the 4th Qtr of FY 2012.

Description of Complaint: Implicates the right to privacy. The complaint alleged that a soldier's command brought a military bus with 30 uniformed soldiers to clean his on-post quarters without his consent. The complainant also alleged that during the incident his wife suffered a panic attack, and that soldiers removed some of their prescription medication. The unit commander had ordered the cleaning after military police found the soldier's child wandering alone in the housing area. The military police returned the child to the quarters, and reported the condition of the quarters to the commander. The unit's higher level command is investigating the allegation.

Findings: The unit commander was found to have abused his authority by conducting an inspection of his soldier's on-post privatized family quarters without the soldier's consent and without obtaining a search authorization.

Disposition: Resolved.

Complaint update from 2nd Qtr FY 2012.

This complaint was received and reported as "pending" during the 2nd Qtr of FY 2012 submission and is not included as a new complaint for the 4th Qtr of FY 2012.

Description of Complaint: Alleged First Amendment violation. A soldier was on his way to the installation Protocol Office to get permission to speak to the media about the Army's cumbersome process to approve use of service dogs for wounded warriors with post-traumatic stress disorder. He was intercepted and escorted to his battalion commander's office. The battalion commander ordered the soldier to unlock his personal cell phone and retrieve the phone number of an organizer for "Military Work Dog Adoptions," a private organization promoting pairing wounded warriors with service dogs. The battalion commander then called the organizer asking if she had sent the soldier to talk to the media about the service dog issue. Complaints were submitted by both the soldier and the organizer.

Findings: The evidence indicated that the battalion commander became aware that erroneous information had been circulating regarding on-post Wounded Warrior service dog use. After hearing that this soldier was going to talk to the media about the installation's policy on service dog use, the battalion commander attempted to locate, but was unable to find the public affairs officer. The officer then called the soldier and his chain of command to his office to discuss the matter. During the discussion, the battalion commander asked the soldier for the Military Work Dog Adoption's phone number. The soldier responded that the number was on his cell phone, and retrieved it for the battalion commander. The battalion commander discussed the installation's service dog policy with the group's organizer. The battalion commander was legitimately concerned with ensuring that the soldier did not misrepresent the installation's policy to the media. Soldiers have free speech rights when discussing personal matters with the media, but must adhere to Army regulations when purporting to communicate official Army policy to the media.

Disposition: Resolved.

Tab C



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Carl Levin
Chairman
Committee on Armed Services
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Pursuant to section 803, Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act"), this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the fourth quarter of fiscal year (FY) 2012, July 1, 2012 through September 30, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the fourth quarter of FY 2012, DPCLO reviewed 58 issuances.

The Act requires that DoD have "adequate procedures to receive, investigate, respond to, and redress complaints" from individuals who allege that DoD violated their privacy or civil liberties. DPCLO received 25 privacy complaints and 33 civil liberties complaints; 34 complaints were resolved; and 24 are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees.

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable John McCain
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

NOV 19 2012

The Honorable Dianne Feinstein
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Madam Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Saxby Chambliss
Vice Chairman



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Darrell E. Issa
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

Pursuant to section 803, Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act"), this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the fourth quarter of fiscal year (FY) 2012, July 1, 2012 through September 30, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the fourth quarter of FY 2012, DPCLO reviewed 58 issuances.

The Act requires that DoD have "adequate procedures to receive, investigate, respond to, and redress complaints" from individuals who allege that DoD violated their privacy or civil liberties. DPCLO received 25 privacy complaints and 33 civil liberties complaints; 34 complaints were resolved; and 24 are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees.

A handwritten signature in black ink, appearing to read "Michael L. Rhodes".

Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Elijah E. Cummings
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Patrick J. Leahy
Chairman
Committee on Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Chuck Grassley
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Joseph I. Lieberman
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Susan M. Collins
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Howard P. "Buck" McKeon
Chairman
Committee on Armed Services
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable Adam Smith
Ranking Member



OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

NOV 19 2012

The Honorable Mike Rogers
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable C.A. Dutch Ruppertsberger
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE
1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

NOV 19 2012

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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Michael L. Rhodes
Senior Agency Official for Privacy
and DoD Civil Liberties Officer

Enclosure:
As stated

cc:
The Honorable John Conyers, Jr.
Ranking Member