

Department of Defense
Report on Privacy and Civil Liberties Activities
Section 803 of the “Implementing Recommendations of the 9/11 Commission Act of 2007”
2nd Quarter FY13 – January 1 to March 31, 2013

A. Number and Types of Reviews¹ Undertaken

Computer Matching Programs	1
Privacy Act Statements	1159
Privacy Act Systems of Records Notices (SORNs) with applicable exemptions	250
Section (m) Contract Reviews	169

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

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	9	7	2
Redress	0	0	0
Operational	8	5	3
<i>Sub Total for Privacy Complaints:</i>	<i>17</i>	<i>12</i>	<i>5</i>
Nature of Civil Liberties Complaints			
First Amendment	13	13	0
Second Amendment	7	3	4
Fourth Amendment	4	4	0
Fifth Amendment	4	4	0
<i>Sub Total for Civil Liberties Complaints:</i>	<i>28</i>	<i>24</i>	<i>4</i>
TOTAL for 2nd Qtr FY13	45	36	9

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.

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF PRIVACY COMPLAINTS AND DISPOSITIONS
2ND QTR FY13 – JANUARY 1, 2013 – MARCH 31, 2013**

Total Number of Complaints: 17

Department of the Air Force

Complaint #1

Description of Complaint: A member filed a complaint alleging that a physical fitness roster was being emailed to others who did not have a need to know. The physical fitness roster had PII that included names with the last four numbers of the SSN.

Findings: Unsubstantiated. Privacy Act manager and Flight Commander conducted an investigation to determine if this incident was a PII breach. During the investigation it was found the members receiving the physical fitness roster were in a supervisory role and had a need to know the information being emailed. The complainant was notified and no further action required.

Disposition: Responsive action taken.

Department of the Army

Complaint #2

Description of Complaint: An employee, who was also a patient, filed a complaint requesting an audit of the Armed Forces Health Longitudinal Technology Application (AHLTA) to determine if there were instances of inappropriate access by the employee's supervisor and a co-worker.

Findings: Unsubstantiated. The AHLTA audit was completed. The supervisor did not access the employee's records. The co-worker did access the employee's records, but in response to a proper request for the records. The complainant was notified of the results of the AHLTA audit.

Disposition: Responsive action taken.

Complaint #3

Description of Complaint: An employee filed a complaint stating other employees were accessing the employee's medical records without permission.

Findings: Substantiated. After completing the investigation, it was discovered that several employees from the medical facility accessed the employee's medical records without proper authorization or need to know.

Disposition: Pending.

Complaint #4

Description of Complaint: A patient alleged an employee at a medical facility used their AHLTA/CHCS (Composite Health Care System) privileges to access the patient's electronic Protected Health Information (PHI) without an official need to know.

Findings: Substantiated. After a review of all statements and an electronic records search, it was determined that the employee did violate the patient's privacy rights by accessing the patient's PHI. A letter of these substantiated findings was sent to the patient and a letter will be

forwarded from the supervisor to the Health Insurance Portability and Accountability Act (HIPAA) compliance officer for inclusion in the case file.

Disposition: Responsive action taken.

Complaint #5

Description of Complaint: A provider complained that a patient's record was being accessed by the patient's father who is a Military Treatment Facility (MTF) employee and has access to PHI.

Findings: Unsubstantiated. The audit discovered the employee was appropriately accessing the patient's records in the course of his work and the patient's privacy was not violated.

Disposition: Responsive action taken.

Complaint #6

Description of Complaint: A patient alleged that provider inappropriately disclosed the patient's PHI. Specifically, the patient was not told that the chain of command would be notified about the patient's hospitalization.

Findings: Unsubstantiated. A review of the patient's records showed that the complainant received a Notice of Privacy Practices (NOPP) brochure and acknowledged receiving it. The patient was also provided an automated DD Form 689, Individual Sick Slip, for chain of command notification. The patient's privacy was not improperly violated.

Disposition: Responsive action taken.

Complaint #7

Description of Complaint: A patient stated that a staff member contacted the patient's neighbor and released PHI to the neighbor about the patient by telephone without the patient's consent.

Findings: Under investigation.

Disposition: Pending.

Department of the Navy

Complaint #8

Description of Complaint: Complainant alleged that incorrect information had been placed in his medical record.

Findings: Substantiated; and the department head approved that corrections be made to the complainant's medical record.

Disposition: Pending.

Complaint #9

Description of Complaint: Complainant alleged that incorrect information had been put in her medical record.

Findings: Substantiated; and the department head approved that corrections be made to the complainant's medical record.

Disposition: Pending.

Complaint #10

Description of Complaint: Complainant alleged that incorrect information had been put in her immunization record.

Findings: Substantiated; and corrections were made to the patient's record.

Disposition: Responsive action taken.

Complaint #11

Description of Complaint: Complainant alleged that incorrect information had been put in her electronic health record.

Findings: Substantiated; and the complainant's record was properly amended.

Disposition: Responsive action taken.

Complaint #12

Description of Complaint: Complainant alleged that incorrect information had been placed in a patient's record.

Findings: Substantiated. The department improperly copied Personally Identifiable Information (PII) of one patient into the medical record of another patient. The patient's record was properly amended.

Disposition: Responsive action taken.

Complaint #13

Description of Complaint: Complainant alleged that incorrect information had been placed in her electronic health record.

Findings: Under investigation.

Disposition: Pending.

Complaint #14

Description of Complaint: An active duty member received a CD containing the PII of another patient.

Findings: Substantiated; the CD was mislabeled and improperly mailed by a secretary. The mislabeling and mailing of the CD was discussed with both the employee and the employee's supervisor and proper procedures were reviewed with the supervisor.

Disposition: Responsive action taken.

Complaint #15

Description of Complaint: Patient complained that a nurse violated her privacy by talking loudly and asking her questions from another room.

Findings: Substantiated. The nurse did speak to the patient from another room. The door to the hallway was ajar. The department head spoke to the patient, apologizing for the actions of the nurse. The department was given HIPAA and privacy training regarding the need to minimize disclosures of PHI.

Disposition: Responsive action taken.

Complaint #16

Description of Complaint: A hotline complaint was received by a base inspector general office and alleged an improper collection of SSNs at the base Pass and ID office. The complaint

alleged violations of the Privacy Act of 1974 and that the collection ran counter to the Navy's initiative to minimize the collection of SSN. The complaint specifically questioned the need to collect the SSN to obtain a DoD decal to register a vehicle on base.

Findings: Substantiated. In order to obtain a DoD decal, the applicant must fill out a vehicle registration form. This is maintained electronically, but when the electronic system is down, a paper form is used. This form requires a Sponsor's SSN, but does not state the purpose for the requirements. Navy Region Hawaii recommended to the Pass and ID office that they immediately comply with Privacy Act requirements by setting forth the principal purpose for collecting PII on the vehicle registration form or any other form provided to the individual.

Disposition: Responsive action taken.

Complaint #17

Description of Complaint: An Office of Naval Intelligence employee working off-site filed a complaint stating that her supervisor sent an unencrypted email attachment to her Gmail account which contained her home address and medical information.

Findings: Substantiated; a Department of Navy Chief Information Officer (DON CIO) report was submitted. It was confirmed that the supervisor did send the unencrypted email. The employee was notified and the privacy breach was referred to the command for disciplinary action.

Disposition: Responsive action taken.

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007
DETAILS OF CIVIL LIBERTIES COMPLAINTS AND DISPOSITIONS
2ND QTR FY13 – JANUARY 1, 2013 – MARCH 31, 2013**

Total Number of Complaints: 28

Department of the Air Force

Complaint #1:

Description of Complaint: Alleged Fifth Amendment violation. The complainant, an anonymous dependent, alleged that the Commander Review Board violated her civil liberties. The complainant declined to file a complaint with the Inspector General (IG) and would not provide further details regarding her situation for fear of causing problems for her husband.

Findings: The IG informed the complainant that she had the right to file a complaint and/or write her congressional representative to address her issues. The complainant was encouraged to continue the appeals process through Family Advocacy. The IG informed the complainant that it was against the law for anyone to punish her husband for any protected communication that she made.

Disposition: Responsive action taken.

Complaint #2

Description of Complaint: Alleged First Amendment violation. The complainant, a contractor, asserted that the Wing Commander's policy that individuals must remove offensive bumper stickers from personally owned vehicles (POVs) or not be allowed on base violated the First Amendment.

Findings: The legal office reviewed the policy before it was issued and determined that the policy was within the authority of the commander. The legal office provided the determination to the complainant.

Disposition: Responsive action taken.

Complaint #3:

Description of Complaint: Alleged First Amendment violation. The complainant, a contractor, was instructed to remove an inappropriate bumper sticker or have their vehicle towed.

Findings: The legal office advised that it was at the installation commander's discretion to allow the bumper sticker.

Disposition: Responsive action taken.

Complaint #4:

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that she was having problems registering a rifle purchased for her two year old son. The First Sergeant told the complainant that she should not have firearms in her home because there was a child in the house.

Findings: A firearms registration certificate was provided to the complainant. No violation of civil liberties was found.

Disposition: Responsive action taken.

Complaint #5:

Description of Complaint: Alleged First Amendment violation. The complainant alleged that his supervisor chastised him and made false allegations based on the supervisor's personal dislike of the complainant's religious beliefs. The complainant also alleged that he was not allowed to make a religious pilgrimage because of his orders.

Findings: The complainant's commander is considering administrative action to separate the complainant based on a pattern of misconduct and domestic issues. It was determined that the complainant's civil liberties were not violated.

Disposition: Responsive action taken.

Complaint #6:

Complaint: Alleged First Amendment violation. The complainant alleged that a Notice to Airmen (NOTAM) published by the Air Force Academy Chaplain's Office contained links to offensive religious websites.

Findings: The Department of the Air Force received and evaluated the complaint, and the complaint was resolved. The Air Force Chief of Chaplains published a memorandum for all chaplains that stated: "Chaplain Corps members will not include in their electronic or printed media links to websites outside Air Force control."

Disposition: Responsive action taken.

Complaint #7:

Description of Complaint: Alleged First Amendment violation. The complainant, an attorney for the Freedom from Religion Foundation, wrote a letter to the 100th Air Refueling Wing (ARW) Commander objecting to the display of the "Commando Prayer" inside an aircraft located at Royal Air Force Station Mildenhall. The complainant specifically alleged that it was unlawful for the Air Force to, "create, maintain, or host this prayer, thus promoting religion over nonreligion and singling out, showing preference for, and endorsing any one religion [over] others."

Findings: The letter was forwarded to the 352d Special Operations Group (352 SOG) Commander for action. The command Judge Advocate personally inspected the aircraft, photographed the prayer, and prepared a legal review for both the 100 ARW Commander and the 352 SOG Commander. The prayer measured approximately 3' x 5' and was displayed on the starboard side of the cargo compartment. The prayer had been inside the aircraft since approximately 2005. The prayer appeared to be nondenominational, but was clearly religious. The predominate display of the prayer inside the aircraft was deemed to be a violation of the Establishment Clause of the First Amendment, as analyzed under the *Lemon* test and the endorsement and coercion tests of *County v. Allegheny v. ACLU*, *Lee v. Weisman*, and *Mellen v. Bunting*. The prayer was removed from the aircraft by order of the 352 SOG Commander on 8 March 2013. A draft response to the complainant informing the complainant that the prayer was removed was sent to the commander.

Disposition: Responsive action taken.

Complaint #8:

Description of Complaint: Alleged Fifth Amendment violation. The complainant was arrested off-base for driving under the influence (DUI). The complainant drove a vehicle with a child in it while he was intoxicated. The complainant was then prosecuted and found guilty of DUI in the off-base jurisdiction. Subsequently, the complainant's commander demoted the complainant. The complainant alleged that he was punished twice for the crime of DUI in violation of Air Force policy.

Findings: The complainant's commander demoted the complainant for failing to uphold the standards expected of his rank. Specifically, the commander demoted the complainant for his failure to recognize signs of substance abuse in himself and his failure to meet standards and exhibit professional behavior in accordance with his rank. The demotion was found to be a permissible administrative action and the complainant was subsequently denied any redress.

Disposition: Responsive action taken.

Complaint #9:

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that leadership conducted an "illegal" computer search. The complaint stemmed from the methodology employed in carrying out the Chief of Staff of the Air Force (CSAF) directed Health and Welfare Inspection.

Findings: Unsubstantiated. The complaint was referred to the Air Force Inspector General who referred it to command channels for resolution. A Command Directed Investigation was initiated. The Investigating Officer found that the allegation was unsubstantiated. The Investigating Officer determined that some government-owned computer hard drives were erroneously searched due to a misinterpretation of the inspection order. Additionally, statements revealed that individuals consented prior to the hard drive searches. While the scope of the inspection was exceeded, the actions of those trying to carry out the inspection were not illegal.

Disposition: Responsive action taken.

Complaint #10:

Description of Complaint: Alleged Fifth Amendment violation. The complainant, a service member's wife, alleged that the service member was demoted without due process of law. The service member failed to comply with Air Force physical fitness standards and failed to perform his assigned duties. As such, the service member's commander demoted him to the rank of staff sergeant.

Findings: The service member failed to complete assigned tasks and was derelict in the performance of his duties for seven months. Additionally, the service member received unsatisfactory scores on his physical fitness assessments. As a result, the service member's commander initiated a demotion action for failing to maintain physical standards and failing to lead by exhibiting unprofessional behavior. During the demotion process, the service member requested a personal appearance with his commander. The service member never made an appointment for the appearance and the commander did

not reach out to the service member to set one up. The commander assumed that the service member was not interested in the appearance and forwarded the package to the demotion authority. Upon learning that the service member did not intend to forgo his personal appearance, the demotion action stopped and the service member was given the opportunity to meet with the commander. A summary of the appearance was forwarded to the demotion authority for reconsideration of the demotion. By allowing the service member to have his personal appearance and forwarding the same to the demotion authority, the service member was given all due process mandated by Air Force policy. The servicemember's demotion remains in place.

The congressional inquiry was responded to with the above response.

Disposition: Responsive action taken.

Department of the Army

Complaint #11:

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that his commander improperly ordered him to store his privately owned weapons in the unit arms room.

Findings: The commander believed that the complainant posed a threat to himself and others based on the complainant's recent non-judicial punishment, his deteriorating work performance, and a newborn baby in the complainant's house. The commander issued the order after consulting with his legal advisor. The legal advisor confirmed that the commander had the legal authority to issue the order.

Disposition: Responsive action taken.

Complaint #12:

Description of Complaint: Alleged Second Amendment violation. The complainant, a separated member, alleged that while he was in the Army his former commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment. When the complainant asked that his weapon be returned upon his discharge from the Army, the complainant was told that the commander had given his weapon to the local civilian police department. The police department will not return the weapon without a court hearing.

Findings: An investigation of this case is on-going.

Disposition: Pending.

Complaint #13:

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that his commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment.

Findings: An investigation of this case is on-going.

Disposition: Pending.

Complaint #14:

Description of Complaint: Alleged Second Amendment violation. The complainant, a separated member, alleged that while he was still in the Army his former commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment. When the complainant asked that his weapon be returned upon his discharge from the Army, the complainant was told that the commander had given his weapon to the local civilian police department. The police department will not return the weapon without a court hearing.

Findings: An investigation of this case is on-going.

Disposition: Pending.

Complaint #15:

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that his commander ordered him to store his privately owned weapon in the unit arms room during his mental illness treatment.

Findings: An investigation of this case is on-going.

Disposition: Pending.

Complaint #16:

Description of Complaint: Alleged Second Amendment violation. The complainant alleged that the installation gate guard would not allow him to transport his privately owned weapons onto post unless the complainant registered the weapons with the installation's provost marshal office.

Findings: The installation provost marshal recently changed the policy regarding the registration of privately owned weapons transported onto post to ensure such policy adhered to Army Regulation 190-11, *Physical Security of Arms, Ammunition, and Explosives*, 15 December 2006, Rapid Action Revision 28 June 2011.

Disposition: Responsive action taken.

Complaint #17:

Description of Complaint: Alleged First Amendment violation. The complainant alleged that he was made to write papers about God as part of his command-directed alcohol rehabilitation class. The complainant objected to this requirement because the complainant is an atheist.

Findings: The drug and alcohol program explained that having some sort of belief system was a necessary part of alcohol abuse recovery. The program agreed to consider non-religious belief systems in this part of the rehabilitation.

Disposition: Responsive action taken.

Complaint #18:

Description of Complaint: Alleged Fifth Amendment violation. The complainant alleged that his commander wrongfully suspended his pass privileges for two weeks without justification.

Findings: The commander stated that the complainant had committed misconduct and that the commander did not trust the complainant. The commander had not administered

any punitive measures to the complainant for the misconduct. The commander was advised that it is improper to restrict a soldier for misconduct without taking any corresponding punitive action. The complainant's pass privileges were reinstated.

Disposition: Responsive action taken.

Complaint #19:

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that his command had not processed his request for separate rations, submitted two months earlier. The complainant requested separate rations so he could adhere to his religion's dietary requirements.

Findings: The delay was partially attributed to the command's demand for a memorandum from the chaplain confirming the complainant's religious practices. Army regulations do not require such confirmation to approve requests for separate rations. The commander was advised that it is improper to require this confirmation without any corresponding requirement in an Army regulation.

Disposition: Responsive action taken.

Complaint #20:

Description of Complaint: Alleged First Amendment violation. The complainant contacted the Inspector General (IG) with concerns about the religious themes in a Reserve Officer Training Course (ROTC) graduation and commissioning ceremony. The complainant found that the chaplain's invocation, the guest speaker's comments, and a professor's comments were "charged with evangelical Christianity".

Findings: An inquiry found that the speeches were overly religious, and were conducted with a Christian focus. The professor was counseled to conduct future commissioning ceremonies with less focus on Christianity.

Disposition: Responsive action taken.

Complaint #21:

Description of Complaint: Alleged First Amendment violation. The complainant alleged that, during a command health fair, the chaplain's assistant refused to give him a Rosary because he wasn't Catholic. The complainant also alleged that the chaplain's assistant made other comments about how the complainant is not a religious person. The complainant wanted to consult with the chaplain, but hesitated to do so because he would have to interact with the chaplain's assistant again.

Findings: The chaplain counseled the assistant on his behavior. The chaplain also gave his direct cell phone number to the IG, so that the IG could provide the number to the complainant and the complainant could contact the chaplain directly without going through the assistant.

Disposition: Responsive action taken.

Complaint #22:

Description of Complaint: Alleged First Amendment violation. The complainant requested removal of the permanent religious fixtures from the forward operating base

chapel, specifically the cross at the top of the steeple and the crosses cut into the chapel doors.

Findings: Army Regulation 165-1, *Army Chaplain Corps Activities*, 3 December 2009, paragraph 12-3k, precludes affixing permanent religious symbols on an Army chapel interior, exterior, or grounds. The chapel was modified to comply with the Army regulation.

Disposition: Responsive action taken.

Complaint #23:

Description of Complaints: Alleged First Amendment violation. The complainant asked if he could grow a beard, as required by his religion, and remain in the National Guard.

Findings: The complainant was counseled on the procedures for requesting religious accommodation, listed in Army Regulation 600-20, *Army Command Policy*, 18 March 2008, Rapid Action Review 20 September 2012, paragraph 5-6.

Disposition: Responsive action taken.

Complaint #24:

Description of Complaints: Alleged First Amendment violation. The complainant alleged that his supervisor would not allow him to attend religious classes located 90 minutes away while the unit was on its two week annual training.

Findings: The complainant was counseled on the procedures for requesting religious accommodation, listed in Army Regulation 600-20, *Army Command Policy*, 18 March 2008, Rapid Action Review 20 September 2012, paragraph 5-6.

Disposition: Responsive action taken.

Complaint #25:

Description of Complaints: Alleged First Amendment violation. The complainant asked to attend religious services for 1-3 hours while on guard duty.

Findings: The complainant was counseled on the procedures for requesting religious accommodation, listed in Army Regulation 600-20, *Army Command Policy*, 18 March 2008, Rapid Action Review 20 September 2012, paragraph 5-6.

Disposition: Responsive action taken.

Complaint #26:

Description of Complaint: Alleged First Amendment violation. The complainant's commander referred him (involuntarily) to the unit chaplain for counseling.

Findings: Upon consultation with legal counsel, it was determined that the commander could not legally order the complainant to consult with a chaplain. The commander may only encourage such consultation. The commander reworded his order in response to the complainant.

Disposition: Responsive action taken.

Complaint #27:

Description of Complaint: Alleged Fourth Amendment violation. The complainant was arrested by civil authorities for allegedly shooting his wife during an argument. Upon return from civilian detention, the complainant's unit commander restricted him to post, and ordered him to give the keys to his privately owned vehicle to the First Sergeant. The complainant protested the restriction and his commander's confiscation of his car keys.

Findings: Upon consultation with legal counsel, it was determined that the restriction was legal and reasonable, but the car key confiscation was not. The commander returned the complainant's car keys.

Disposition: Responsive action taken.

Complaint #28:

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that a Criminal Investigative Command (CID) agent and his commander improperly ordered him to provide a handwriting sample. The complainant refused to do so until after he had an opportunity to seek legal counsel.

Findings: The order to "take" the complainant's handwriting was properly supported by probable cause. The Constitution and case law does not entitle one to legal representation at a search supported by probable cause. The complainant eventually provided the sample without an attorney present.

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 2nd Qtr of FY 2013.

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 complainant's squadron leader and platoon sergeant went to the complainant's on-post family quarters to look for him. Since no one responded at the quarters, the installation military police informed the squadron leader and platoon sergeant that nothing more could be done without a search warrant, and that a warrant would be required to enter the complainant's family quarters. 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.

Findings: The command investigated the complaint and found that the installation housing office improperly permitted the first sergeant to enter the complainant's quarters, without a search warrant based on probable cause or emergency justification. The installation housing office amended its SOP to preclude a recurrence.

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 2nd Qtr of FY 2013.

Description of Complaint: Alleged First Amendment violation. The FBI notified the command that one officer in the command was alleged to have participated in extremist organization activities.

Findings: The command investigated the allegations. The officer was found to have attended at least three meetings of three suspected extremist organizations (the organizations conducted joint meetings). The meetings included a weapons qualification event and two ideological/educational training events. The officer gave a presentation at one of these training events. He was found to have met individually with the leader of one of these groups six times. These organizations were found not to be "extremist" organizations as defined in paragraph 4-12a of Army Regulation 600-20, *Army Command Policy*, 18 March 2008 (Rapid Action Review 20 September 2012). However, one of the organizations advocated the use of violence against Members of Congress and federal and state employees. Therefore, the officer's membership in this organization violated a provision in Enclosure 3, paragraph 8b of Department of Defense Instruction 1325.06, *Handling Dissident and Protest Activities Among Members of the Armed Forces*, 22 February 2012, which requires military personnel to reject active participation in organizations that advocate the use of violence. The command is taking appropriate punitive action against the officer.

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 2nd Qtr of FY 2013.

Description of Complaint: Alleged Fourth Amendment violation. The complainant alleged that his commandant improperly ordered an inspection of the work area, to include opening personal backpacks and purses, after a bag of change was reported missing from the Pepsi vending machine. The complainant further alleged that the commandant then ordered the soldiers to leave the barracks, and searched the soldiers' rooms and their persons.

Findings: The unit's legal advisor drafted an SOP for the future unit inspections.

Disposition: Responsive action taken.



ADMINISTRATION AND
MANAGEMENT

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

MAY 29 2013

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 second quarter of fiscal year 2013, January 1 through March 31, 2013.

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 second quarter of FY13, DPCLO reviewed 66 issuances.

The Act requires that DoD have "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLO received 17 privacy complaints and 28 civil liberties complaints; responsive action was taken for 36 complaints; and nine are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees and the Chairman of the Privacy and Civil Liberties Oversight Board.

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 James Inhofe
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

MAY 29 2013

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

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 second quarter of fiscal year 2013, January 1 through March 31, 2013.

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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

MAY 29 2013

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 second quarter of fiscal year 2013, January 1 through March 31, 2013.

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 second quarter of FY13, DPCLO reviewed 66 issuances.

The Act requires that DoD have "adequate procedures to receive, investigate, respond to, and redress complaints" alleging that DoD violated a complainant's privacy or civil liberties. DPCLO received 17 privacy complaints and 28 civil liberties complaints; responsive action was taken for 36 complaints; and nine are pending.

A similar letter is being sent to the Chairmen of the other appropriate congressional committees and the Chairman of the Privacy and Civil Liberties Oversight Board.

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

MAY 29 2013

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

MAY 29 2013

The Honorable Thomas R. Carper
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 Tom Coburn
Ranking Member



ADMINISTRATION AND
MANAGEMENT

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

MAY 29 2013

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



ADMINISTRATION AND
MANAGEMENT

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

MAY 29 2013

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

MAY 29 2013

The Honorable Bob Goodlatte
Chairman
Committee on the Judiciary
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 second quarter of fiscal year 2013, January 1 through March 31, 2013.

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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



ADMINISTRATION AND
MANAGEMENT

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

MAY 29 2013

The Honorable David Medine
Chairman
Privacy and Civil Liberties Oversight Board
1275 First Street, NE
Desk 849C
Washington, DC 20417

Delivered electronically to Sue Reingold, Chief Administrative Officer

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 second quarter of fiscal year 2013, January 1 through March 31, 2013.

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

Enclosure:
As stated

cc:

U.S. Senate Committee on Armed Services

U.S. Senate Committee on Homeland Security and Governmental Affairs

U.S. Senate Committee on Judiciary

U.S. Senate Select Committee on Intelligence

U.S. House of Representatives Committee on Armed Services

U.S. House of Representatives Committee on the Judiciary

U.S. House of Representatives Committee on Oversight and Government Reform

U.S. House of Representatives Permanent Select Committee on Intelligence