

**SECTION 803 OF 9/11 COMMISSION ACT OF 2007  
DETAILS OF CIVIL LIBERTIES COMPLAINTS AND DISPOSITIONS  
3D QTR FY14 – APRIL 1, 2014 – JUNE 30, 2014**

**Agency Name:** Department of the Army

**Total number of complaints:** 21

**Complaint #1 (continued from the FY 2013 1<sup>st</sup> – 4th Quarter reports and the FY 2014 1<sup>st</sup> – 2d Quarter reports):**

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

**Findings:** On-going.

**Disposition:** On-going.

**Complaint #2 (continued from the FY 2014 1<sup>st</sup> – 2d Quarter reports):**

**Description of Complaint:** A complaint alleged that a Soldier's supervisor denied her the ability to attend church on Saturdays. Possible freedom of religion issue.

**Findings:** On-going.

**Disposition:** On-going.

**Complaint #3 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** A complaint alleged that two Department of Defense (DoD) Policeman improperly detained and unreasonably searched a driver after stopping him for failure to come to a complete stop at a stop sign. The incident occurred on a military installation around 2130. Possible unreasonable search and seizure issue.

**Findings:** On-going.

**Disposition:** On-going.

**Complaint #4 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** A complaint alleged that a company commander improperly ordered a search of all his Soldiers' barracks rooms to recover an allegedly stolen Xbox video gaming system. The system belonged to a Soldier who was on convalescent leave and not in the barracks at the time. While a commander may inspect barracks for health or safety reasons, a commander generally may not conduct a search for stolen items without probable cause to believe the stolen item was in a particular Soldier's room. Possible unreasonable search and seizure issue.

**Findings:** Investigation revealed that the company commander improperly authorized a warrantless search of the barracks to find a stolen Xbox video gaming system. This search was not in compliance with Military Rule of Evidence 313, Inspections and Inventories in the Armed Forces, or Military Rule of Evidence 314, Searches Not Requiring Probable Cause.

**Disposition:** Closed.

**Complaint #5 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** A complaint alleged that a company commander and his first sergeant improperly confiscated a subordinate Soldier's privately owned weapon and ordered it to be stored at another Soldier's off-post residence. Generally the company commander issues the Soldier a hand receipt when confiscating a privately owned weapon, and then stores the weapon in the unit arms room. The weapon belonged to the Soldier's spouse. Possible right to bear arms and search and seizure issue.

**Findings:** Investigation revealed that the company commander and first sergeant improperly directed that a personally owned weapon, confiscated from a Soldier, be stored at another Soldier's off-post residence in violation of installation policy.

**Disposition:** Closed.

**Complaint #6 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** Soldier requested assistance with a relief for cause from command which resulted from an AR 15-6 investigation. Soldier was not interviewed prior to submission of final investigation to Senior Commander and prior to being relieved for cause from command.

**Findings:** Soldier was finally interviewed after investigation reopened. Soldier should not have been relieved for cause. Soldier acted appropriately as commander and should not have been held responsible for misconduct of unit personnel, unknown to him or reported to higher command. A final response was prepared to send to Congress.

**Disposition:** Closed.

**Complaint #7 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** Claimants own a military surplus store located in Lakewood, WA, a community near Joint Base Lewis-McChord (JBLM). The JBLM Military Police and Lakewood police conducted a joint investigation into claimants' possession and sale of military issued equipment. Based upon that investigation, the Lakewood police obtained search warrants for claimants' retail store and warehouse. The JBLM Military Police assisted in the execution of those warrants, leading to the discovery of a large amount of military-issued items, which the MP's seized and now retain in their evidence room. On 28 Oct 13, claimants filed an administrative claim in which they allege that the search and seizure of their property violated their 4th Amendment rights.

**Findings:** Installation Claims Office is communicating with claimants' attorney on discovery related matters. Local prosecutors are still moving toward prosecution of the store owners but there is no timeline.

**Disposition:** On-going.

**Complaint #8 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** By memorandum, the Soldier submitted matters in defense, extenuation, and mitigation at a General Officer Article 15 proceeding. The Soldier alleged that he was not properly informed of the nature of the accusations against him prior to making an incriminating statement. The Soldier renewed this complaint in his written appeal of the General Officer Article 15.

**Findings:** The General Officer Article 15 was acted on by the Task Force commander. The appeal was granted in part, with specification 2 being dismissed. The punishment remained the same.

**Disposition:** On-going.

**Complaint #9 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** A former civilian employee filed a federal civil suit against a Department of the Army police officer, alleging that the officer used excessive force while apprehending him. Possible Fourth Amendment violation.

**Findings:** On-going.

**Disposition:** On-going.

**Complaint #10 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** Customer/Client filed a claim in February 2014 alleging that MPs wrongfully towed his two vehicles in August 2013 from a parking area on post.

**Findings:** Claim is still open – claimant has appeal rights that have not been fully exercised..

**Disposition:** On-going.

**Complaint #11 (continued from FY 2014 2d Quarter report):**

**Description of Complaint:** Customer/Client filed a claim in March 2014 asserting that the MPs wrongfully towed his vehicle in August 2013 after he experienced a medical emergency.

**Findings:** Claim is still open – claimant has appeal rights that have not been fully exercised.

**Disposition:** On-going.

**Complaint #12:**

**Description of Complaint:** The underlying matter is a U.S. District Court case in which a news publication, alleges that three military police unlawfully detained two of its employees and destroyed property (photos) protected by the First Amendment without due process of law at an Army Tank Plant. The plaintiffs are the news publication and the two employees involved in the incident. The complaint was filed against the Secretary of Defense in his official capacity, the Commandant of the installation and three military police officers in their official and personal capacities. The complaint alleges violations of the First Amendment, unlawful search and seizure, false imprisonment, and assault.

**Findings:** Pending

**Disposition:** On-going

**Complaint #13:**

**Description of Complaint:** A complaint alleged the following:

- o That employees were using bible verses in their government e-mail signature blocks,

- o That employees were using political quotes in their government e-mail signature blocks, and

- o That an employee posted a large sign in a public area on post that has “Got Jesus?” on it.

Possible religious establishment/freedom of speech issue.

**Findings:** Investigation on-going.

**Disposition:** On-going.

**Complaint #14:**

**Description of Complaint:** A complaint arrived that the staff at the installation family medical clinic refused to perform a rape kit examination and STD screening on a Soldier’s daughter unless the daughter consented to obtaining some form of birth control. The Soldier, who possessed a medical power of attorney for his daughter because of her mental health issues, objected to his daughter obtaining birth control on religious grounds. After leaving the clinic, the daughter told her parents that a member of the clinic staff told her that she should ride her bike back to the clinic and obtain birth control without her parents’ knowledge. Possible freedom of religion issue.

**Findings:** Investigation on-going.

**Disposition:** On-going.

**Complaint #15:**

**Description of Complaint:** A complaint arrived pertaining to a military confinement facility inmate’s allegation that facility officials denied his request to order a religious necklace. Possible freedom of religion issue.

**Findings:** Inquiry revealed that the inmate’s first request was incorrectly submitted. The inmate was given assistance on resubmitting his request.

**Disposition:** Closed.

**Complaint #16:**

**Description of Complaint:** A complaint arrived pertaining to an installation Child Development Center taking children to the installation medical clinic for a medical examination without the parents’ consent. Possible unreasonable search and seizure issue.

**Findings:** Inquiry on-going.

**Disposition:** On-going.

**Complaint #17:**

**Description of Complaint:** A complaint arrived alleging that military police (MP) personnel improperly detained a family member (spouse) who witnessed an on-post incident involving her Active Duty Soldier/husband. The spouse had finished her statement to the MPs. Possible unreasonable search and seizure issue.

**Findings:** Inquiry on-going.

**Disposition:** On-going.

**Complaint #18:**

**Description of Complaint:** Service Member (SM) 1 was the victim in a Sexual Harassment Assault Response Program (SHARP) incident and received a compassionate reassignment to a new unit. SM 2, is the alternate SHARP representative at SM 1's new unit, and is the supervisor of and in the Chain of Command of SM 1. SM 2 allegedly disclosed to some SMs in SM 1's new Chain of Command and other SMs not in the Chain of Command that SM 1 was transferred to that unit as the result of a compassionate reassignment from SM 1 being involved in a SHARP related matter. Possible infringement of the right to privacy.

**Findings:** An Army Regulation (AR) 15-6 investigation was initiated to determine whether the disclosures had in fact occurred. The investigation was concluded and the Investigating Officer (IO) found that the disclosure had occurred and that such disclosure was not justified based on mission needs. SM 2 has been counseled and relieved of duties and responsibilities as a SHARP representative. SM 1 has been offered the option to transfer to another unit.

**Disposition:** Closed.

**Complaint # 19:**

**Description of Complaint:** A Service Member who is female and African American complained via e-mail that her commander's enforcement of the Army's new standards UP AR 670-1, on the condition of her hair and her use of "natural" hairstyles violates her rights. (Possible freedom of expression).

**Findings:** The Army G-1 office replied to the Service Member's e-mail indicating that the Army is committed to providing leaders and Soldiers a clear, concise standard on wearing a hairstyle which portrays a professional, conservative image, that the Army continues to review

uniform policies for improvement and inviting the Soldier to submit written recommendations on her suggested changes. Since the e-mail exchange, the Soldier's command has counseled her numerous times with regard to her hair. She has informed the command, "I do not plan to change it. It is just a bunch of racist anyway."

**Disposition:** On-going.

**Complaint #20:**

**Description of Complaint:** Americans United for Separation of Church and State sent a letter to the Commanding General, Fort Carson, stating that group retirement ceremonies at the base begin with a prayer, violating the Establishment Clause of the First Amendment.

**Findings:** Pending.

**Disposition:** On-going.

**Complaint #21:**

**Description of Complaint:** Americans United for Separation of Church and State sent a letter to the Commanding General, Fort Carson, stating that several Latin crosses were permanently on display in the Evans Army Community Hospital's chapel, which is meant to serve as a multi-faith chapel for all hospital employees and visitors, and that the permanent display of Latin crosses in the chapel communicated a message of endorsement of the Christian religion in violation of the Establishment Cause of the First Amendment. There were four identified concerns: (1) a cross on a bulletin board outside the chapel entrance; (2) a cross displayed on top of a flag inside the chapel; (3) multiple crosses sewn into the fringe of the alter cloth; and (4) a pair of crosses bolted to the wall next to the chapel entryway that appears to be some sort of holy water fonts.

**Findings:** (1) The cross was removed the same day the letter was received. (2) This was a cross on the papal flag that was accidentally left out following a Catholic service; it is normally used only during the Catholic service and is then stored away from public display. (3) The alter cover was turned so the crosses were not visible the same day the letter was received and a new replacement "neutral" alter cloth was purchased. (4) The crosses are covered with the Catholic service is not being conducted. Replacement neutral fonts were ordered and installed.

**Disposition:** Closed.