

Tab A

**Department of Defense
 Privacy and Civil Liberties Activities
 Section 803 of the “Implementing Recommendations of the 9/11 Commission Act of 2007”
 1st Quarter Fiscal Year 2013 – October 1, 2012 to December 31, 2012**

A. Number and Types of Reviews¹ Undertaken

Computer Matching Programs	1
Privacy Act Statements	725
Privacy Act Systems of Records Notices (SORNs) with applicable exemptions	203
Section (m) Contract Reviews	16

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 Advice Provided¹ and the Response to Advice²

Advice Provided	Response to Advice
0	0

Note: In the report for this quarter, the definitions for the terms “advice provided” and “response to advice” were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions identify instances of formal, written guidance from DoD Component leaders in the areas of privacy and civil liberties. The revised definitions are more consistent with the definitions used for the same terms by other agencies required to submit “Section 803” reports. The revised definitions will be used in reports for subsequent quarters.

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

² Response to advice is specific action taken by a DoD Component implementing the advice provided by: (1) the Heads of the OSD and DoD Components; or (2) Component Senior Officials for Privacy or Component Chief Civil Liberties Officers. Examples of a response to advice may include: guidance, new procedure, or training.

C. Nature, Number, and Disposition of Complaints¹ Received

Nature of Privacy Complaints	Number Received	Disposition of Complaint	
		Responsive Action Taken ²	Pending ³
Process and Procedure	25	11	14
Redress	0	0	0
Operational	5	5	0
<i>Sub Total for Privacy Complaints:</i>	<i>30</i>	<i>16</i>	<i>14</i>
Nature of Civil Liberties Complaints			
First Amendment	8	5	3
Second Amendment	1	1	0
Fourth Amendment	3	2	1
Fifth Amendment	2	0	2
Sixth Amendment	1	0	1
Fourteenth Amendment	2	1	1
Second and Fourth Amendments	1	0	1
<i>Sub Total for Civil Liberties Complaints:</i>	<i>18</i>	<i>9</i>	<i>9</i>
TOTAL for 1st Qtr FY13	48	25	23

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, disclosure, 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, disclosure, 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
1st Quarter FY13 – October 1, 2012 to December 31, 2012**

Total Number of Complaints Received: 30

Defense Commissary Agency

Complaint #1

Description of Complaint: Report received alleging that time and attendance records were improperly filed in an unsecured file cabinet. The cabinet was allegedly being kept in the break room during the remodeling of the customer service area of the store.

Findings: Substantiated. Investigation revealed that the records consisted of time and attendance records of three individuals who were on extended absences. There was no evidence that any information in the records had been accessed by anyone other than the employee who reported the incident and the union steward who verified their location. Although there is a remote possibility that the information may have been viewed by others, the room was a secondary break room and was doubling as a storage space during the store's remodeling, there was no testimony that anyone had been seen accessing the file cabinet and none of the files had been disturbed in anyway.

Disposition: Responsive action taken. DeCA determined that the likelihood of a personally identifiable information (PII) breach was remote. It is noted that corrective action to secure the files had been taken by the store prior to the complaint reaching the privacy officer.

Department of the Army

Complaint #2

Description of Complaint: Complaint from two employees that their PII was wrongfully disclosed to the workforce in a file attachment sent by the Commander.

Findings: Substantiated. The information on the "Standard 13 Acquisition Workforce Certification" file may have been information required by leadership within the organization, but it was not prudent to disseminate the information to all employees on the distribution list.

Disposition: Responsive action taken. The Chief Management Support Division notified the Commander and the complainants' management team. The Commander sent personal emails of apology to both complainants and spoke with them about how measures will be put in place to ensure that briefings are properly maintained. Both complainants accepted this resolution.

Complaint #3

Description of Complaint: Complaint from an employee about a tasker that requested PII for an emergency recall roster. The roster was originally sent out without a privacy notice. Then, later that day, a second tasker was sent that stated the collected data would not be shared with anyone outside the DoD. The complainant believes that this restriction is not tight enough.

Findings: Substantiated. The employee did not receive the message or attachment that was included in the original tasker. The original tasker was distributed to directorate offices. The employee's directorate then created their own version to request the information from the employees. The POC for the original tasker allowed and welcomed variations as long as supervisors and employees understood how the communication should occur.

Disposition: Responsive action taken. The Director was notified and completed a corrective action plan that included steps taken to destroy or protect the forms and all personal data that was transmitted electronically under this effort. A training plan was created to ensure the administrative staff understands how to handle PII. A confirmation was requested to ensure the employees understood the need to update their records and that the organization has the authority to use the data during emergencies. The organization's annual Privacy Act Training will be distributed in early 2013 to teach the workforce how to safeguard information appropriately.

Complaint #4

Description of Complaint: A patient's spouse reported that they found someone else's medication information in the bag received from the pharmacy. The spouse brought the information in and it was turned over to the Chief of Pharmacy.

Findings: Substantiated. Upon investigation it was found that the medication information was put into a basket and inadvertently combined with another patient's information.

Disposition: Responsive action taken. The pharmacy tech was counseled and policies and procedures were reviewed by the Chief of Pharmacy.

Complaint #5

Description of Complaint: Complainant believed that her son's protected health information (PHI) was inappropriately disclosed to her by her son's provider. This complaint was received as a Congressional inquiry.

Findings: Under investigation.

Disposition: Pending.

Complaint #6

Description of Complaint: Patient believes provider inappropriately disclosed PHI to the patient's Commander.

Findings: Under investigation.

Disposition: Pending.

Complaint #7

Description of Complaint: The patient stated that the clinic employee who screened her during an appointment divulged her PHI to a mutual acquaintance. The employee also told the acquaintance the patient's son had multiple medical problems, which the patient states is untrue.

Findings: Under investigation.

Disposition: Pending.

Complaint #8

Description of Complaint: The complainant stated an employee left detailed medical information on a spouse's voice mail.

Findings: Substantiated. Employee called the point of contact on file to notify patient of a medical condition. The employee left a message on the spouse's voice mail that contained more information than what was minimally necessary.

Disposition: Responsive action taken. The complainant was notified. The employee was counseled.

Complaint #9

Description of Complaint: The complainant stated an employee wrongfully accessed the medical records of another employee.

Findings: Substantiated. An employee accessed the employee's medical records because they thought the employee was good looking and wanted to know whether the employee was single. The employee accessing the information also disclosed it to a roommate.

Disposition: Responsive action taken. The complainant was notified. The employee was terminated.

Complaint #10

Description of Complaint: A staff member filed a complaint alleging a co-worker mishandled their PII by scanning a document electronically and forwarding it without consent.

Findings: Substantiated. It was confirmed that a co-worker did scan and forward the document.

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

Complaint #11

Description of Complaint: A Special Agent (SA) submitted mitigating matters on his behalf to the U.S. Army Criminal Investigation Commanding General in defense of his elimination proceedings. The documents submitted by the SA contained PII belonging to other individuals.

Findings: Substantiated. The Inquiry Officer determined the SA committed a Privacy Act violation when he obtained PII by unauthorized means and failed to follow the established guidelines for safeguarding PII.

Disposition: Responsive action taken. The complainant was notified. Matter was referred to command for disciplinary action.

Department of the Navy

Complaint #12

Description of Complaint: Complainant believes her child's father may be wrongfully looking in their child's medical record.

Findings: Under investigation. An Armed Forces Health Longitudinal Technology Application (AHLTA) audit was run. The case was turned over to Naval Hospital Pensacola Legal Office for further investigation.

Disposition: Pending.

Complaint # 13

Description of Complaint: Complaint stated her PII was disclosed without authorization to another employee.

Findings: Navy Medicine Professional Development Center has not been able to validate the complaint. However, the center believes the disclosure, if it occurred, was not malicious based on preliminary findings. Emails and witness statements are still under review.

Disposition: Pending.

Complaint #14

Description of Complaint: Unauthorized disclosure of a patient's PHI.

Findings: Substantiated.

Disposition: Responsive action taken.

Complaint #15

Description of Complaint: Unauthorized disclosure of a patient's PHI and accessing the record without need-to-know.

Findings: Under investigation.

Disposition: Pending.

Complaint #16

Description of Complaint: Unauthorized disclosure of a patient's PHI; clinic phone line was forwarded to a patient's personal cell phone.

Findings: Substantiated.

Disposition: Responsive action taken.

Complaint #17

Description of Complaint: Staff member alleged that other staff members accessed her PHI without need-to-know.

Findings: Under investigation.

Disposition: Pending.

Complaint #18

Description of Complaint: Complainant alleges that personnel accessed his medical records without need-to-know.

Findings: Substantiated.

Disposition: Responsive action taken.

Complaint #19

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

Findings: Under investigation.

Disposition: Pending.

Complaint #20

Description of Complaint: Complainant alleges that medical center staff accessed and disclosed her PHI to an individual who was not authorized to have her medical information.

Findings: Under investigation.

Disposition: Pending.

Complaint #21

Description of Complaint: Complainant alleges that someone in his chain of command accessed and disclosed his medical information without appropriate authorization.

Findings: Under investigation.

Disposition: Pending.

Complaint #22

Description of Complaint: Complainant alleges that persons without appropriate authorization forwarded his PHI in an unprotected electronic message.

Findings: Under investigation.

Disposition: Pending.

Complaint #23

Description of Complaint: Complainant alleges that her command accessed and disclosed her medical information without appropriate authorization.

Findings: Under investigation.

Disposition: Pending.

Complaint #24

Description of Complaint: Complainant alleges that an ex-spouse inappropriately accessed the complainant's records.

Findings: Substantiated. An AHLTA audit was requested and it was found that the ex-spouse had accessed the complainant's records on numerous occasions.

Disposition: Pending. The matter has been turned over to Command Legal and is under investigation.

Complaint #25

Description of Complaint: Patient complained that a pharmacy staff member violated his rights by talking to him from across the room.

Findings: Substantiated. The pharmacy staff did address the patient without calling him to the window for a more discrete conversation.

Disposition: Responsive action taken. The Department Head of Pharmacy spoke to the patient, apologizing for the actions of the staff member.

Complaint #26

Description of Complaint: Complaint from staff member stating that the retiring Department Head removed her personnel file from the office to her residence. The personnel file contained PII as well as medical information.

Findings: Substantiated. The departing Department Head organized what she thought were personal files from her office. The personnel file of the staff member was taken home accidentally and returned the next day.

Disposition: Responsive action taken. The complainant was notified.

Complaint #27

Description of Complaint: A patient (also a staff member) reported that she learned that her laboratory test results were verbally disclosed by another staff member to individuals who did not have need-to-know.

Findings: Substantiated. Investigation included an AHLTA audit of the electronic medical record to determine if unauthorized access took place.

Disposition: Responsive action taken. Two staff members are scheduled for non-judicial punishment (NJP) as a result of the investigating officer's recommendations.

Complaint #28

Description of Complaint: A list of a patient's appointments, which contained PII, was given to another patient in error.

Findings: Substantiated. The violation did occur and appears to be a careless error. The list of appointments was returned by the other patient.

Disposition: Responsive action taken. The patient to whom the list applied was notified of the unauthorized disclosure. The staff reviewed the steps that occur when patients request a list of appointments and safeguards were put in place to prevent further unauthorized disclosures.

Complaint #29

Description of Complaint: Complaint received from a patient stating a breach of her PHI had occurred. A staff member discussed the complainant's medical condition with other staff members at a location outside of the medical treatment facility.

Findings: Substantiated. Investigation was performed by the command and allegations were supported by the findings.

Disposition: Responsive action taken. Disciplinary and legal actions were taken by the command. Staff members were reassigned to non-patient care duties. Additional training was mandated for all staff members involved.

U.S. Strategic Command

Complaint # 30

Description of Complaint: A civilian employee complained that his ex-wife, a civilian employee, was allowed access to his security file and wrongfully used information from the file in a child custody hearing.

Findings: Preliminary review of Freedom of Information Act related documents indicates that the complainant's ex-wife sought access to his security file even though she did not have need-to-know. A review is ongoing. Complainant has agreed to U.S. Strategic Command's (STRATCOM) processing time-line.

Disposition: Pending. This complaint is a spill-over of a Naval Criminal Investigative Service (NCIS) investigation into criminal misconduct within the Joint Warfare Analysis Center (JWAC) Special Security Office. Although the NCIS investigation is still open, the NCIS agent has agreed to facilitate the production of statements once STRATCOM identifies who at JWAC is required to provide one.

**Details of Civil Liberties Complaints and Dispositions
1st Quarter FY13 – October 1, 2012 to December 31, 2012**

Total Number of Complaints Received: 18

Department of the Air Force

Complaint #1

Description of Complaint: Alleged Sixth Amendment violation. The complainant was the subject of an Office of Special Investigation case and alleged that the investigating officer would not accept his written statement after he had requested legal counsel. The complainant filed two complaints: one with the Inspector General (IG) and one as a Congressional Inquiry.

Findings: Complaint analysis is currently underway to determine a resolution.

Disposition: Pending.

Complaint #2

Description of Complaint: Alleged Fifth Amendment violation. The complainant alleged that she was not informed of her Article 31 rights. The complainant filed three IG complaints on this issue.

Findings: Complaint analysis is currently underway to determine a resolution.

Disposition: Pending.

Complaint #3

Description of Complaint: Alleged Fifth Amendment violation. The complainant was arrested off-base for driving under the influence (DUI). The complainant was prosecuted and found guilty of DUI. Subsequently, the complainant's Commander demoted him to the rank of Senior Airman. As a result, the complainant was expected to hit High Year Tenure (HYT). The complainant sought to have his enlistment extended but his Commander denied the request. The complainant alleged that he was punished twice for the crime of DUI, a violation of the Air Force policy on double jeopardy without due process of law.

Findings: Air Force Personnel Center rules dictate that in the complainant's situation his HYT will automatically be extended to allow for one more promotion opportunity. The squadron is now in the process of offering new paperwork to extend the complainant's date of service to match the new HYT. Therefore the extension denial that was part of this Article 138 complaint will become ineffective. The demotion action portion of the complaint will be forwarded to the Wing Commander for an initial decision on redress. If denied, the complainant will likely request that the demotion complaint be forwarded to the General Court-Martial Convening Authority (GCMCA).

Disposition: Pending.

Complaint #4

Description of Complaint: Alleged First Amendment violation. The complainant, an inmate, initiated a complaint to the IG. The complaint states that the inmate was denied the right to practice her religion when the confinement facility guards told her that she must pray at a communal table in plain view of the guards rather than at her bedside.

Findings: A command directed investigation is currently on-going.

Disposition: Pending.

Complaint #5

Description of Complaint: Alleged Fourteenth Amendment Violation. The complaint alleged that his parental rights were violated when a no-contact order was instituted between him and his biological child. The complainant has been under investigation for several offenses under the Uniform Code of Military Justice (UCMJ), including one of rape while his child was present. In response, the Commander modified the no-contact order to allow the complainant supervised visits with his child. The complainant appealed, and the Article 138 complaint was forwarded to the GCMCA for decision. The complainant and the child's biological mother have a pending custody case in the local county court. The local county court has not instituted a no-contact order for the complainant and his son.

Findings: The GCMCA has received and evaluated the complaint, and the complaint is being investigated.

Disposition: Pending.

Complaint #6

Description of Complaint: Alleged First Amendment violation. The complainant, a civilian employee, alleged oppression against the complainant's Buddhist beliefs.

Findings: The complainant filed an Equal Employment Opportunity complaint.

Disposition: Pending.

Complaint #7

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that his personal backpack was improperly searched by his flight chief and he was given a letter of reprimand for having a book inside the backpack.

Findings: An inquiry determined that the search was conducted in order to determine to whom the backpack belonged. The Commander reissued policy on actions to be taken if unattended bags or equipment are found.

Disposition: Responsive action taken.

Complaint #8

Description of Complaint: Alleged First Amendment violation. The complainant alleged religious persecution. The complainant alleged that a civilian employee was sending e-mails containing Biblical scriptures and devotional texts, despite the complainant's requesting to be removed from the distribution list for those e-mails.

Findings: In sending the emails, the employee may have been violating the employee's agreement to properly use the NIPRNET. The employee apologized to the complainant and stated that the complainant would not be sent those types of e-mails.

Disposition: Responsive action taken.

Complaint #9

Description of Complaint: Alleged Fourteenth Amendment violation. A mother alleged that her son was denied the right to vote while he was attending basic military training.

Findings: The complainant's son was a trainee and needed to vote by absentee ballot. The Commander stated that there were weekly briefings from August through October on the absentee voting process, voting flyers were posted throughout the squadron, and a bulletin board detailed information on voting and on absentee voting application deadlines. The complainant's son did not inform the training instructors that he did not receive a ballot. No civil liberties violation was found.

Disposition: Responsive action taken.

Complaint #10

Description of Complaint: Alleged First Amendment violation. The complainant, a military service member, made disparaging comments about "white people" via his personal social networking page and claimed that he was wrongfully instructed by his supervisor to remove the posts, or be reprimanded.

Findings: Resolved.

Disposition: Responsive action taken.

Complaint #11

Description of Complaint: Alleged Fourth Amendment violation. The complainant, a military service member, alleged being videotaped by another service member while engaging in sexual intercourse without her consent.

Findings: Resolved.

Disposition: Responsive action taken.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

Description of Complaint: Alleged Fifth Amendment violation. The complainant contested a debarment that restricted his base access during duty days and required that he be escorted at all times. The complainant was authorized base access from 0700 to 1700 during duty days and required an escort 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. The complaint was dismissed; no civil liberties violation was found.

Disposition: Responsive action taken.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

Description of Complaint: Alleged Fourth and Fifth Amendment violations. The complainant, a dependent spouse, alleged that she was mistreated while detained by Security Forces (SF) for

leaving her children (an infant and a child, approximately 7 years of age) in her car with the engine running 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, and that her arrest was wrongfully disclosed to base personnel.

Findings: The conclusion of a command directed investigation was that SF personnel did not physically mistreat the complainant and the restraints were properly used. However, the IG determined that in accordance with Air Force Manual 31-201, a civilian should not be transported but cited and released. The Commander is taking corrective actions to include additional training for SF personnel. Also, the Commander is working with the Staff Judge Advocate to identify issues with current guidelines.

Disposition: Responsive action taken.

Department of the Army

Complaint #12

Description of Complaint: Alleged First Amendment violation. The complainant alleged he was reprimanded for attending a political rally during his lunch break.

Findings: The Department of the Army has received and evaluated the complaint, and the complaint is being investigated.

Disposition: Pending.

Complaint #13

Description of Complaint: Alleged First Amendment violation. The complainant alleged that her Commander vacated the suspended portion of her non-judicial punishment because she attended church services; the church service was off-post.

Findings: She was serving extra duty and restriction to the installation for 14 days at the time. Her claim that she received the staff duty non-commissioned officer's permission beforehand turned out to be false. The complainant was instructed on the process for requesting accommodation for religious practices and was referred to the unit chaplain.

Disposition: Responsive action taken.

Complaint #14

Description of Complaint: Alleged First Amendment violation. The complainant alleged that she was not provided the option to leave the room during a candlelight prayer session given by the unit chaplain during mandatory suicide prevention training.

Findings: The Commander counseled the chaplain and all unit leaders on avoiding the appearance of religious discrimination.

Disposition: Responsive action taken.

Complaint #15

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that his Unit Commander did not return his privately owned weapons to him after his release from the hospital.

Findings: The complainant had been hospitalized for behavioral health issues. The complainant was still exhibiting suicidal behavior after he was released from the hospital. The Commander gave the complainant a choice between moving into the barracks and staying in his off-post residence while allowing the unit to retain his weapons. The Commander was advised to consult with his legal advisor on the legality of this action.

Disposition: Responsive action taken.

Complaint #16

Description of Complaint: Alleged Second and Fourth Amendment violations. The complainant alleged that his Unit Commander, with the assistance of local law enforcement, entered the complainant's off-post residence using a key that was provided by a coworker. The complainant alleged that his privately owned weapons and ammunition were confiscated without his consent while he was receiving in-patient post-traumatic stress disorder treatment at a local facility.

Findings: An investigation is on-going.

Disposition: Pending.

Complaint #17

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that his Unit Commander inappropriately assisted his spouse in removing property from his residence. The complainant's Commander had ordered the complainant to work in another location so the spouse could access the residence without the complainant's knowledge.

Findings: An investigation is on-going.

Disposition: Pending.

Complaint #18

Description of Complaint: Alleged First Amendment violation. The complainant alleged that his Garrison Commander denied his request for an exception to policy to move off-post. The complainant made this request because he was unable to prepare food on post in accordance with his Islamic diet.

Findings: The Garrison leadership is reconsidering the denial. The complainant has been advised on how to formally appeal the Garrison Commander's decision, under the religious accommodation procedures, if he is dissatisfied with the Garrison's final decision.

Disposition: Responsive action taken.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

Description of Complaint: Alleged Fourth and Fifth Amendment violations. A civilian complainant alleged that four special agents unlawfully detained him, transported him in handcuffs from off-post to on-post, and threatened him.

Findings: Criminal Investigations Command (CID) received and evaluated the complaint. The complaint was investigated by the Federal Bureau of Investigation (FBI), CID, and local authorities.

The investigation determined that the agents unlawfully detained the complainant, and willfully subjected the complainant to a deprivation of his rights while acting under color of law in their official capacity. The investigation determined that an agent communicated a threat to the complainant and another conducted an unauthorized search of the complainant's cell phone. Two of the agents are pending a general court-martial. One agent has submitted a resignation in lieu of court-martial. The fourth agent's case is pending a decision on the appropriate disposition of his case.

Disposition: Pending.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

Description of Complaint: Alleged Fourth Amendment violation. Two complainants alleged that soldiers/federal employees recorded conversations in the workplace. In one instance, the recording was found not to violate state "one party" recording statutes. The command was informed that a legal order could be given to the entire unit prohibiting secret recordings if this practice was found to detract from the unit's good order and discipline. The second instance was under investigation, raising a possible privacy issue.

Findings: Further inquiry indicated that no "unauthorized" recordings occurred. The inquiry determined that an employee plugged a government-purchased "conference microphone device" into his computer to test it prior to a phone conference. The complainants misinterpreted this as an attempt to use the device to record conversations.

Disposition: Responsive action taken.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

Description of Complaint: Alleged First Amendment violation. The complainant (a federal civilian employee) 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 the issue using appropriate grievance procedures.

Findings: The investigation revealed that the complainant was disciplined for reasons other than his inappropriate demeanor. The investigation also revealed that while the Unit Commander indeed used the word "bullshit" while addressing the unit personnel, he did not direct the term toward any particular person, and used it in a manner that was not abusive.

Disposition: Responsive action taken.

Complaint updated from 4th Qtr FY 2012.

The complaint was received and reported as "pending" during the 4th Qtr of FY 2012 and is not included as a new complaint received during the 1st Qtr of FY 2013.

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

Findings:

Disposition: Responsive action taken.

Tab C



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

ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 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 first quarter of FY 2013, DPCLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

Enclosure:
As stated

cc:
The Honorable James Inhofe
Ranking Member



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

ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

Dear Madam 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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLCLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLCLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

Enclosure:
As stated

cc:
The Honorable Saxby Chambliss
Vice Chairman



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

ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

Enclosure:
As stated

cc:
The Honorable Chuck Grassley
Ranking Member



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

ADMINISTRATION AND
MANAGEMENT

The Honorable Thomas Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate
Washington, DC 20510

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLCLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLCLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

Enclosure:
As stated

cc:
The Honorable Tom Coburn
Ranking Member



ADMINISTRATION AND
MANAGEMENT

OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

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

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

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

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

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

FEB 19 2013

Dear Mr. Chairman:

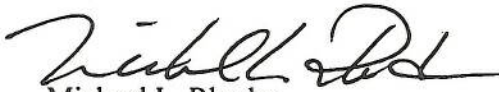
Pursuant to section 803, Public Law 110-53, the "Implementing Recommendations of the 9/11 Commission Act of 2007," ("the Act"), this letter and its enclosure serve as the Department of Defense's (DoD) Privacy and Civil Liberties Report for the first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLC) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLC reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLC received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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


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



OFFICE OF THE SECRETARY OF DEFENSE

1950 DEFENSE PENTAGON
WASHINGTON, DC 20301-1950

ADMINISTRATION AND
MANAGEMENT

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

FEB 19 2013

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 first quarter of fiscal year (FY) 2013, October 1, 2012 through December 31, 2012.

Consistent with the Act's requirement to review whether privacy and civil liberties are adequately considered, the Defense Privacy and Civil Liberties Office (DPCLCLO) continues to periodically review new and reissued policy issuances, legislative proposals, and agency responses to Congressional inquiries. During the first quarter of FY 2013, DPCLCLO reviewed 57 issuances.

In the report for this quarter, the definitions for the terms "advice provided" and "response to advice" were revised from the definitions used for those terms in previous reports. While informal advice about privacy and civil liberties continues to be given throughout the Department, the revised definitions focus on the activities of DoD Component leaders in the areas of privacy and civil liberties. Additionally, the revised definitions are more consistent with the definitions used for the same terms by the other agencies required to submit reports under the Act. The revised definitions will be used in reports for subsequent quarters.

The Act requires that the DoD has "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLCLO received 30 privacy complaints and 18 civil liberties complaints; responsive action was taken for 25 complaints, and 23 are pending.

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

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

Enclosure:
As stated

cc:
The Honorable John Conyers, Jr.
Ranking Member