

COMPONENT CIVIL LIBERTIES COMPLAINT REPORT

SUMMARY OF CIVIL LIBERTIES COMPLAINTS

1st QTR FY13 – OCTOBER THRU DECEMBER 2013

DEPARTMENT OF THE ARMY

Department of the Army

TOTAL NUMBER OF COMPLAINTS: 19

Complaint #1:

Description of Complaint: Civilian complainant alleges that four special agents, unlawfully detained him, transported him in handcuffs from off-post to on-post, and threatened him. Possible violations of Fourth and Fifth Amendment rights.

Findings: USACIDC has received and evaluated the complaint. Complaint was investigated by the FBI, CID and local authorities. 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. An agent communicated a threat to the complainant and another conducted an unauthorized search of the complainant's cell phone.

Disposition: Two of the agents are pending a general court-martial. One agent has submitted a resignation in lieu of court-martial. The fourth agent is pending a decision on the appropriate disposition of his case. The Army Civil Liberties POC is attempting to determine the status of the final defendant in order to close this matter.

(This complaint is pending from the 2012 2nd Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #2:

Description of Complaint: A Soldier's supervisor counseled him, and possibly reprimanded against him, for posting a derogatory comment about "MDs" on Facebook. Possible freedom of speech issue.

Findings: Investigation on-going.

Disposition: Investigation on-going.

(This complaint is pending from the 2012 3rd Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #3:

Description of Complaint: A Soldier complained about his first sergeant's unlawful entry into his on-post family quarters. The Soldier reported his involvement in an off-post incident involving civilian law enforcement to the unit staff duty officer. After being informed of this, the Soldier's squad leader and platoon sergeant went to the Soldier's on-post family quarters to look for him. No one responded at the quarters. The installation military police informed the squad leader and platoon sergeant that nothing more could be done without a search warrant. The squad leader and platoon sergeant told the unit first sergeant that a warrant would be required to enter the Soldier's family quarters. The first sergeant responded by calling the installation housing locksmith to open the door, then proceeding to search the quarters himself. The Soldier did not realize anyone had entered his quarters until the following week when the Soldier received a bill for the charge of replacing the locks and keys to the quarters. The command is investigating the complaint. Possible unreasonable search/privacy issue.

Findings: On-going.

Disposition: On-going.

(This complaint is pending from the 2012 4th Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #4 and 5:

Description of Complaint: Two Soldiers complained about Soldiers/federal employees recording 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; it was determined that an employee plugged a government-purchased "conference microphone device" into his computer to test it before using it for a phone conference, and this was interpreted (mis-interpreted) as a recording device.

Disposition: Closed.

(This complaint is pending from the 2012 4th Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #6 and 7:

Description of Complaint: Two employees complained about restrictions on speech in the workplace. One employee complained that his commander unconstitutionally counseled him for inappropriate demeanor and language, to include using the word "bullshit," when addressing the unit commander. This employee was advised to address this issue using appropriate grievance procedures. In the second case, a Soldier complained about prohibitions on political speech in the workplace. Possible freedom of speech issue.

Findings: Investigation revealed that the federal civilian employee was disciplined for reasons other than his inappropriate demeanor. 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 unprofessional or abusive.

Disposition: Closed.

(This complaint is pending from the 2012 4th Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #8 and 9:

Description of Complaint: Two Soldiers were referred to the FBI for allegations of extremist activity, to include posting racist blogs and making a vague threat against an elected official. One of the Soldiers was a discharged member of the state militia, and the other is under investigation. Possible freedom of speech/association issue.

Findings: On-going.

Disposition: On-going.

(This complaint is pending from the 2012 4th Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaints #10:

Description of Complaint: Complainant alleges his new supervisor sent an email to all-hands announcing that the pre-existing practice of allowing employees to take time away from their desks for religious prayer is being discontinued. Possible First Amendment, Freedom of Religion implication.

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

Disposition: Pending.

(This complaint is pending from the 2012 3rd Qtr submission and is not included as new complaints for the 2013 1st Qtr.)

Complaint #11:

Description of Complaint: Complainant alleges he was reprimanded for attending a political rally during his lunch break. Possible First Amendment, Freedom of Association. implication.

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

Disposition: Pending.

Complaint #12:

Description of Complaint: A Soldier complained about his commandant's ordering an "inspection" of the work area to include opening personal backpacks and purses, and then ordering the Soldiers out of the barracks and searching their rooms and their persons, after a bag of change was reported missing from the Pepsi vending machine. Possible unreasonable search/privacy issue.

Findings: On-going.

Disposition: On-going.

(This complaint is pending from the 2012 4th Qtr submission and is not included as a new complaint for the 2013 1st Qtr.)

Complaint #13:

Description of Complaint: A Soldier complained that her commander vacated the suspended portion of her non-judicial punishment because she attended church services off-post. She was serving extra duty and restriction to the installation for 14 days at the time. Her claim that she received the staff duty NCO's permission beforehand turned out to be false. Possible right to assemble/unreasonable deprivation of liberty issue.

Findings: Soldier was instructed on the process for requesting accommodation of religious practices, and referred to the unit chaplain.

Disposition: Closed.

Complaint #14:

Description of Complaint: A Soldier complained 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. Possible establishment of religion issue.

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

Disposition: Closed.

Complaint #15:

Description of Complaint: A Soldier complained that his unit commander did not return his privately owned weapons to him after his release from the hospital for behavioral health issues. Possible right to bear arms issue.

Findings: The Soldier was still exhibiting suicidal behavior after release from the hospital. The commander gave the Soldier 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: Closed.

Complaint #16:

Description of Complaint: A Soldier complained that his unit commander, with the assistance of local law enforcement, entered the Soldier's off-post residence using a key that was provided by a coworker to confiscate the Soldier's privately owned weapons and ammunition without his consent while the Soldier was receiving in-patient PTSD treatment at a local facility. Possible right to bear arms/unreasonable seizure issue.

Findings: Investigation on-going.

Disposition: On-going.

Complaint #17:

Description of Complaint: A Soldier complained that his unit commander inappropriately assisted his spouse to remove property from his residence. The commander ordered the Soldier to work in another location so the spouse could access the residence without the Soldier's knowledge. Possible unreasonable seizure issue.

Findings: Investigation on-going.

Disposition: On-going.

Complaint #18:

Description of Complaint: A Soldier complained that his garrison commander denied his request for an exception to policy to move off-post. The Soldier made this request because he was unable to prepare food in accordance with his Islamic diet in the barracks. Possible freedom of religion issue.

Findings: The garrison leadership is reconsidering the denial. The Soldier has been advised on how to formally appeal the garrison commander's decision, under the religious accommodation procedures, should he be dissatisfied with the garrison's final decision.

Disposition: Closed.

Complaint #19:

Description of Complaint: A former contract employee who had displayed inappropriate behavior towards his supervisor and then made threatening comments regarding military personnel. This employee was then barred from post. The letter of notification included information on how to apply to have the bar lifted and how to continue to access the installation in order to access medical and other services the former employee was entitled. When the employee attempted to gain access to the installation, he contacted the Commanding General's office and complained that his "Freedom of Information Act rights had been violated."

Findings: The original bar letter was received by the former employee on 2 July 2012. A second copy of the letter was received on 21 December 2012. Additionally, Command Staff explained the process and the former employee acknowledged that he understood

the process and that he was still permitted access for services. There has been no violation of the former employee's civil liberties.

Disposition: Closed.

END